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 23, 2022
6:15 PM

Notice Regarding Public Participation

Welcome to the Prosper Town Council. Individuals may attend the 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

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

Enter Meeting ID: 870 4743 2329

Addressing the Town Council:

Those wishing to address the Town Council must complete the Public Comment Request Form located on the Town website or in Council Chambers.

If you are attending in person, please submit this form to the Town Secretary prior to the meeting. When called upon, please come to the podium and state your name and address for the record.

If you are attending online/virtually, please submit this form to the Town Secretary prior to 5:00 p.m. on the day of the meeting. Please ensure your full name appears on the screen and you are unmuted so the meeting moderator can recognize you and allow you to speak. The Chat feature is not monitored during the meeting. The Town assumes no responsibility for technical issues that are beyond our control.

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. Receive an update on the Prosper Fire Station No. 4 Design Development project. (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.

2. Consider and act upon the minutes of the August 9, 2022, Town Council meeting. (MLS)

3. Consider and act upon authorizing the Interim Town Manager to execute a Tower Site Lease Agreement between T-Mobile West, LLC, and the Town of Prosper, Texas, related to the lease of Town property located at 1240 Frontier Parkway. (Frontier Park) (RBS)

4. Consider and act upon a resolution ratifying the Mayor's signatures on certain documents. (MLS)

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 Comment Request Form" and present it to the Town Secretary prior to the meeting.

REGULAR AGENDA:

If you wish to address the Council, please fill out a "Public Comment Request Form" and present it to the Town Secretary, preferably before the meeting begins. 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:

5. Conduct a public hearing and consider and act upon a request for a Sign Waiver at 4200 W. University Drive, regarding two (2) wall signs for Cook Children's Medical Center on the northeast corner of Windsong Parkway and US 380. (MD22-0008) (BC)

6. Consider and act upon awarding CSP No. 2022-48-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the First Street (Coit to Custer) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same. (HW)

7. Consider and act upon awarding CSP No. 2022-50-B to McMahon Contracting, LP, related to construction services for the Fishtrap (Teel - Gee Road) & Gee Road (Fishtrap - Windsong Retail) project; and authorizing the Interim Town Manager to execute a construction agreement for same. (HW)

8. Consider and act upon awarding CSP No. 2022-51-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the Fishtrap (Elem - DNT) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same. (HW)

9. Discussion regarding open fence standards and screening requirements. (DS)

10. Consider and act upon a resolution disapproving the Denton Central Appraisal District (DCAD) 2023 Budget. (RBS)

11. Conduct a public hearing to receive public input, consider such input and discuss the FY 2022-2023 Budget as proposed. (RBS)

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

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 and all matters incident and related thereto.

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

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

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

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

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 19, 2022, and remained so posted at least 72 hours before said meeting was convened.

_____ _____
Michelle Lewis Sirianni, Town Secretary Date Notice Removed

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

NOTICE

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

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

FIRE DEPARTMENT

TOWN OF PROSPER

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Stuart Blasingame, Fire Chief**

Through: **Bob Scott, Executive Director of Administrative Services**

Re: **Fire Station No. 4 Design**

Town Council Meeting – August 23, 2022

Agenda Item:
Receive an update on the Prosper Fire Station No. 4 Design Development project.

Description of Agenda Item:
BRW Architects, Inc. has completed 100% Design Development of the new Central Fire Station & Fire Administration Project. The Floor Plans and Exterior Perspectives are attached. Also included is the Budget Executive Summary Estimate by Pogue Construction and the overall Budget Summary.

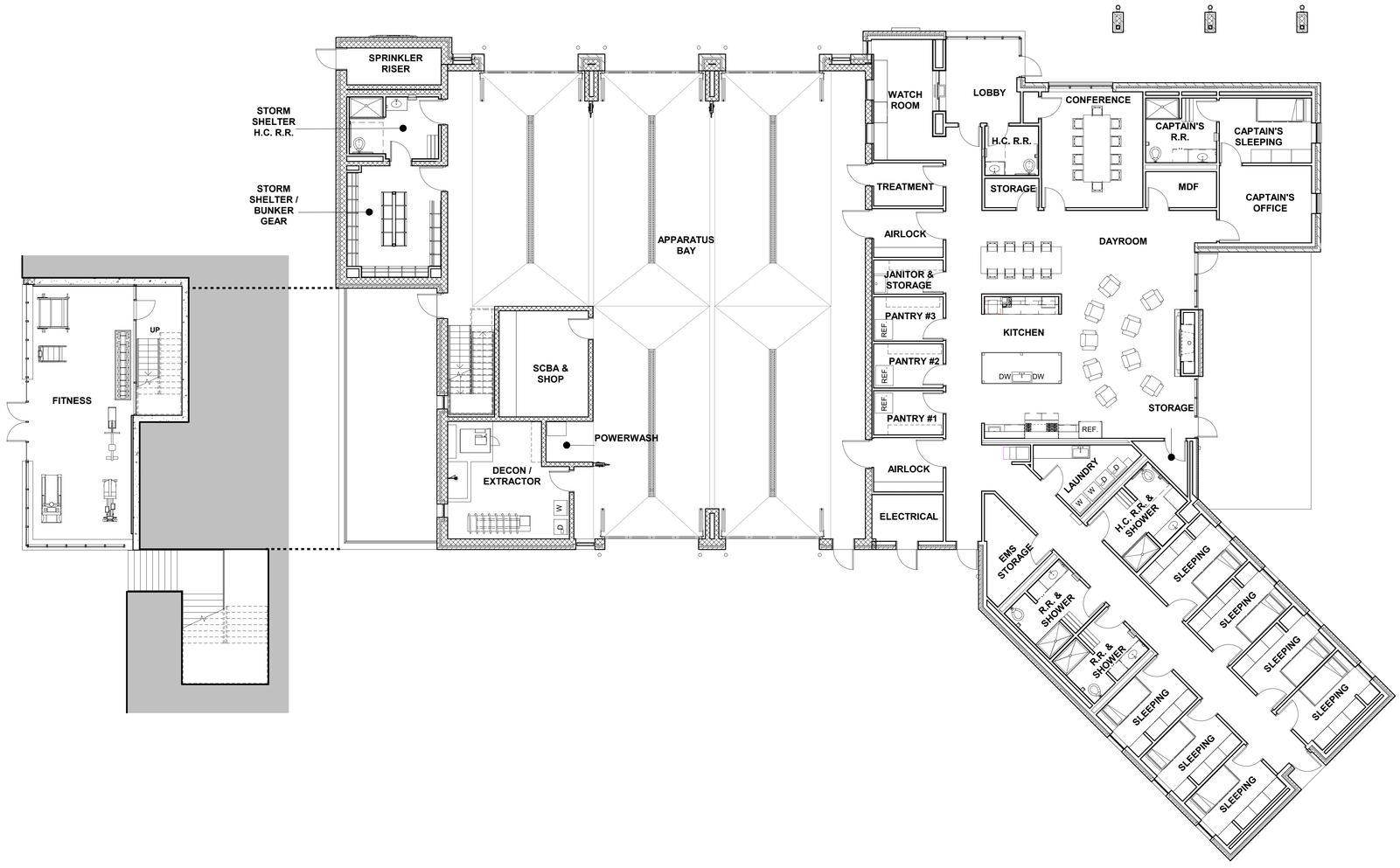
Attached Documents:
1. Town's Budget Summary
2. Floor Plans
3. Exterior Perspectives
4. Budget Executive Summary Estimate by Pogue Construction
5. Optional Square Footage Reduction Floor Plan
6. Project Schedule

Town Staff Recommendation:
Town Staff is requesting the Town Council provide feedback on the proposed design and construction budget.

Fire Station 4 Construction Project

Budget for Fire Station 4 Project	Current Budget	Project Estimate	Amount Encumbered	Expenditures to Date	Remaining Balance
Professional Services Budget - 750-5410-1000-2137-FC	$623,380.00	$623,380.00	$623,380.00	$89,582.98	$533,797.02
Other Development Costs - 750-5410-10-00-2203-FC	$601,620.00	$678,274.00	$8,250.00	$8,250.00	$593,370.00
Construction of Facility -750-6610-10-00-2205-FC	$6,000,000.00	$9,923,346.00	$0.00	$0.00	$6,000,000.00
Furniture, Fixtures & Equipment -750-6610-10-00-2206-FC	$775,000.00	$775,000.00	$0.00	$0.00	$775,000.00
Total Project	$8,000,000.00	$12,000,000.00	$631,630.00	$97,832.98	$7,902,167.02

Note: Expenditures include CMAR General Conditions Cost Fee and Pre-Construction Services Fees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STORM SHELTER / BUNKER GEAR
FITNESS
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SCBA & SHOP
DECON / EXTRACTOR
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POWERWASH
APPARATUS BAY
WATCH ROOM
TREATMENT
AIRLOCK
JANITOR & STORAGE
PANTRY #3
PANTRY #2
PANTRY #1
REF.
AIRLOCK
ELECTRICAL
LOBBY
H.C. R.R.
STORAGE
CONFERENCE
CAPTAIN'S R.R.
CAPTAIN'S SLEEPING
MDF
CAPTAIN'S OFFICE
DAYROOM
KITCHEN
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PROSPER FIRE RESCUE
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PROSPE FIRE RESCUE

50% DD Estimate SUMMARY

Fire Station #4

August 15, 2022

ESTIMATE SUMMARY	
CLIENT's REPORTED BUDGET	$6,000,000
50% DD ESTIMATE	$9,929,346

VALUE MANAGEMENT SUMMARY	
PROPOSED TIER I VALUE MANAGEMENT	-$158,224
PROPOSED TIER II VALUE MANAGEMENT	-$249,674
PROJECTED VM TOTAL	-$407,898

Fire Station #4
Town of Prosper
August 15, 2022
50% DD ESTIMATE

POGUE CONSTRUCTION
POWERED BY PEOPLE

	DESCRIPTION	GMP	COST/SF	%	COMMENT
	GENERAL REQUIREMENTS				
01A	GENERAL CONDITIONS	$340,999	$28.42	3.43%	
01B	FIELD & STAFF COST	$363,985	$30.33	3.67%	
01D	PROJECT REQUIREMENTS	$204,765	$17.06	2.06%	
	CONCRETE				
03A	CONCRETE	$1,067,300	$88.94	10.75%	Miller Sierra
	MASONRY				
04A	MASONRY	$387,315	$32.28	3.90%	Skinner Masonry
	METALS				
05A	METALS	$590,100	$49.18	5.94%	Staley
	WOOD & PLASTICS				
06D	FINISH CARPENTRY	$266,800	$22.23	2.69%	Christman Millwork
	THERMAL/MOISTURE PROTECTION				
07A	WATERPROOFING/AIR BARRIERS/CAULKING	$93,300	$7.78	0.94%	Southwest Construction Services
07B	FOAMED-IN-PLACE INSULATION	$14,880	$1.24	0.15%	Pogue Construction
07C	ROOFING & SHEET METAL	$436,100	$36.34	4.39%	J & J Roofing
07E	FIREPROOFING & FIRESTOPPING	$9,480	$0.79	0.10%	Pogue Construction
07F	EXPANSION CONTROL	$4,875	$0.41	0.05%	Pogue Construction
	OPENINGS				
08A	DOORS, FRAMES & HARDWARE	$152,227	$12.69	1.53%	Webb Builders Hardware
08C	FOLDING DOORS	$183,900	$15.33	1.85%	Johnson Equipment
08E	GLASS & GLAZING	$170,300	$14.19	1.72%	RWC
	FINISHES				
09B	DRYWALL/ACOUSTICAL	$603,375	$50.28	6.08%	Walker Drywall
09C	TILING	$58,509	$4.88	0.59%	One Source
09D	CARPET/VCT/ BASE	$55,450	$4.62	0.56%	One Source
09E	ATHLETIC FLOORING	$0	$0.00	0.00%	One Source w/ 09D
09I	FLUID APPLIED FLOORING	$71,866	$5.99	0.72%	Johnson & Sons
09K	PAINTING & WALL COVERINGS	$88,300	$7.36	0.89%	Jonsco
09L	PLASTER/STUCCO	$0	$0.00	0.00%	N/A
	SPECIALTIES				
10B	VISUAL DISPLAY UNITS	$5,590	$0.47	0.06%	Spectrum
10C	SIGNAGE	$146,631	$12.22	1.48%	Benchmark Signs
10D	TOILET ACCESSORIES & COMPARTMENTS	$15,214	$1.27	0.15%	Spectrum
10E	WALL & DOOR PROTECTION	$2,833	$0.24	0.03%	Spectrum
10F	FIRE PROTECTION SPECIALTIES	$1,792	$0.15	0.02%	Spectrum
10G	LOCKERS & METAL STORAGE SHELVING	$30,728	$2.56	0.31%	Spectrum
10H	POSTAL SPECIALTIES	$875	$0.07	0.01%	Spectrum
10I	OPERABLE PARTITIONS	$0	$0.00	0.00%	N/A
10J	AWNINGS/CANOPIES	$0	$0.00	0.00%	N/A
10L	FLAGPOLES	$11,779	$0.98	0.12%	Spectrum
10M	FIREPLACES	$17,100	$1.43	0.17%	Pogue Construction
	EQUIPMENT				
11C	RESIDENTIAL APPLIANCES	$33,500	$2.79	0.34%	Pogue Construction
11D	FOOD SERVICE EQUIPMENT/ COMMERCIAL APPLIANCES	$13,250	$1.10	0.13%	Pogue Construction
11E	PROJECTION SCREENS/PROJECTORS	$0	$0.00	0.00%	N/A
11M	VEHICLE SERVICE EQUIPMENT	$17,702	$1.48	0.18%	Pogue Construction
	FURNISHINGS				
12B	WINDOW TREATMENTS	$9,696	$0.81	0.10%	Pogue Construction
12J	SITE FURNISHINGS	$0	$0.00	0.00%	N/A

Fire Station #4
Town of Prosper
August 15, 2022
50% DD ESTIMATE

POGUE CONSTRUCTION
POWERED BY PEOPLE

	DESCRIPTION	GMP	COST/SF	%	COMMENT
	CONVEYING SYSTEMS				
14A	ELEVATORS	$0	$0.00	0.00%	N/A
	FIRE SUPPRESSION				
21A	FIRE SUPPRESSION	$53,400	$4.45	0.54%	Excel Fire Protection Systems
	PLUMBING				
22A	PLUMBING	$810,700	$67.56	8.16%	Neu Plumbing
	HVAC				
23A	HVAC	$495,328	$41.28	4.99%	Welch HVAC
	ELECTRICAL				
26A	ELECTRICAL	$861,000	$71.75	8.67%	Intex Electric
	COMMUNICATIONS				
27A	VOICE & DATA	$34,200	$2.85	0.34%	Progressive Technologies
27B	AUDIO VIDEO	$3,479	$0.29	0.04%	Pogue Construction
27C	LOCAL SOUND REINFORCEMENT	$0	$0.00	0.00%	By Owner
27D	PA SYSTEM/INTERCOM	$0	$0.00	0.00%	By Owner
27E	DISTRIBUTED ANTENNA SYSTEM	$0	$0.00	0.00%	By Owner
	ELECTRONIC SAFETY & SECURITY				
28A	FIRE ALARM	$22,100	$1.84	0.22%	Texas Fire & Sound
28B	SECURITY SYSTEM	$145,057	$12.09	1.46%	Netronix
28C	ACCESS CONTROL	$0	$0.00	0.00%	Netronix w/ 28B
	EARTHWORK				
31A	EARTHWORK	$317,959	$26.50	3.20%	RPMx
31B	TERMITE CONTROL	$1,147	$0.10	0.01%	Pogue Construction
31C	SWPPP	$22,286	$1.86	0.22%	Pogue Construction
	EXTERIOR IMPROVEMENTS				
32C	PAVEMENT MARKINGS/SPECIALTIES	$6,106	$0.51	0.06%	JDS Pavement Marking & Repairs
32G	FENCES & GATES	$0	$0.00	0.00%	
32H	RETAINING WALLS	$0	$0.00	0.00%	In 03A
32I	PLANTING, IRRIGATION, TURFS & GRASSES	$330,734	$27.56	3.33%	Firefighters Landscaping
	UTILITIES				
33A	SITE UTILITIES	$172,105	$14.34	1.73%	Moss Utilities
	ALLOWANCES				
34A	PIER ALLOWANCE	$25,000	$2.08	0.25%	
34B	BDA ALLOWANCE	$15,000	$1.25	0.15%	
34C	COMMUNICATIONS TOWER ALLOWANCE	$80,000	$6.67	0.81%	As Directed
34D	GAS SERVICE ALLOWANCE	$0	$0.00	0.00%	Excluded
	COST OF WORK SUBTOTAL	$8,866,117		89.29%	
	CONTINGENCIES				
35A	C/M CONTINGENCY @ 1.00%	$88,661	$7.39	0.89%	
35B	DESIGN CONTINGENCY @ 5.00%	$443,306	$36.94	4.46%	
35C	ESCALATION CONTINGENCY @ 4.08%	$361,446	$30.12	3.64%	Based on 12.00% per year
	SUBTOTAL	$9,759,530		98.29%	
	FINANCIALS				
	BUILDING PERMIT	$0	$0.00	0.00%	By T.O.P.
	PRECONSTRUCTION FEES	$0	$0.00	0.00%	To be funded outside of GMP

Fire Station #4

Town of Prosper

August 15, 2022

50% DD ESTIMATE

	DESCRIPTION	GMP	COST/SF	%		COMMENT
	FINANCIALS SUBTOTAL	$0		0.00%		
	SUBTOTAL	$9,759,530	$813	98.29%		
	CONST MGR FEE @ 1.74%	$169,816	$14.15	1.71%		
	TOTAL	**$9,929,346**	**$827**	**100.00%**		

Fire Station #4

Town of Prosper

August 15, 2022

ALTERNATES & VALUE MANAGEMENT

	DESCRIPTION	GMP		ACCEPTED		DECLINED	ACCEPTED VALUE	COMMENT
	PROJECT SUBTOTAL	$9,929,346					**$9,929,346**	50% DD Estimate August 4, 2022
	TIER I VALUE MANAGEMENT							
1-1	TPO in lieu of PVC Roofing	-$20,000						
1-2	Reduce Overhangs by 20% (Approx -270 SF)	-$7,290						Based on a Total of 2,725 SF
1-3	Reduce Signage by 20%	-$29,326						
1-4	D&S flowable fill detail ILO Plumbing Void System	-$11,000						
1-5A	Cast in Place Trench Drains w/ Traffic Rated Grate ILO Trenchformer TFX08 as specified	-$15,000						*Can select either 1-5A, 1-5B, or 1-5C
1-5B	Catch Basins in Apparatus Bay ILO Trenchformer TFX08 as specified	-$24,500						*
1-5C	Zurn Trench Drains in Apparatus Bay ILO Trenchformer TFX08 as specifieds	-$20,000						*
1-6	Target Light Fixture VM Package	-$24,000						
1-7	Aluminum Feeders ILO Copper	-$13,500						
1-8	MC Cable in Walls and Daisy Chain Light Fixtures	-$15,000						
1-9	Reduce LF of Root Protection Detail to 350 LF	-$13,608						
	TIER II VALUE MANAGEMENT							
2-1	Adjust Lower Level to Grade ROM	-$100,000						
2-2	Standard Finish ILO Wood Grain on Soffits	-$27,250						
2-3A	Remove Glazing on South side of Apparatus Bay	-$6,175						**Can select either 2-3A or 2-3B
2-3B	Reduce Glazing on South side of Apparatus Bay x 50%	-$3,088						**
2-4A	Remove Glazing on North side of Apparatus Bay	-$31,070						***Can select either 2-4A or 2-4B
2-4B	Reduce Glazing on North side of Apparatus Bay x 50%	-$15,535						***
2-5	Delete Fireplace	-$17,100						
2-6	Delete HLVS Fans	-$20,128						
2-7	Target Reduction of Landscaping by 20%	-$66,573						
	PROJECT TOTAL						**$9,929,346**	

Fire Station #4

Town of Prosper

August 15, 2022

50% DD ESTIMATE

	DESCRIPTION	QTY	UM	UNIT COST	SUBTOTAL
	GENERAL TRADES				
01D	PROJECT REQUIREMENTS				**$204,765**
	Temporary Electrical	12,000	SF		Included
	Dumpsters (Major Trades Only - Not for CM Stiuff)	1	LS		Included
	Temporary Water	1	LS		Included
	Temporary Toilets				w/ GC's
	Temporary Generator For Project Startup	1	LS		Included
	Project Signs	1	LS		w/ GC's
	Temporary Fencing x 6' High Panel Stands w/ Sandbags, Accessories, Windscreen & Gates Per The Site Logistics Plan Or At Perimeter Project Work Area With (2) 20' Gate If Not Specified On The Site Logistics Plan.	1	LS		Included
	-Temporary Fencing, Include Monthly Maintenance Of The Fence Throughout The Duration Of The Project)	1	LS		Included
	- Screening For Temporary Fence	1	LS		Included
	Provide Temporary Barricades As Directed By The C.M. Include (4), 8' Barricades For The Duration Of The Project	1	LS		Included
	Temporary Fire Extinguishers As Directed By The Construction Manager, Assume One For Every 3,500 Sf Of Building Area Plus One For The Job Trailer				w/ GC's
	Street Cleaning (General) As Directed By The Construction Manager, For Bidding Purposes Figure Every Other Week For The Duration Of The Project, See Schedule.	1	LS		Included
	Provide Miscellaneous Equipment As Follows:				Included
	-Provide One Tractor (570LXT Or MXT) W/ Boxblade (For The Durations Of The Project) Include Scheduled Maintenance	1	LS		Included
	-Included Tractor Maintenance & Fuel Consumption Of 60 Gal/ Month For The Duration Of The Project	1	LS		Included
	-Include Tractor Operation As Directed By The Construction Manager, For Bidding Purposes Included 12 Hours/ Week	1	LS		Included
	Temporary Building Conditioning/ Humidity Control As Follows:				Included
	-Provide Dehumidifiers (Each Capable Of 145 Pints/ Day) As Directed By The C.M. For Bidding Purposes Provide 5 Units For 5 Months)	1	LS		Included
	-Provide Temporary Heaters (Each Capabale Of 140,000 BTU's) As Directed By The C.M. For Bidding Purposes Provide 3 For 2 Months Include Fuel Costs	1	LS		Included
	-Provide Fuel For Heaters	1	LS		Included
	Provide Daily Clean-Up Services As Directed By The C.M. For Bidding Purposes Assume 16 Hrs/ Week For The Duration Of The Project	1	LS		Included
	Provide Construction "Final Cleaning" Services As Directed By The Construction Manager, For Bidding Purposes Assume The Following:	1	LS		Included
	Provide Weatherproof Connex Storage Boxes As Directed By The C.M., For Bidding Purposes Provide 3 Connex Boxes For 8 Month(S)	1	LS		Included
	Surveyor To Establish Initial Project Control For Site. Include Building Corners & Site Boundaries.	1	LS		Included
	DEMOLITION				
02A	DEMOLITION				**$0**
	Casework		LF	$128.00	
	Sawcut Slab		SF	$205.00	
	Storefront/Window		SF	$15.40	
	CMU Wall		SF	$51.00	
	Gyp Wall		SF	$20.50	
	Toilet Partitions / Accessories		EA	$257.00	
	Demolish ceilings in existing restrooms		SF	$5.13	
	Demolish courtyards		SF	$15.40	
	CONCRETE				
03A	CONCRETE				**$1,067,300**
	Miller Sierra Contractors 50% DD Estimate	$1,067,300			
	This proposal includes all labor, materials, tools, equipment, supervision, insurance and applicable taxes to complete our scope of work in accordance with the plans and specifications.				Included

Site Concrete	1	LS	$438,200.00	$438,200
5" Paving	4,124	SF		Included
7" Paving	19,722	SF		Included
4" Sidewalk	3,118	SF		Included
Retaining Walls	118	LF		Included
Retaining Walls	1,062	SF		Included
Barrier Free Ramps	3	EA		Included
Light Pole Bases	9	EA		Included
Transformer Pad	1	EA		Included
Site Steps	123	LF		Included
Install Bollards	6	EA		Included
Generator Pad	1	EA		Included
Dumpster Enclosure Footing	1	EA		Included
Install Dumpster Gate Post	2	EA		Included
Mountable Curb	48	LF		Included
Washout Pit - Site	1	EA		Included
Building Concrete	1	LS	$629,100.00	$629,100
Drilled Piers - 100% Dry	57	EA		Included
All Piers bid at 12'-0" from finished floor elevation plus the required penetration.				Included
Grade Beams/Walls	895	LF		Included
5" Slab on Grade over 15 mil Stego	7,287	SF		Included
8" Slab on Grade over 15 mil Stego	3,938	SF		Included
3" Slab on 3" Metal Deck	806	SF		Included
5" Slab on 3" Metal Deck	611	SF		Included
4" Topping Slab	32	SF		Included
Off Site Spoils Removal	399	CY		Included
Locker Bases	78	SF		Included
Pan Stairs	180	SF		Included
Install Trench Drain Encasement	120	LF		Included
Mechanical Pads	3	EA		Included
Cooler/Freezer Pads	1	EA		Included
Curbs - Standalone	71	LF		Included
Install Bollards - Interior Core Drill	10	EA		Included
Pogue 50% DD Take-Off	$1,172,192			
Site	**$447,175**			
Light Pole Base	9	EA	$770.00	$6,930
Paving	$286,272			Included
Paving, Drive Lanes	19,728	SF	$11.30	$222,926
Paving, Drive Lanes?	839	SF	$11.30	$9,481
Paving, Parking	4,169	SF	$9.20	$38,355
Associated Curbs	1,261	LF	$12.30	$15,510
Sidewalk	2,187	SF	$9.20	$20,120
Sidewalk x 5' Wide	1,284	SF		Included
Sidewalks x Various Widths	903	SF		Included
Site Retaining Walls	$75,430			Included
Site Retaining Wall (Avg Ht +/- 10') Ftg 8' xide x 1' Thick	59	LF	$346.50	$20,444
Site Retaining Wall (Avg Ht +/- 10')	598	SF	$77.00	$46,046
Site Retaining Wall (Avg Ht +/- 4') Ftg 3' xide x 1' Thick	20	LF	$139.00	$2,780
Site Retaining Wall (Avg Ht +/- 4')	80	LF	$77.00	$6,160
Site Steps	$38,546			Included
Site Steps Ftg 10' xide	335	SF	$20.50	$6,868
Site Steps Associated Retaining Wall (Avg Ht +/- 11')	250	SF	$77.00	$19,250
Site Steps Associated Treads/ Risers	137	LF	$77.00	$10,549
Site Steps Associated Landings	122	SF	$15.40	$1,879
Dumpster Enclosure	$19,877			Included
Piers, P1, 18" Diameter, -3'- 2" (Dumpster Enclosure)	4	EA	$1,539.00	$6,156
Grade Beams, 18" x 36" (Dumpster Enclosure)	66	LF	$149.00	$9,834
8" SOG (Dumpster Enclosure)	316	SF	$12.30	$3,887
Building	**$725,017**			

	Piers	$89,783			Included
	P1, 18" Diameter, -15'- 2"	12	EA	$1,539.00	$18,468
	P1, 18" Diameter, -3'- 2"	31	EA	$1,539.00	$47,709
	P1, 18" Diameter, -3'- 2" (Dumpster Enclosure)	4	EA		w/ Site
	P1, 18" Diameter, -3'- 2" (Not Shown)	2	EA	$1,539.00	$3,078
	P2, 24" Diameter, -3'- 2"	8	EA	$2,566.00	$20,528
	Pier Caps, 3'x 3'	4	EA	$770.00	$3,080
	Gradebeams	$110,850			Included
	Grade Beams, 18" x 36"	289	LF	$149.00	$43,061
	Grade Beams, 18" x 36" Associated Pilaster	38	SF		Included
	Grade Beams, 18" x 36" (Dumpster Enclosure)	66	LF		Included
	Grade Beams, 24" x 36"	435	LF	$149.00	$64,815
	Grade Beams, 24" x 36" Associated Pilasters	42	SF		Included
	Grade Beams, 44" x 36"	15	LF	$149.00	$2,235
	Basement Walls				Included
	Basement Walls & Associated Pilasters	2,670	SF	$87.00	$232,290
	Slabs				Included
	8" SOG	$141,566.00			Included
	8" SOG w/ #4's 12 OCEW over Vapor Barrier @ 1st Floor	4,195	SF	$30.80	$129,206
	Associated Trench Drain Work	120	LF	$103.00	$12,360
	5" SOG	$113,055			Included
	5" SOG w/ #3's 16 OCEW over Vapor Barrier @ LL	701	SF	$15.40	$10,795
	5" SOG w/ #3's 16 OCEW over Vapor Barrier @ 1st Floor	6,570	SF	$15.40	$101,178
	Associated Recessed Slab Area	132	SF	$8.20	$1,082
	5" SOD @ Storm Shelter Lid	$34,373			Included
	5" SOD w/ #4's 12" OCEW	612	SF	$15.40	$9,425
	Perimeter Tie Beam	324	LF	$77.00	$24,948
	4" Topping Slab w/ #4's 12" OCEW, 17/A3.2	37	SF	$20.50	$759
	MASONRY				
04A	MASONRY				**$387,315**
	Skinner Masonry 50% DD Estimate				
	We propose to furnish Material and Labor -- Complete and in accordance with plans and specifications for the masonry work:	1	LS	$387,315.00	$387,315
	1 year warranty against defects in Material and Workmanship				Included
	Cleaning of Newly Installed Masonry				Included
	Scaffolding & Equip. Masonry Use Only				Included
	Uncolored mortar at All Masonry (Job-Site Mixed)				Included
	Mockup Panel-(2) 4x4 Panels				Included
	Horizontal Joint Reinforcement (Wire)				Included
	Rebar @ CMU (Slab Dowels Excluded)				Included
	CMU				Included
	Grout Fill @ CMU				Included
	Control Joint Material @ CJ's				Included
	Chopped Limestone Veneer				Included
	Rigid Insulation Behind Stone Veneer				Included
	Thru-Wall Flashing @ Base,Head,Sills @ Masonry				Included
	Masonry Ties				Included
	Mortar Net (Weep Protection)				Included
	Masonry Weeps @ Veneer				Included
	Pogue 50% DD Take-Off	**$394,407**			
	CMU	$203,047			
	CMU, 8" wide x 8'- 0" (Tall) (Exterior) Dumpster Enclosure	396	SF	$22.60	$8,950
	CMU, 8" x 12'- 0" tall (Interior)	299	SF	$22.60	$6,757
	CMU, 8" x 2'- 0" Tall (Exterior) Above Apperatus Doors	152	SF	$22.60	$3,435
	CMU, 8" x 20'- 2" Tall (Interior)	249	SF	$22.60	$5,627
	CMU, 8" x 26'- 2" Tall (Interior)	656	SF	$22.60	$14,826
	CMU, 8" x 12'- 0" tall (Interior) Fully Grouted at Shleter	1,585	SF	$26.70	$42,320
	CMU, 12" x 14'- 0" tall (Exterior)	859	SF	$23.60	$20,272
	CMU, 12" x 16'- 0" Tall (Exterior)	305	SF	$23.60	$7,198

	CMU, 12" x 20'- 2" Tall (Exterior)	384	SF	$23.60	$9,062
	CMU, 12" x 23'- 2" Avg Ht (Exterior)	2,870	SF	$23.60	$67,732
	CMU, 12" x 23'- 2" Avg Ht (Exterior) Fully Grouted	431	SF	$23.60	$10,172
	CMU, 12" x 20'- 2" Tall (Exterior) Fully Grouted at Shelter	314	SF	$26.70	$8,384
	Stone Veneer	$148,842			
	Veneer, Stone to 8' AFF (Dumpster Enclosure)	125	SF	$35.90	$4,488
	Veneer, Stone to 12' AFF	1,703	SF	$35.90	$61,138
	Veneer, Stone to 12' AFF	125	SF	$35.90	$4,488
	Veneer, Stone to 14' AFF	2,318	SF	$35.90	$83,216
	Stone Cap	$2,754			
	Cap, Stone (Dumpster Enclodure)	54	LF	$51.00	$2,754
	Thru-Wall Insulation a Stone Veneer	4,146	SF	$5.13	$21,269
	Rigid Insulation Behine Stne Veneer	4,146	SF	$5.13	$21,269
	METALS				
05A	METALS				**$590,100**
	Staley Steel 50% DD Estimate				
	Fabricate, Deliver & Erect Structural & Misc Steel	1	LS	$590,100.00	$590,100
	Structural Steel	60	TON		Included
	WOOD & PLASTICS				
06D	FINISH CARPENTRY				**$266,800**
	Christman Millwork 50% DD Estimate				
	This proposal does not include cost associated with supply chain disruptions of any form.				
	AWI Certification Requirements				Excluded
	Section 06 40 23 Interior Architectural Woodwork	1	LS	$266,800.00	$266,800
	Section 06 61 40 Quartz Countertops & Fabrications				Included
	Stained Hardwood Veneer Cabinet Specifications:				Included
	-Cabinets to be manufactured on 3” increments for width.				Included
	-Fillers to be up to 1 1/2” wide.				Included
	-Stained interiors with plywood core and wood edgetape.				Included
	-Adjustable Hardwood Veneer Shelves on Linebore				Included
	-Birch Plywood Full Extension Wood Drawer Box System				Included
	-Doors and drawer fronts to be Wood Veneer with Wood edgetape.				Included
	-4” Brushed Chrome Wire Pull.				Included
	Included:				Included
	-Casework				Included
	-Butcherblock Countertop				Included
	-4" Wood Base @ Kitchen/Dining/Dayroom/Corridors				Included
	-Quartz Fabrications				Included
	THERMAL/MOISTURE PROTECTION				
07A	WATERPROOFING/AIR BARRIERS/CAULKING				**$93,300**
	Southwest Construction Services 50% DD Estimate				
	Furnish all material, equipment & labor perform the Waterproofing	1	LS	$93,300.00	$93,300
	Furnish and install site paving sealants @ the following locations:				Included
	¾” Expansion Joints in new paving				Included
	¼” Control Joints in new paving				Included
	¾” Expansion Joint @ paving to building				Included
	Butt Joints @ new to existing pavement				Included
	¾” Expansion Joints in sidewalks				Included
	¾” Expansion Joints @ sidewalk to curb and to building				Included
	Furnish and install building sealants @ the following locations:				Included
	Masonry to metal panels/fiber cement				Included
	Exterior masonry control joints				Included
	Louvers				Included
	Exterior Hm doors				Included
	OH doors				Included
	CMU control joints (Latex Sealant)				Included

	HM doors to CMU (Latex Sealant)				Included
	Top of CMU to metal deck (3M Fire Caulking)				Included
	Furnish and install sheet applied waterproofing @ the following locations:				Included
	Below grade walls				Included
	Includes: Drainage mat, primer and aluminum termination bar				Included
	Furnish and apply fluid-applied air barrier @ the following locations:				Included
	Masonry over CMU				Included
	Masonry over sheathing				Included
	Cement board over sheathing				Included
	Metal panels over CMU				Included
	Metal panels over sheathing				Included
	Soffit & fascia				Included
	Includes: Sheathing joint treatment and system flashing				Included
	Furnish and apply (1) Coat of floor sealer/hardener @ areas designated per finish schedule.				Included
	Furnish and install floor joint sealant @ slab on grade control joints.				Included
07B	FOAMED-IN-PLACE INSULATION				**$14,880**
	Pogue Construction 50% DD Estimate				
	Based on Building Area	12,000	SF	$1.24	$14,880
07C	ROOFING & SHEET METAL				**$436,100**
	J & J Roofing 50% DD Estimate				
	Based on Pogue Construction Take-Off	1	LS	$436,100.00	$436,100
	Pogue 50% DD Take-Off	**$408,034**			
	Standing Seam Roof System	2,795	SF	$25.70	$71,832
	Metal Soffits	2,725	SF	$46.00	$125,350
	Single Ply Membrane Roofing System	11,170	SF	$15.40	$172,018
	Metal Copings	129	LF	$25.70	$3,315
	Gutters & Downspouts				
	Gutter	199	LF	$15.40	$3,065
	Downspout	180	LF	$15.40	$2,772
	Prefinished Metal Wall Panels	582	SF	$51.00	$29,682
07D	METAL ROOF & WALL PANELS				**$0**
	w/ 07C				
07E	FIREPROOFING & FIRESTOPPING				**$9,480**
	Pogue 50% DD Estimate	12,000	SF	$0.79	$9,480
07F	EXPANSION CONTROL				**$4,875**
	Pogue 50% DD Estimate				
	Roof expansion Joint	77	LF	$30.80	$2,372
	Wall Expansion Joints	30	LF	$30.80	$924
	Floor Expansion Joint	77	LF	$20.50	$1,579
	OPENINGS				
08A	DOORS, FRAMES & HARDWARE				**$152,227**
	Webb Builders Hardware 50% DD Estimate				
	Furnish & Install Doors, Frames & Hardware as follows:	1	LS	$136,506.00	$136,506
	Hollow Metal Frames	40	EA		Included
	Hollow Metal Doors	12	EA		Included
	Wood Doors	28	EA		Included
	FEMA Assemblies	3	EA		Included
	Finished Hardware	1	LOT		Included
	Storefront Hardware	1	LOT		Included
	Install	1	LS	$15,721.00	$15,721
	Tex-Oma Builders Supply 50% DD Estimate	$171,341			
	Furnish & Install Doors, Frames & Hardware as follows:	1	LS	$155,620.00	$155,620
	Hollow Metal Frames	41	EA		Included

	Hollow Metal Doors	13	EA		Included
	Wood Doors	28	EA		Included
	FEMA Assemblies	3	EA		Included
	Finished Hardware	1	LOT		Included
	Storefront Hardware	1	LOT		Included
	Install	1	LS	$15,721.00	$15,721
08C	FOLDING DOORS				**$183,900**
	Johnson Equipment 50% DD Estimate				Included
	Furnish & Install 4-Fold Doors	$183,900			Included
	Model FF30 4-Fold Doors, 14'- 2" x 14'- 0"	5	EA	$36,780.00	$183,900
	Wood grain powder coating as noted on the elevation sheets				Excluded
08E	GLASS & GLAZING				**$170,300**
	RWC 50% DD Estimate				
	Furnish & Install Glass & Glazing Systems	1	LS	$170,300.00	$170,300
	Ballistic Rated Glazing Systems				Excluded
	08 41 13 – Aluminum-Framed Entrances & Storefront:				Included
	US Aluminum 2" x 4 1/2" IT451 Thermal Series Frames for Exterior 1" Glass, (Finish TBD)				Included
	US Aluminum Series 550 Wide Stile Doors Exterior 1" Glass, (Finish TBD)				Included
	08 80 00 – Glazing:				Included
	1" Insulated Tempered Glass at Exterior				Included
	Pass Thru Transaction Window	1	EA		Included
	Mirrors	1	EA		Included
	Pogue 50% DD Estimate	$173,843			
	Exterior Storefront	1,929	SF	$67.00	$129,243
	050- Ext. Storefront +/- 13'- 3" x +/- 10'- 3" (Varies)	1	EA		Included
	050- Ext. Storefront +/- 37'- 5" x +/- 11'-4" (Varies) (w/ Dbl 3080 Doors)	1	EA		Included
	100- Ext. Storefront 5'- 2" x 9'- 6" (w/ 3070 Door)	1	EA		Included
	100- Ext. Storefront 10'- 10" x 9'- 6"	1	EA		Included
	101- Ext. Storefront 8'- 8" x 9'- 6"	1	EA		Included
	105- Ext. Storefront 13'- 6" x 7'- 8"	1	EA		Included
	107- Ext. Storefront 8'- 8" x 7'- 10"	1	EA		Included
	107- Ext. Storefront 9'- 0" x 2'- 0"	1	EA		Included
	118- Ext. Storefront 9'- 2" x 12'- 3" (w/ 3080 Door)	2	EA		Included
	120- Ext Window 6'- 0" x 2'- 0"	1	EA		Included
	150- Ext. Clerestory 37'- 10" x 2'- 6" (South Elevation)	1	EA		Included
	150- Ext. Clerestory 63'- 9" x 7'- 6" (North Elevation)	1	EA		Included
	Ext. Windows 3'- 0" x 8'- 0" @ Sleeping Rooms 108, 122, 123, 124, 125, 126, 127 & 128	8	EA		Included
	Interior Storefront	210	SF	$56.00	$11,760
	050- Int. Storefront 18'- 5" x +/- 11'-5" (w/ 3080 Door)	1	EA		Included
	Storefronmt Doors	6	EA	$3,592.00	$21,552
	Pass Thru Transaction Window	1	EA	$5,131.00	$5,131
	Mirrors	1	EA	$6,157.00	$6,157
	FINISHES				
09B	DRYWALL/ACOUSTICAL				**$603,375**
	Walke Drywall 50% DD Estimate				
	Furnish & Install the following:	1	LS	$516,175	$516,175
	054000 Cold Formed Metal Framing				Included
	061000 Rough Carpentry				Included
	068200 Glass Fiber Reinforced Plastic				Included
	072100 Thermal Insulation (Glass Fiber Batt Only)				Included
	092226 Suspension Systems				Included
	092982 Gypsum Board				Included
	095100 Acoustical Ceilings				Included
	Install Hollow Metal Door Frames In Drywall Partitions (Labor Only)				Included

	Fiber Cement Siding	3,393	SF	$26	$87,200
	Southwest Commercial Interiors 50% DD Estimate	$638,600			
	Furnish & Install the following:	1	LS	$551,400	$551,400
	05 40 00 - Cold-Formed Metal Framing				Included
	Engineering of the exterior light gauge metal stud framing only				Included
	Exterior light gauge metal stud framing at walls not shown as cmu				Included
	Interior metal framed drywall partitions and furring as scheduled on A1.0				Included
	Interior light gauge metal framing for walls, furring, soffits, and ceilings				Included
	Installation of door frames in interior drywall partitions				Included
	06 10 00 - Rough Carpentry				Included
	Plywood parapet sheathing and wood blocking on our exterior framing				Included
	In-wall wood blocking or FR plywood for attachments to walls				Included
	06 16 00 – Sheathing				Included
	Exterior Densglass sheathing on all our exterior metal stud framing				Included
	Taping of exterior Densglass sheathing joints and then covered with Tyvek sheeting				Included
	06 64 00 – Plastic Paneling				Included
	FRP panels where noted on the walls in Janitor (white pebbled)				Included
	07 21 00 – Building Thermal Insulation				Included
	Un-faced batt insulation full thickness and height of exterior walls				Included
	Z-furring holding the 2” rigid insulation in place only where shown at cmu walls				Included
	Exterior 2” rigid un-faced insulation all exterior walls (framed and cmu)				Included
	09 21 00 – Gypsum Board Assemblies				Included
	Drywall type X, hi-impact, and cementitious backer board where noted				Included
	09 51 23 - Acoustical Tile Ceilings				Included
	Typical Office and Sleep Room Tile: Mineral fiber tile made for a lay-in grid suspension system. Panel design is Armstrong "Optima", 24 inch by 24 inch. Typical.				Included
	Acoustical ceiling systems (Optima tile in standard grid)				Included
	09 81 00 - Acoustical Insulation				Included
	Un-faced batt insulation full thickness and height in walls shown				Included
	Fiber Cement Siding	3,393	SF	$26	$87,200
09C	TILING				**$58,509**
	One Source Commercial Flooring 50% DD Estimate				
	Furnish & Install Tile as follows:	1	LS	$58,509	$58,509
	Floor Tile	870	SF		Included
	Floor Tile 1, 12" x 24"	760	SF		Included
	Floor Tile 2, 2" x 2"	110	SF		Included
	Wall Tile	3,380	SF		Included
	Wall Tile 1, 12" x 24"	3,260	SF		Included
	Wall Tile 2, 4" x 24"	120	SF		Included
	Metal Edges/ Trims (Satin, Anodized Aluminum)	328	LF		Included
	Marble Thresholds, 2" x 36" x 3/8" Dbl Bevel	18	EA		Included
	Shower Pan Labor	5	EA		Included
	Thinset Latex				Included
	Waterproofing Membrane				Included
	Grout				Included
	Caulking to Match Grout				Included
09D	CARPET/VCT/ BASE				**$55,450**
	One Source Commercial Flooring 50% DD Estimate				
	Furnish & Install Carpet, VCT & LVT as follows:	1	LS	$37,279	$37,279
	Carpet	192	SY		Included
	SDT-1	135	SF		Included
	LVT-1	3,300	SF		Included
	Wall Base RB-1	2,280	LF		Included
	Transitions/ Reducers				Included
	Moisture Tests	6	EA		Included
	Floor Prep	19	Bags		Included

	1 Bag/ 500 Sqft at Carpet & 1 Bag/ 250 Sqft At Resilient.				Included
	Walkoff Matts	123	SF	$13	$1,587
	Furnish & Install Athletic Rubber Flooring as follows:	1	LS	$11,501	$11,501
	Mondo Sport Impact 6MM 6 Ft Wide Rolls	630	SF		Included
	Moisture Tests	2	EA		Included
	Floor Prep	3	Bags		Included
09E	ATHLETIC FLOORING				**$0**
	w/ 09D				
09F	WOOD STRIP & PLANK FLOORING				**$0**
	Not Applicable				
09G	WOOD ATHLETIC FLOORING				**$0**
	Not Applicable				
09H	TERRAZZO FLOORING				**$0**
	Not Applicable				
09I	FLUID APPLIED FLOORING				**$71,866**
	Johnson & Sons 50% DD Estimate				
	Furnish & Install Epoxy Flooring	1	LS	$54,475.00	$54,475
	Diamond grind and prep concrete	3,914	SF		Included
	Install Polycrete MDB urethane cement basecoat w/ non-skid texture (1/4") w/ shop floor grout coat and Armor Top urethane topcoat – Dur-A-Flex				Included
	Sealed Concrete	1,097	SF		Included
	Sand and seal w/ concrete hardener/dustproofer				Included
	Deep Cleaning of Areas to receive Epoxy/ Sealed Concrete	5,011	SF	$1.51	$7,567
	Temporary Protection of Epoxy Coatings	3,914	SF	$2.51	$9,824
09K	PAINTING & WALL COVERINGS				**$88,300**
	Jonsco Incorporated 50% DD Estimate				
	We hereby propose to furnish all materials and labor as follows:	1	LS	$88,300.00	$88,300
	Tape, bed and texture gyp walls and ceilings				Included
	Fire tape rated walls				Included
	Paint gyp walls and ceilings including epoxy as noted in the design development specs				Included
	Paint CMU including epoxy as noted in the design development specs				Included
	Paint exposed concrete walls in the fitness rooms				Included
	Paint exposed structure as noted in the design development specs				Included
	Paint IIM doors and frames				Included
	Paint stairs and handrails				Included
	Paint fiber reinforced cementitious wall panel				Included
	Paint CMU, gates and bollards at dumpster enclosure				Included
	Paint lintels and ladders				Included
	Paint roof top gas pipe this is an estimate quantity unknown				Included
09L	PLASTER/STUCCO				**$0**
	Not Applicable				
	SPECIALTIES				
10B	VISUAL DISPLAY UNITS				**$5,590**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Visual Display Board	1	LS	$5,590.00	$5,590
	4x6 Glass Marker Board	4	EA		Included
10C	SIGNAGE				**$146,631**
	Benchmark Signs 50% DD Estimate				
	Pricing Based On 50 % Plans & Fire Station No. 3				Included
	PER DRWG A7.3, DTL 1, FLOOR PLANS 1.1, 1.1A, 1.1B, AND 1.2 & SPECIFICATIONS.				Included
	Type 1, Room Signs, 6" X 6" X 1/2"	33	EA	$150.37	$4,962
	Glassbackers for Type 1, 6" x 6" x 1/32"	10	EA	$33.52	$335

	Type 2, Office Room Signs with Walnut Wood Veneer, 6" x 9" X 1/2"	1	EA	$228.83	$229
	Glassbackers for Type 2, 6" x 9" x 1/32"	1	EA	$39.95	$40
	Type 3, Restroom Signs with Walnut Wood Veneer, 6" x11.5" X 1/2"	10	EA	$284.08	$2,841
	Type 4, No Smoking Signs, 18" x 12" X 1/2"	3	EA	$577.82	$1,733
	Type 5, Storm Shelter Maps per specs, 18" x 12" X 1/2"	4	EA	$625.11	$2,500
	Type 6, EXIT Signs, 6" X 4" X 1/2"	5	EA	$110.12	$551
	Type 7, MOC Signs, 6" X 6" X 1/2"	2	EA	$150.37	$301
	Type 8, PUSH BUTTON FOR ASSISTANCE Sign, 8" x 8" X 1/4"	1	EA	$125.53	$126
	Type 9, RING DOOR BELL FOR ASSISTANCE Sign, 10" x 10" X 1/4"	1	EA	$144.68	$145
	Type 10 DOOR CONTROL BUTTONS, FRONT, REAR Signs, 8" x 8" X 1/4"	2	EA	$125.53	$251
	Type 10.1 DOOR CONTROL BUTTONS, 1, 2, 3, 4, Signs (2 sets ea) AND 5, 6, (1 SET , EA), 4" x 4" X 1/4"	10	EA	$75.66	$757
	Type 11, AIR LOCK Sign, 12" x 12" X 1/4"	4	EA	$182.34	$729
	Type 12, FIRE STATION SHIFT DESIGNATION SIGNAGE, 3" DIA X 1/4"	39	EA	$73.59	$2,870
	Type 13, DIRECTIONAL KITCHEN Signs, 12" x 12" X 1/4"	2	EA	$182.34	$365
	PER DRWG G1.6 AND PER ROOM SIGN DESIGN				Included
	Type A, 8" X 12" X 1/2"	2	EA	$334.09	$668
	Type B, 18" X 12" X 1/2"	2	EA	$641.03	$1,282
	Type C, 14" X 6" X 1/2"	1	EA	$325.31	$325
	Type D, 18" X 6" X 1/2"	1	EA	$364.08	$364
	VINYL SIGNAGE				Included
	Hours of Operation, 6" Fire Department Badge & 6" Address Numbers 335.34	1	LS	$344.34	$344
	Office Identification Vinly Signs	3	EA	$185.48	$556
	Cast Aluminum Plaque PER , Flat Relief Only, Up to 4 Colors. Each Additional Color is $125.00 each. Artwork by Others in non-layered, vectorized file formats of Ai, eps, or cdr.	1	EA	$4,686.65	$4,687
	BACK-LIT LED PAINTED FABRICATED PAINTED ALUMINUM LETTERS & NUMBERS				Included
	Text: "MEDIC, BRUSH, ENGINE, (1 SET, UC), 12" X 2"	16	EA	$545.68	$8,731
	Text: "PROSPER FIRE RESCUE, FIRE STATION #4" (1 SET, UC), 8" X 2"	30	EA	$479.28	$14,378
	Text: "FIRE STATION #4" (1 SET, UC), 10" X 2"	12	EA	$507.88	$6,095
	Text: "4", 8'-6" X 4"	1	EA	$4,102.92	$4,103
	Text: "PROSPER FIRE RESCUE" (1 SET, UC), 12" X 2"	17	EA	$545.68	$9,277
	LOGO, 4' DEEP HALO-LIT Fire Station Shield Badge, PAINTED, with BACK-LIT 3/8" push through letters and symbols, 3D ribbon with BACK-LIT 3/8"push thru letters, perforated vinly on all letters and symbols, clip mounted to wall.	1	EA	$28,796.51	$28,797
	NOTE: TO BUILD A SMALL REPLICA OF BADGE ABOUT QUARTER SIZE, THEN ADD	1	EA	$6,463.00	$6,463
	NON-LIT LED PAINTED FABRICATED PAINTED ALUMINUM NUMBERS				Included
	Text: "911", 12" X 2"	3	EA	$238.30	$715
	Texte: "PROSPER FIRE RESCUE", 8" X 1"	17	EA	$160.40	$2,727
	Submittals, Samples,Rental Equipment, Trip Charge	1	LS	$27,713.50	$27,714
	WINDOW FILM GRAPHICS	300	sf	$35.57	$10,670
10D	TOILET ACCESSORIES & COMPARTMENTS				**$15,214**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Toilet Accessories by Bradley UON	1	LS	$15,214.00	$15,214
	Towel/Waste Unit	6	EA		Included
	Towel/Waste Unit	6	EA		Included
	Soap Disp	6	EA		Included
	Napkin Disposal	6	EA		Included
	36" GB	6	EA		Included
	42" GB	6	EA		Included
	Integral 24x36 Mirror by Bobrick	6	EA		Included
	Towel Bar	5	EA		Included

	Robe Hook	6	EA		Included
	60” Shwr Rod/Curt	5	EA		Included
	Soap Dish	5	EA		Included
	Shower Bench	5	EA		Included
	Mop/Broom Holder	1	EA		Included
10E	WALL & DOOR PROTECTION				**$2,833**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Corner Guards	1	LS	$2,833.00	$2,833
	Full Height Stainless Corner Guard	4	EA		Included
10F	FIRE PROTECTION SPECIALTIES				**$1,792**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Fire Protection Specialties	1	LS	$1,792.00	$1,792
	Semi-Rec Cabinet with Ext	1	EA		Included
	Semi-Rec Cabinet w/ ABC Ext. & K Ext.	1	EA		Included
	Wall Hung Ext.	1	EA		Included
10G	LOCKERS & METAL STORAGE SHELVING				**$30,728**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Turnout Gear Lockers	1	LS	$30,728.00	$30,728
	24x24 Lockers Wall Mtd	1	EA		Included
	Hanging rods, drying hangers, trouser and glove hangers, top & bottom shelf				Included
10H	POSTAL SPECIALTIES				**$875**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Postal Specialties	1	LS	$875.00	$875
	Roadside Mailbox Mode: 4325BLK	1	EA		Included
10I	OPERABLE PARTITIONS				**$0**
	Not Applicable				
10J	AWNINGS/CANOPIES				**$0**
	Not Applicable				
10L	FLAGPOLES				**$11,779**
	Spectrum Resource Group 50% DD Estimate				
	Furnish & Install Flagpoles	1	LS	$11,779.00	$11,779
	30’ Flagpole	2	EA		Included
10M	FIREPLACES				**$17,100**
	Pogue 50% DD Estimate	$17,100			
	10 30 00 – Fireplaces	1	EA	$17,100.00	$17,100
	· Single-Sided Gas Fireplace with logs				Included
	· Manufacturers: Acucraft, Heatilator, or equal				Included
	EQUIPMENT				
11C	RESIDENTIAL APPLIANCES				**$33,500**
	Pogue 50% DD Estimate	$33,500			
	11 31 00 - Residential Appliances				
	· Food Disposers	2	EA	$200.00	$400
	· Clothes Washers and Electric Dryers				
	Washers	2	EA	$1,500.00	$3,000
	Dryers	2	EA	$800.00	$1,600
	· Gas range	1	EA	$6,500.00	$6,500
	Hood w/ Fire Suppression	1	EA	$5,500.00	$5,500
	· Double oven	1	EA	$3,000.00	$3,000
	· Refrigerators (pantries, EMS storage)	4	EA	$2,000.00	$8,000
	· Dishwashers, with stainless steel tubs and finish – Qty (2)	2	EA	$750.00	$1,500
	· Microwave ovens – Qty (1)	1	EA	$500.00	$500
	· Outdoor gas grill	1	EA	$3,500.00	$3,500

	Extractor Room				By Owner
	· 65 LB. Unimac Extractor with automatic detergent dispensing (Owner provided – coordinate installation with Owner's vendor.)				By Owner
	· 4 unit mannequin-style gear dryer (Owner provided – coordinate installation with Owner's vendor.)				By Owner
11D	FOOD SERVICE EQUIPMENT/ COMMERCIAL APPLIANCES				**$13,250**
	Pogue 50% DD Estimate	$13,250			
	11 31 00 - Residential Appliances				
	11 40 00 – Food Service Equipment				
	· Ice Machine (large standing in Laundry)	1	EA	$7,500.00	$7,500
	· Ice / Water Dispenser (filtered)	1	EA	$5,000.00	$5,000
	· Commercial Coffee Maker (filtered)	1	EA	$750.00	$750
11E	PROJECTION SCREENS/PROJECTORS				**$0**
	Not Applicable				
11M	VEHICLE SERVICE EQUIPMENT				**$17,702**
	Pogue 50% DD Estimate	$17,702			
	11 11 00 – Vehicular Service Equipment				
	· Hot water pressure washer; BOD: Hotsy Model 1700	1	EA	$17,702.00	$17,702
	Air Compressors				By Owner
	· SCBA (Owner provided – coordinate installation with Owner's vendor.)				By Owner
	FURNISHINGS				
12B	WINDOW TREATMENTS				**$9,696**
	Pogue 50% DD Estimate	$9,696			
	12 24 00 – Manual Roller Shades				
	· MechoShade "EcoVeil" in single and dual roll.	1,152	SF	$6.20	$7,142
	050- Ext. Storefront +/- 13'- 3" x +/- 10'- 3" (Varies)	1	EA		Included
	050- Ext. Storefront +/- 37'- 5" x +/- 11'-4" (Varies) (w/ Dbl 3080 Doors)	1	EA		Included
	100- Ext. Storefront 5'- 2" x 9'- 6" (w/ 3070 Door)	1	EA		Included
	100- Ext. Storefront 10'- 10" x 9'- 6"	1	EA		Included
	101- Ext. Storefront 8'- 8" x 9'- 6"	1	EA		Included
	105- Ext. Storefront 13'- 6" x 7'- 8"	1	EA		Included
	107- Ext. Storefront 8'- 8" x 7'- 10"	1	EA		Included
	107- Ext. Storefront 9'- 0" x 2'- 0"	1	EA		Included
	118- Ext. Storefront 9'- 2" x 12'- 3" (w/ 3080 Door)	2	EA		Included
	· Blackout shades with light baffling trim at all sleep rooms.	192	SF	$13.30	$2,554
	Ext. Windows 3'- 0" x 8'- 0" @ Sleeping Rooms	8	EA		Included
12J	SITE FURNISHINGS				**$0**
	None Shown		SF		
	CONVEYING SYSTEMS				
14A	ELEVATORS				**$0**
	None Shown				
	FIRE SUPPRESSION				
21A	FIRE SUPPRESSION				**$53,400**
	Excel Fire Protection Systems, 50% DD Estimate				
	Design, furnish & install a new wet fire sprinkler system	1	LS	$53,400.00	$53,400
	Building Area	12,000	SF		Included
	City of Prosper permit and 3rd Party Plan Review fee				Included
	Work to start at a flange 1'-0" inside of the bldg.				Included
	Quick Response Concealed Pendent Heads located in center of the tile.				Included
	Installing 1 wet system with B.F.P. to protect the bldg.				Included
	Fire Pump or fire standpipe system.				Excluded
	This is based upon having an adequate water supply.				

	No Dry System, remote FDC, or canopy coverage.				
	PLUMBING				
22A	PLUMBING				**$810,700**
	Neu Plumbing 50%DD Estimate				
	Furnish And Install The Plumbing Systems Per Plans Dated 5/17/2022.	1	LS	$810,700.00	$810,700
	Condensate Piping Is Included				Included
	HVAC				
23A	HVAC				**$495,328**
	Welch HVAC 50% DD Estimate				
	Furnish & Install the Mechanical Systems Per Plans Dated 5/17/2022.	33	TON	$14,400.00	$475,200
	23 34 70 – HVLS Fans				
	· Big Ass Fans - (1) at Fitness, (1) in Apparatus Bay, (2) Exterior				
	Fitness	1	EA	$5,032.00	$5,032
	Apparatus Bay	1	EA	$5,032.00	$5,032
	Exterior	2	EA	$5,032.00	$10,064
	ELECTRICAL				
26A	ELECTRICAL				**$861,000**
	Intex Electric 50% DD Estimate				
	We propose to provide all the necessary Materials, Labor, and Equipment required to install a complete and working Electrical System per the plans drawn by MECPE dated 5/17/22 and entitled “Prosper Fire Station #4 Budget”,	1	LS	$861,000.00	$861,000
	Furnish and install the following:				Included
	Fixture package furnished and installed (based on $9 per square foot)				Included
	Controls furnished and installed				Included
	Site includes:				Included
	Pole Lights				Included
	Gates				Included
	Signs				Included
	Wall rough in ¾’ EMT				Included
	All homeruns in ¾” EMT minimum				Included
	Storm shelter work included				Included
	Special systems rough-in included				Included
	Temporary services				Included
	Equipment connections and feeders:				Included
	RTU’s, CU’s, WH’s, Ef’s				Included
	Kitchen equipment				Included
	Loose disconnect furnished and installed where shown on drawings				Included
	Service:				Included
	Switchgear furnished and installed (Square D package)				Included
	800-amp service				Included
	SPDs furnished and installed per specs				Included
	20 KVA UPS furnished and installed				Included
	250KVA Natural Gas Generator furnished and installed (54 Week Lead Time)				Included
	Grounding as shown on drawings				Included
	Lightning Protection				Included
	All feeders in copper				Included
	Primary 2-4” PVC empty @ 260’				Included
	Telephone 3-4” @ 300’ empty				Included
	COMMUNICATIONS				
27A	VOICE & DATA				**$34,200**
	Progressive Technologies 50% DD Estimate				
	Furnish & Install Voice & Data as follows:	1	LS	$34,200.00	$34,200
	4-Post equipment rack	1	EA		Included
	2-post equipment rack in the MDF	1	EA		Included
	Vertical & horizontal wire management				Included
	Horizontal wire management				Included

	12" ladder rack(s)				Included
	Install, terminate, test, and label new Category 6 cables	43	EA		Included
	Install, terminate, test, and label RG-6 Coax cables	8	EA		Included
	HDMI cables from the TV to the wall location based on the technology drawings provided.	2	EA		Included
	J-Hooks to support the cabling infrastructure.				Included
	J-Hooks will be placed every 5'-6' and best installation practices will be used.				Included
	Test all new cables installed to ensure Category 6 compliance.				Included
	Alerting System Cabling				Included
	Rough-in 18/4 cables to alerting devices based on the technology drawings	14	EA		Included
	Install, terminate, test, and label (8) Category 6 cables to alerting devices based on the technology drawings				Included
	terminations, connections, and device installation will be performed by others				Included
	Install J-Hooks to support the cabling infrastructure.				Included
27B	AUDIO VIDEO				**$3,479**
	Pogue 50% DD Estimate				
	Audio / Visual Equipment				By Owner
	Displays & TV's by Owner				By Owner
	Blocking as required for TVs and monitors (AV equipment provided per HDG documents).				w/ 09B
	Misc Speakers for Surround Sound	7	EA	$497.00	$3,479
	ELECTRONIC SAFETY & SECURITY				
28A	FIRE ALARM				**$22,100**
	Texas Fire & Sound 50% DD Estimate				
	Design, Furnish & Install the Fire Alarm as follows:	1	LS	$22,100.00	$22,100
	Monitoring of The Sprinkler System				Included
	Kitchen Hood Monitoring				Included
	Audible Visuals				Included
	Pull Stations at all Exits				Included
	Air Handler Monitoring with Duct Smoke Detectors for units over 2,000CFM				Included
	Smoke Detector Coverage for Sleeping Areas				Included
	Engineering for Fire Alarm Plan Submittals, Permits & Final with the AHJ				Included
28B	SECURITY SYSTEM				**$145,057**
	Netronix Integration 50 % DD Estimate				
	Access Control/ Video Surveillance Scope of Work:	1	LS	$145,057.00	$145,057
	Access Control Field Devices				Included
	Fingerprint reader/controller, RFID(125kHz HID Prox), Optical Sensor (OP6), POE, WiFi, IP65	8	EA		Included
	Signo 40 Card Reader	1	EA		Included
	Recessed Door Contacts	14	EA		Included
	Surface Mount Contact With 4' Door Loop	1	EA		Included
	Single Door Crashbar With Integrated Rex - Labor Interface	7	EA		Included
	Single Door Mortise Lock With Intgrated Rex -Labor Interface	2	EA		Included
	Double Door - (1) Active Leaf - (1) Inactive Leaf Crashbar - Labor Interface	1	EA		Included
	Resistor Packs	40	EA		Included
	Testing / Commissioning Of:				Included
	Access Doors	10	E		Included
	Monitored Doors	4	E		Included
	Video Surveillance Field Devices				Included
	Interior Vandel Resistant 2Mp Interior Camera	12	EA		Included
	Ceiling Tile Mounting Plate	8	EA		Included
	Indoor Wall Mount Bracket	4	EA		Included
	Exterior Vandel Resistant 5Mp Exterior Camera	7	EA		Included
	Pendant Cap For Exterior Camera	7	EA		Included
	Gooseneck Wall Mount Bracket	7	EA		Included
	Exterior Surge Protector	7	EA		Included
	Testing / Commissioning Of Cameras	19	EA		Included
	Cabling				Included
	Composite Cabling	4	EA		Included

	22/04 Plenum Shielded Cabling	1	LOT		Included
	Cat6 Network Cabling	4	EA		Included
	15' Patch Cables	38	EA		Included
	2' J Hooks	500	EA		Included
	Misc. Installation Material For Cable	1	LS		Included
	Headend - Mdf Closet				Included
	CCURE 9000 Server Tower Bundled w/ CCURE9000 Software	1	EA		Included
	CCURE 9000 Workstation Computer	1	EA		Included
	CCURE 9000 Badging Workstation	1	EA		Included
	24" Monitors For Workstation & Badging Workstation	3	EA		Included
	Suprema Bioconnect Licensing For Devices 1-20	1	EA		Included
	TROVE3 Software 12/24VDC 16-Door Power Supply Enclosure	1	EA		Included
	Ultra Gen2 GCM Board	1	EA		Included
	Ultra Gen2 ACM 8 Reader Board	2	EA		Included
	Back-Up Batteries	3	EA		Included
	2" Conduit / Gutter / End Caps / Couplings / Etc	1	LOT		Included
	36TB Raid 5/6 Linux OS NVR	1	EA		Included
	Professional Camera License	15	EA		Included
	Rail Kit For A Series Exacqvision NVR	1	EA		Included
	24 Port POE Switch	1	EA		Included
	24 Port Patch Panel	1	EA		Included
	Misc Installation Material For Overall Project	1	LOT		Included
28C	ACCESS CONTROL				**$0**
	w/ 28B				
	EARTHWORK				
31A	EARTHWORK				**$317,959**
	RPMx Construction 50% DD Estimate				
	Provide Earthwork as follows:	1	LS	$317,959.00	$317,959
	Mobilization(s)		EA		Included
	Supervision				Included
	Staking for this Scope Of Work				Included
	Stone Over Flow Structure On Silt Fence				Included
	Tree Protection Fence - Orange Construction Fence	1,093	LF		Included
	Clear & Grub Site	1	LS		Included
	Sawcut & Curb Removal	270	LF		Included
	Demo Concrete	88	SY		Included
	Demo Asphalt	397	SY		Included
	Strip & Stockpile Topsoil	427	CY		Included
	Scarify & Recompact Subgrade - Prior To Placement Of Fill Materials	7,115	SY		Included
	Dirt Excavation - On Site Cut To Fill	221	CY		Included
	Moisture Conditioning 3' Below Existing Grades per Geotech Report	3,184	CY		Included
	Import & Place 2' Select Fill Cap - Per Geotech Report	1,034	CY		Included
	Lime Stabilize Pavement Subgrade 6" @ 8% - Per Geotech Report	2,848	SY		Included
	Import Dirt - 2' Select Fill Cap - Per Geotech Report	1,034	CY		
	Import Dirt - No Pi Requirements	3,747	CY		Included
	Machine Grade Site To +/- .10'	8,088	SY		Included
	Furnish A Construction Water Meter - Earthwork Scope Only				Included
	Street Sweeping				Included
	Sidewalk Excavation				Included
	Respread Stockpiled Topsoil To Within 1' Of Back Of Curb				Included
	Backfill Curb				Included
31B	TERMITE CONTROL				**$1,147**
	Pogue 50% DD Estimate				
	Building Area	11,466	SF	$0.10	$1,147
31C	SWPPP				**$22,286**
	Pogue 50% DD Estimate				

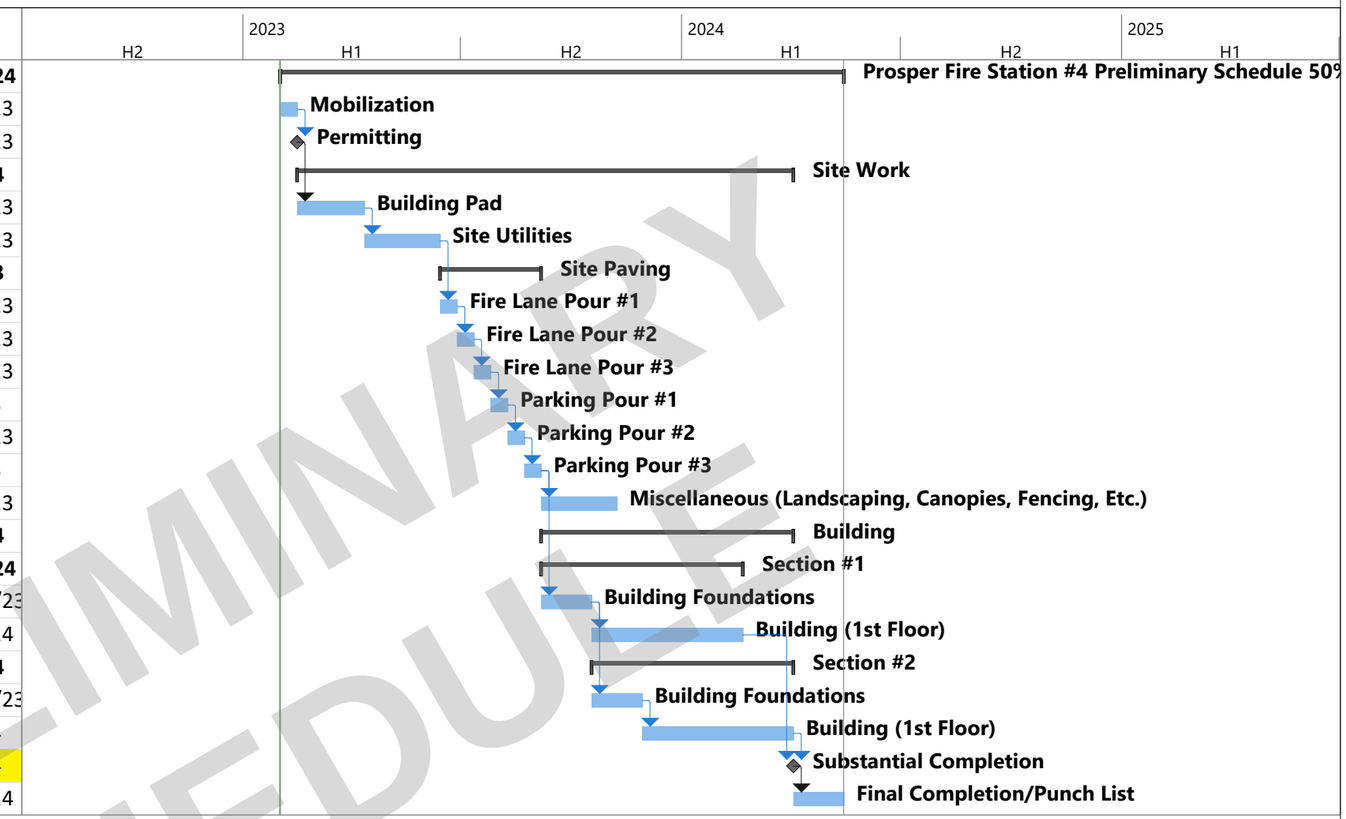
	Furnish, Install & Remove SWPPP as follows:				
	E-SWP3 Creation - Development of Electronic SWP3 to meet Federal, State and Local guidelines. Client login provided to view E-SWP3 and Inspections at any time. A Hard Copy of the SWP3 will be made available upon request	1	LS	$746.00	$746
	Efile NOI / NOT Preparation	1	EA	$124.00	$124
	Posting Sign	1	EA	$299.00	$299
	Install Typical Construction Entrance - 20'x50'x6"	1	EA	$3,480.00	$3,480
	Install Concrete Washout (No rock pad)	1	EA	$3,480.00	$3,480
	Install Typical Silt Fence	1,218	LF	$1.80	$2,192
	Install Typical Inlet Protection (10')	1	EA	$1.80	$2
	Install Rock Check Dam - Type 2 (1@15')	1	LF	$3,480.00	$3,480
	Remobilizations	1	EA	$248.00	$248
	Weekly Inspections	12	MOS	$299.00	$3,588
	Maintenance	12	MOS	$124.00	$1,488
	Removal of SWPPP Systems	25.00%		$12,634.00	$3,159
31D	SOIL CONDITIONING				**$0**
	Not Applicable				
	EXTERIOR IMPROVEMENTS				
32C	PAVEMENT MARKINGS/SPECIALTIES				**$6,106**
	JDS Pavement Marking 50% DD Estimate				
	Furnish & Install Pavement Markings & Signage per C101	1	LS	$6,106.00	$6,106
	Stripe 4" White for parking spaces and crosshatch				Included
	Stripe 6" red fire lane striping with white "FIRE LANE NO PARKING" stencils Top & Face				Included
	Paint standard handicap logo white symbol with a blue background				Included
	Paint 12" "No Parking" stencil in Access Aisle				Included
	Furnish & Install standard handicap sign w/ fine sign				Included
	Furnish & Install 6' round concrete wheelstops at handicap parking space				Included
	Power Wash				Included
32G	FENCES & GATES				**$0**
	None Shown				
32H	RETAINING WALLS				**$0**
	None Shown				
32I	PLANTING, IRRIGATION, TURFS & GRASSES				**$330,734**
	Firefighter Landscaping 50% DD Estimate				
	Container Red Oak 3"	5	EA	$713.00	$3,565
	Oklahoma Red Bud 3" cal container 8'	4	EA	$713.00	$2,852
	Shrubs (Misc), 5 Gallon	475	EA	$30.80	$14,630
	Metal Edging 1/8" per ft black	1,200	EA	$6.20	$7,440
	Rock Band 2-4" rocks	700	EA	$9.70	$6,790
	River Rock ILO of SOD	11,884	SF	$9.25	$109,927
	Filter Fabric	1	EA	$359.00	$359
	Mulch existing tree areas	1	EA	$4,618.00	$4,618
	Bed Preparation-Removal of existing grass and debris,machine grading, adding soil and or amendments to beds, design layout	3,500	SF	$2.57	$8,995
	Sod Tiff 419	35,000	SF	$0.46	$16,100
	Final grade will consist of power rake or hand raking property after irrigation has been completed. Rough grade must meet or exceed +/- 1/10th of a foot on all landscaped or sodded areas (including subgrades). Failure to do so will result in additional charges. Overgrown weeds, trash, or trees will also incur an additional charge. Minimal amounts will not apply.	35,000	SF	$0.10	$3,500
	1" of imported topsoil on all sod areas	1	LS	$14,400.00	$14,400
	Irrigation	1	LS	$106,200.00	$106,200
	Double Check backflow				Included
	No RPZ				Included
	Sleeves				Included
	Motorolla Irrinet (estimate only until ordering date)				Included
	Hunter ICV Valve with flow control 6" pressure comp heads and 12" in beds				Included

	Arad and wires				Included
	Temp irrigation for Hydromulch area				Included
		$31,358			
	Hand Dig 8" x 24" deep band for root pruning	680	LF	$20.50	$13,940
	Compost / topsoil refill	1	LS	$12,800.00	$12,800
	Airspade	1	LS	$4,618.00	$4,618
	Pogue Construction 50% DD Take-Off	$325,821			
	Trees	$50,262			
	Tree, Canopy, Red Oaks	5	EA	$1,001.00	$5,005
	Tree, Ornamental, Oklahoma Redbud	4	EA	$1,001.00	$4,004
	Temporary Tree protection	664	LF	$54.00	$35,856
	Tree, Existing to Remain	18	EA	$257.00	$4,626
	Temporary Tree protection @ 10" Hack	1	EA	$257.00	$257
	Temporary Tree protection @ 12" Hack	1	EA	$257.00	$257
	Temporary Tree protection @ 14" Hack	1	EA	$257.00	$257
	Shrubs	$18,982			
	Shrubs/ Grasses, Autumn Sage	57	EA	$30.80	$1,756
	Shrubs/ Grasses, Dwarf Hamlem Grass	110	EA	$56.00	$6,160
	Shrubs/ Grasses, Dwarf Spirea 'Rose Creek"	23	EA	$56.00	$1,288
	Shrubs/ Grasses, Dwarf Wax Myrtle	47	EA	$56.00	$2,632
	Shrubs/ Grasses, Gulf Muhly	47	EA	$30.80	$1,448
	Shrubs/ Grasses, Little Bunny Grass	94	EA	$30.80	$2,895
	Shrubs/ Grasses, Roemary 'Tuscan Blue'	62	EA	$30.80	$1,910
	Shrubs/ Grasses, Russian Sage	29	EA	$30.80	$893
	Beds	3,410	SF	$2.57	$8,764
	Turf/ Sod				
	Lawn, Bermuda Grass, Solid Sod	20,378	SF	$0.70	$14,265
	Misc Landscaping	$179,779			
	Aluming Edging	558	LF	$10.30	$5,747
	Hardwood Mulch, 3" Under Existinmg Tree Canopy, Shovel Cut Edge	22,752	SF	$2.05	$46,642
	River Rock ILO Lawn, Bermuda Grass, Solid Sod (Sloped)	11,884	SF	$10.30	$122,405
	Native Bull Rock, Medium, 4" Thick w/ Black Steel Edging & Weed Fabric	484	SF	$10.30	$4,985
	Irrigation Systems	$53,769			
	Controllers	1	EA	$15,400.00	$15,400
	Irrigation per Site Area	49,830	EA	$0.77	$38,369
	UTILITIES				
33A	SITE UTILITIES				**$172,105**
	Moss Utilities 50% DD Estimate				
	We propose to provide equipment, labor, material and supervision as required for a complete installation of the site utilities scope of work.	1	LS	$245,290.00	$245,290
	Our proposal is limited to the bid / scope items and approximate quantities listed below. Any other work or material is excluded.				Included
	Due to market volatility pricing is only valid two weeks from proposal date.	7/20/2022			Included
	Mobilization / Construction Staking	1	EA		Included
	Public Water Line				Included
	6"x6" Tapping Sleeve & Valve	1	EA		Included
	6"x6" Cut in Tee	1	EA		Included
	6" PVC Water Line	20	lf		Included
	6" Gate Valve	2	EA		Included
	Std. Bury Fire Hydrant	1	EA		Included
	6" DDCV w/Vault	1	EA		Included
	6"x2" Domestic Service	1	EA		Included
	6"x1" Irrigation Service	1	EA		Included
	Water Line Testing	40	LF		Included
	Trench Safety	40	LF		Included
	Private Water Line				Included

	2" Domestic Line	30	LF		Included
	6" PVC Fire Line	50	LF		Included
	Ductile Iron Fittings	2	EA		Included
	6" Fire Riser (1' AFF)	1	EA		Included
	Water Line Testing	80	LF		Included
	Trench Safety	80	LF		Included
	Private Sanitary Sewer				Included
	Deduct for OffSite Utilities +/-	1	LS		-$73,185
	Connect to Existing SS Manhole	1	EA		Included
	8" PVC Sanitary Sewer	775	LF		Included
	4' Std. Manhole	2	EA		Included
	8" Double Cleanout	1	EA		Included
	Remove & Replace Existing Walking Trail	100	SF		Included
	Offsite Seeding From STA 1+00 to 8+00	1	LS		Included
	TV, Air & Mandrel Testing	775	LF		Included
	Trench Safety	775	LF		Included
	Private Storm Drain				Included
	24" CL III RCP	195	LF		Included
	3'x3' Grate Inlet	1	EA		Included
	24" SET Headwall	1	EA		Included
	24" Type B Headwall	1	EA		Included
	TV Testing	195	LF		Included
	Trench Safety	195	LF		Included
	24" CL III RCP Culvert at Driveway	66	LF		Included
	Utility SPoils Haul-Off	450	CY		Included

Prosper Fire Station #4

ID		Task Mode	Task Name	Duration	Start	Finish
1			**Prosper Fire Station #4 Preliminary Schedule 50% DI**	**335 days**	**Wed 2/1/23**	**Tue 5/14/24**
2			Mobilization	10 days	Wed 2/1/23	Tue 2/14/23
3			Permitting	0 days	Tue 2/14/23	Tue 2/14/23
4			**Site Work**	**295 days**	**Wed 2/15/23**	**Tue 4/2/24**
5			Building Pad	40 days	Wed 2/15/23	Tue 4/11/23
6			Site Utilities	45 days	Wed 4/12/23	Tue 6/13/23
7			**Site Paving**	**60 days**	**Wed 6/14/23**	**Tue 9/5/23**
8			Fire Lane Pour #1	10 days	Wed 6/14/23	Tue 6/27/23
9			Fire Lane Pour #2	10 days	Wed 6/28/23	Tue 7/11/23
10			Fire Lane Pour #3	10 days	Wed 7/12/23	Tue 7/25/23
11			Parking Pour #1	10 days	Wed 7/26/23	Tue 8/8/23
12			Parking Pour #2	10 days	Wed 8/9/23	Tue 8/22/23
13			Parking Pour #3	10 days	Wed 8/23/23	Tue 9/5/23
14			Miscellaneous (Landscaping, Canopies, Fencing,	45 days	Wed 9/6/23	Tue 11/7/23
15			**Building**	**150 days**	**Wed 9/6/23**	**Tue 4/2/24**
16			**Section #1**	**120 days**	**Wed 9/6/23**	**Tue 2/20/24**
17			Building Foundations	30 days	Wed 9/6/23	Tue 10/17/23
18			Building (1st Floor)	90 days	Wed 10/18/2	Tue 2/20/24
19			**Section #2**	**120 days**	**Wed 10/18/2**	**Tue 4/2/24**
20			Building Foundations	30 days	Wed 10/18/2	Tue 11/28/23
21			Building (1st Floor)	90 days	Wed 11/29/2	Tue 4/2/24
22			Substantial Completion	0 days	Tue 4/2/24	Tue 4/2/24
23			Final Completion/Punch List	30 days	Wed 4/3/24	Tue 5/14/24

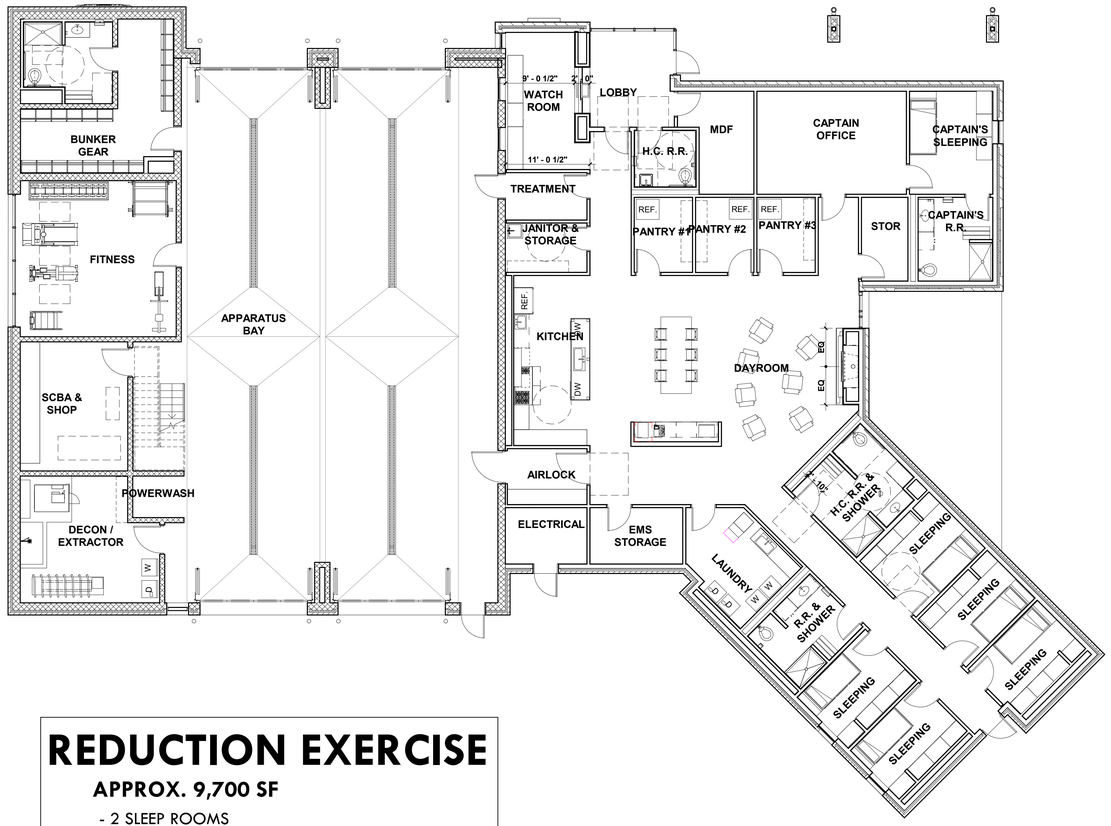


PRELIMINARY SCHEDULE

Project: ProsperFireStation#4Pr
Date: Fri 7/29/22

Task		Project Summary		Manual Task		Start-only		Deadline	
Split		Inactive Task		Duration-only		Finish-only		Progress	
Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress	
Summary		Inactive Summary		Manual Summary		External Milestone			

KEYNOTES



REDUCTION EXERCISE

APPROX. 9,700 SF

- 2 SLEEP ROOMS
- 1 STAFF RR
- 1 CONFERENCE
- 200 SF IN FITNESS
- 6 BUNKER GEAR LOCKERS
- 1 RISER ROOM
- 1 AIRLOCK
- 2 RECLINERS @ DAYROOM - APPROX. 100 SF
- 1/2 BAY

1 FIRST FLOOR PLAN
1/8" = 1'-0"

100% DESIGN DOCUMENTS

Item 1.

REGISTERED ARCHITECT
STEPHEN E. WATFORD
STATE OF TEXAS
NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION
9/24/2022

BROWN REYNOLDS WATFORD ARCHITECTS
3153 TRAVIS STREET
SUITE 250
DALLAS, TEXAS 75204
214-528-8704
WWW.BRWARCH.COM

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BROWN REYNOLDS WATFORD ARCHITECTS, INC.

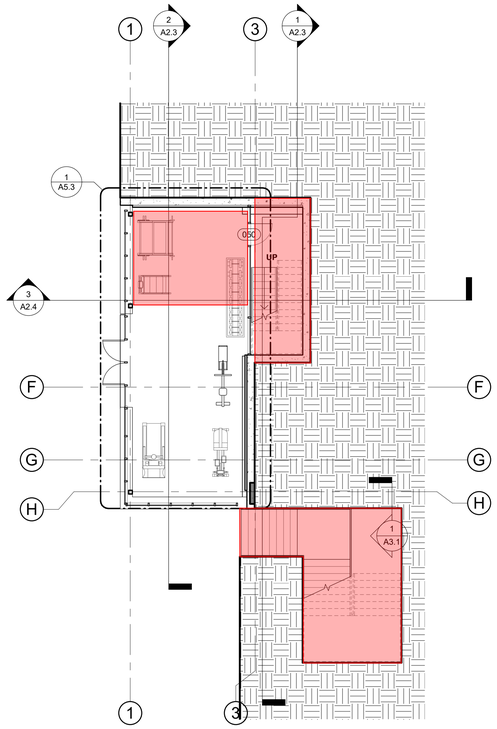
DATE 07.07.2022
DRAWN BY CL, RL
CHECKED BY CK, MEW
BRW PROJECT NUMBER 22111000

TOWN OF PROSPER FIRE STATION No. 4
3980 EAST PROSPER TRAIL
PROSPER, TX ZIP

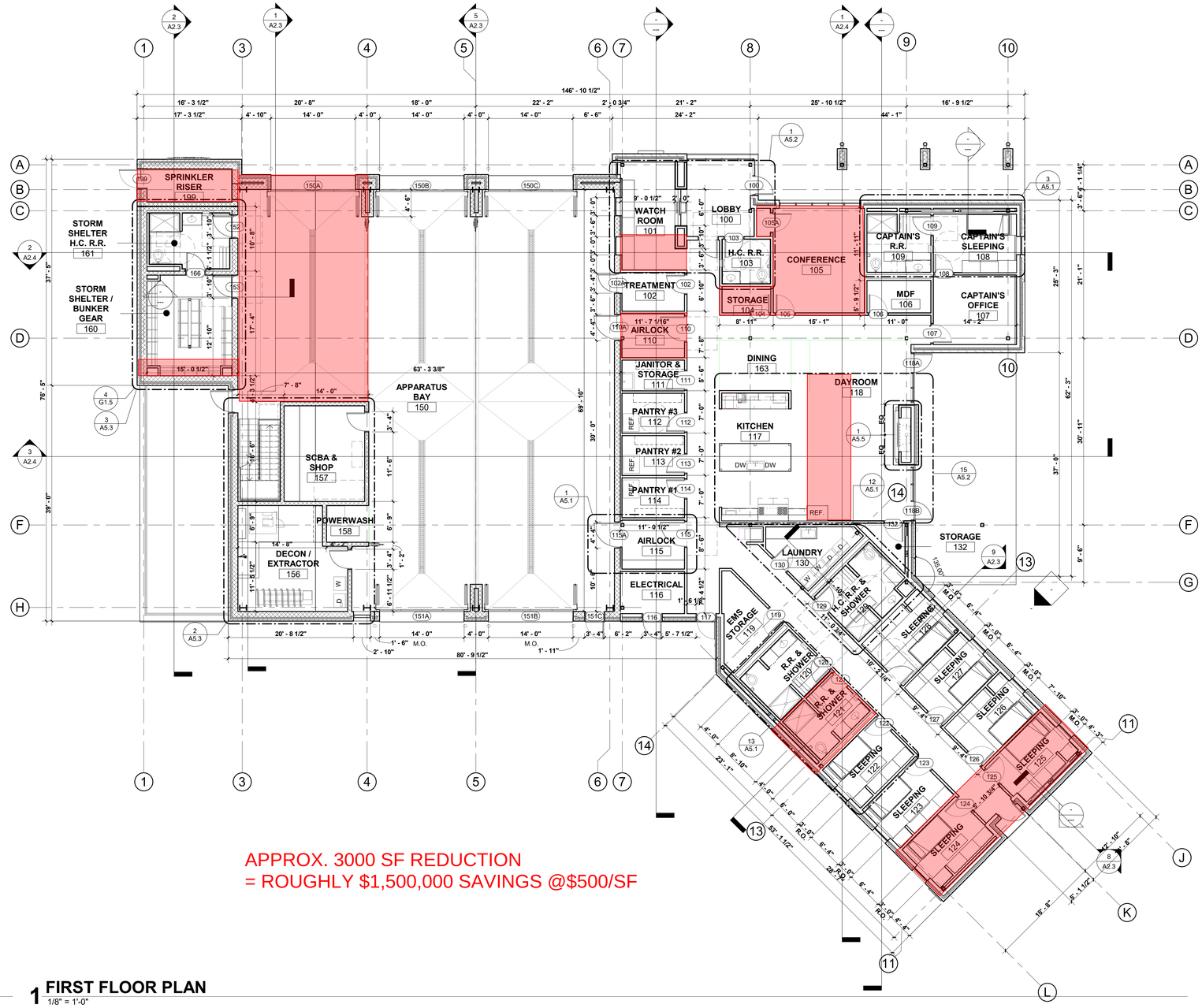
NO.	REVISION	DATE

A1.1
FIRST FLOOR PLAN

KEYNOTES



2 FITNESS FLOOR PLAN
1/8" = 1'-0"



APPROX. 3000 SF REDUCTION
= ROUGHLY $1,500,000 SAVINGS @$500/SF

1 FIRST FLOOR PLAN
1/8" = 1'-0"

100% DESIGN DOCUMENTS

Item 1.

REGISTERED ARCHITECT BRIAN E. WATFORD STATE OF TEXAS
NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION

BROWN REYNOLDS WATFORD ARCHITECTS
3333 TRAVIS STREET
SUITE 250
DALLAS, TX 75204
214-528-8704
WWW.BRWARCH.COM

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BROWN REYNOLDS WATFORD ARCHITECTS, INC.

DATE	08.04.2022
DRAWN BY	CL, RL
CHECKED BY	CK, MEW
BRW PROJECT NUMBER	221111000

TOWN OF PROSPER
FIRE STATION No. 4
3980 EAST PROSPER TRAIL
PROSPER, TX ZIP

NO.	REVISION	DATE

A1.1

FIRST FLOOR P

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 9, 2022

DRAFT

Call to Order/ Roll Call.

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

Council Members Present:
Mayor Pro-Tem Jeff Hodges
Deputy Mayor Pro-Tem Craig Andres
Councilmember Amy Bartley
Councilmember Chris Kern
Councilmember Charles Cotten

Council Members Absent:
Mayor David F. Bristol
Councilmember Marcus E. Ray

Staff Members Present:
Terry Welch, Town Attorney
Michelle Lewis Sirianni, Town Secretary
Bob Scott, Executive Director of Administrative Services
Robyn Battle, Executive Director of Community Services
Hulon Webb, Interim Executive Director of Development and Infrastructure Services
David Soto, Planning Manager
Betty Pamplin, Finance Director
Todd Rice, Communications Manager
Frank Jaromin, Public Works Director
Dan Baker, Parks and Recreation Director
Leslie Scott, Director of Library Services
Doug Kowalski, Police Chief
Stuart Blasingame, Fire Chief

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

Deputy Mayor Pro-Tem Andres led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Councilmember Kern made the following announcements:

Join us for the next Discover Downtown event series on Saturday, September 10 for Paws on Broadway from 1:00 p.m. to 4:00 p.m. Bring your pup downtown to enjoy ball pits, mini pools, obstacle courses, paw painting and playful competitions. Exhibits will also be onsite featuring dog treats, dog trainers, dog spa/resorts, animal clinics, and the Collin County Animal Shelter.

Residents can hunt trees as part of the Parks and Recreation annual Champion Tree Contest. The species of the tree to hunt will be posted on the Parks and Recreation Facebook page on Thursday, September 15. An online entry form will be available with the winning tree to be announced at the Prosper Arbor Day Celebration on Saturday, November 5.

Join us for a Moonlight Movie featuring the family film "Encanto" as part of the Discover Downtown event series on Saturday, September 24, which was previously rescheduled from August 13 due to the extreme heat conditions. The event kicks off with strolling movie characters, lawn games, balloon artists, shaved ice, and popcorn. Games will open at 7:00 p.m. with movie beginning at 8:30 p.m. For more information, visit the events page from the homepage of the Town's website.

Join us for "Celebrate Prosper" on Saturday, October 8 at Frontier Park. This fun community celebration will feature live music and BBQ. The event is presented by the Parks and Recreation Department with support of Sponsors and community partners. For more information, visit the events page from the homepage of the Town's website.

The Town of Prosper will host an informational Town Hall Meeting on Thursday, August 18, from 6-8 p.m. at Rock Creek Church, located at 2860 Fishtrap Road in Prosper. Residents will hear presentations from Town staff and representatives from NTTA and TxDOT on road projects that impact the west side of Prosper. Also on the agenda is an update from Parks & Recreation on the Town's recent purchase of 163 acres of parkland along Doe Branch Creek. More details are available on the Town website and Facebook page.

Councilmember Bartley thanked several of the non-profit organizations and volunteers with Cornerstone NCT, Hope Fellowship, and Prosper Ladies Association for their recent efforts made to the community and for all the donations received to these organizations.

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.

1. **Consider and act upon the minutes of the July 26, 2022, Town Council meeting. (MLS)**

2. **Consider and act upon the minutes of the July 26, 2022, Town Council Work Session meeting. (MLS)**

3. **Consider and act upon Resolution 2022-43 approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2022 rate review mechanism filing. (BP)**

4. **Consider and act upon Resolution 2022-44 authorizing the Mayor to execute a Joint Administrative Agreement with Denton County for the Community Development Block Grant (CDBG) three year program for fiscal year 2023, 2024, and 2025. (MLS)**

5. **Consider and act upon authorizing the Mayor to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Public Works and Parks and Recreation Facility Master Plan project. (FJ)**

6. **Consider and act upon awarding CSP No. 2022-44-B to American Landscape Systems, related to construction services for the Coleman Street Median Landscaping (Victory-Preston) and the Prosper Trail Median Landscaping (DNT-700' East) project; and authorizing the Mayor to execute a construction agreement for same. (HW)**

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7. **Consider and act upon Ordinance 2022-45 to rezone Planned Development-86 (PD-86) to Planned Development-114 (PD-114), on 277.6± acres, to amend the single-family residential regulations, located on the north side of US 380, west of Custer Road. (Z22-0005). (DS)**

8. **Consider and act upon authorizing the Mayor execute a Development Agreement between 104 Prosper, 310 Prosper, Prosper Hollow LP & Paramount Soft LP, DD Brookhollow LLC, 55 Prosper and the Town of Prosper, Texas, related to Rutherford Creek development, located on the north side of US 380, west of Custer Road. (DS)**

9. **Consider and act upon Ordinance 2022-46 for a Specific Use Permit (SUP) for a Day Care Center (Grace Chapel), on 5.4± acres, located on the southeast corner of FM 1385 and Denton Way. (S22-0005). (DS)**

10. **Consider and act upon authorizing the Mayor to execute a Development Agreement between North Texas Conference of the United Methodist Church, and the Town of Prosper, Texas, related to the Grace Chapel Prosper development, located on the southeast corner of FM 1385 and Denton Way. (DS)**

11. **Consider and act upon Ordinance 2022-47 to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. (Z22-0006). (DS)**

12. **Consider and act upon authorizing the Mayor to execute a Development Agreement between SCSD-FINNELL, LTD, and the Town of Prosper, Texas, related to the Black Rifle Coffee development, located on the southwest corner of Broadway Street and Preston Road. (DS)**

13. **Consider and act upon Ordinance 2022-48 for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. (S22-0006). (DS)**

14. **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 Plans and Preliminary Site Plans, including Mav Addition, Grace Chapel (Site Plan) & Grace Chapel (Preliminary Site Plan). (DS)**

Deputy Mayor Pro-Tem Andres made a motion to approve consent agenda items 1 thru 14. Councilmember Cotten seconded that motion, and the motion was unanimously approved.

CITIZEN COMMENTS

No comments were made.

Items for Individual Consideration:

15. **Submission of the FY 2022-2023 Proposed Budget and Budget Message. (RBS)**

    Mr. Scott presented an overview of the proposed Budget including the assessed valuation and tax rate, revenue funds, and tying in the Town's Strategic Plan goals.

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Mr. Webb presented an overview of the Capital Improvement Projects (CIP) Plan and how the plan fits into the current capacity of the Town's debt service tax rate over the next several years based on the approved 2021-2022 bond projects, proposed fiscal year projects from 2022 through 2027, as well as fiscal years 2027 to 2032.

The Town Council discussed the costs associated with the projects and the proposed dedicated levy of $3.25 million.

Mr. Edwards presented a market salary analysis based on projected salary movement with the Town's benchmark cities, other area cities, and the current Consumer Price Index. Mr. Edwards also presented proposed cost of living adjustments based on a one (1) and two (2) percent increase, as well as the amount associated with the increase based on the implementation date.

Mr. Scott proceeded with an overview of the General Fund, Utility Fund, Solid Waste Fund, and employee benefits. Options for prioritizing discretionary packets were presented in order to receive direction from the Town Council.

The Town Council discussed and were in consensus to increasing the dedicated capital fund higher than proposed amount, reducing personnel requests within the proposed budget, and reducing the amount of debt when feasible.

16. Consider and act upon scheduling a public hearing on the FY 2022-2023 proposed Budget. (BP)

Ms. Pamplin stated this item is to schedule the public hearing on the proposed budget for the August 23 Council meeting. The notice will be published on the Town's website and in the Prosper Press.

Councilmember Bartley made a motion to schedule a public hearing on the FY 2022-2023 proposed Budget for August 23, 2022, at 6:15 p.m. with the meeting taking place in the Council Chambers of Prosper Town Hall, located at 250 W. First Street, Prosper, TX. Deputy Mayor Pro-Tem Andres seconded that motion, and the motion was unanimously approved.

17. Consider and act upon scheduling a public hearing for the FY 2022-2023 proposed tax rate. (BP)

Ms. Pamplin stated this item is to schedule the public hearing on the tax rate to the September 13 Council meeting. The notice will be published on the Town's website and in the Prosper Press.

Deputy Mayor Pro-Tem Andres made a motion to set the public hearing on the proposed tax rate for September 13, 2022, at 6:15 p.m., with the meeting taking place in the Council Chambers of Prosper Town Hall, located at 250 W. First Street, Prosper, TX. Councilmember Cotten seconded that motion, and the motion was unanimously approved.

18. Consider accepting submission of the 2022 no-new-revenue tax rate of $0.438227 per $100 taxable value and the voter-approval tax rate of $0.527336 per $100 taxable value. (BP)

Ms. Pamplin stated this item is to accept the submission of the no-new-revenue tax rate and the voter-approval tax rate. State law requires municipalities to publish the no-new-revenue tax rate and a voter-approval tax rate, and to hold one public hearing if the proposed tax rate exceeds the lower of the no-new revenue or voter-approval

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tax rate. Because the Town's proposed tax rate of $0.510000 is higher than the no-new-revenue tax rate of $0.438227, the Town is required to hold one public hearing on the tax rate.

Councilmember Cotten made a motion to accept the submission of the 2022 no-new-revenue tax rate of $0.438227 per $100 taxable value and the voter-approval tax rate of $0.527336 per $100 taxable value. Deputy Mayor Pro-Tem Andres seconded that motion, and the motion was unanimously approved.

19. Consider and act upon a proposed FY 2022-2023 property tax rate. (BP)

Ms. Pamplin stated this item is to set the proposed property tax rate. 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.

Councilmember Cotten made a motion to place a proposal to adopt a FY 2022-2023 tax rate of fifty-one cents ($0.51) per one hundred dollars ($100) of valuation on the September 13, 2022, Town Council Agenda. Deputy Mayor Pro-Tem Andres seconded that motion. The Town Council voted as follows:

Councilmember Cotten – Aye
Councilmember Kern – Aye
Deputy Mayor Pro-Tem Andres – Aye
Councilmember Bartley – Aye
Mayor Pro-Tem Hodges - Aye

The motion was approved by a vote of 5-0.

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

No comments were made.

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 and all matters incident and related thereto.

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

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

The Town Council recessed into Executive Session at 7:44 p.m.

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

The Town Council reconvened into Regular Session at 8:20 p.m.

No action was taken.

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Adjourn.

The meeting was adjourned at 8:20 p.m.

These minutes approved on the 23rd day of August 2022.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

DRAFT

TOWN OF PROSPER

Prosper is a place where everyone matters.

ADMINISTRATION

To: **Mayor and Town Council**

From: **Robert B. Scott, Executive Director of Administrative Services**

Re: **Tower Site Lease Agreement – Frontier Park**

Town Council Meeting – August 23, 2022

Agenda Item:
Consider and act upon authorizing the Interim Town Manager to execute a Tower Site Lease Agreement between T-Mobile West, LLC, and the Town of Prosper, Texas, related to the lease of Town property located at 1240 Frontier Parkway (Frontier Park).

Description of Agenda Item:
T-Mobile West, LLC, approached the Town to discuss locating a cell phone antenna on a parking lot light pole at Frontier Park. Related equipment will be housed on Prosper ISD land under a separate lease agreement with the district. The Town Site Lease Agreement is at a monthly rate of $3,000 total ($1,500 each for Town and PISD for an initial five (5) year term and will automatically renew for five (5) additional three (3) year terms. Upon the extension of the lease, the rent shall increase by fifteen percent (15%).

The antenna, related equipment and the pole will be maintained by T-Mobile, and T-Mobile will be replacing the existing light pole with a pole that meets their specifications. This facility will improve cell and data connectivity for the citizens of Prosper.

Budget Impact:
The Town will receive $18,000 per year in lease revenue.

Legal Obligations and Review:
Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attachments:
1. Tower Site Lease Agreement

Town Staff Recommendation:
Town staff recommends that the Town Council authorize the Interim Town Manager to execute a Tower Site Lease Agreement between T-Mobile West, LLC, and the Town of Prosper, Texas, related to the lease of Town property located at 1240 Frontier Parkway (Frontier Park).

Proposed Motion:
I move to approve authorizing the Interim Town Manager to execute a Tower Site Lease Agreement between T-Mobile West, LLC, and the Town of Prosper, Texas, related to the lease of Town property located at 1240 Frontier Parkway (Frontier Park).

TOWER SITE LEASE AGREEMENT

THIS TOWER SITE LEASE AGREEMENT (this "Lease") is entered into this ____ day of _____, 2022 ("Execution Date") by and between the Town of Prosper, Texas, a Texas municipal corporation ("Landlord"), and T-Mobile West, LLC, a Delaware limited liability company ("Tenant").

1. Premises. Subject to the following terms and conditions, Landlord leases to Tenant a portion of the real property (the "Property") described in Exhibit A, attached hereto and incorporated by reference. Tenant's use of the Property shall be limited to that portion of the Property, together with temporary easements for access and utilities, described and depicted in the site plan attached hereto as Exhibit B and incorporated by reference (collectively referred to hereinafter as the "Premises"). The Premises, located at 1240 Frontier Pkwy, in the Town of Prosper, Collin County, Texas, are comprised of approximately 100 square feet.

2. Term. The initial term of this Lease shall be five (5) years, commencing on the date of the issuance of a building permit (the "Commencement Date") and terminating at Midnight on the last day of the sixtieth (60th) full month following the Commencement Date. This Lease will automatically renew for five (5) additional three (3) year Term(s) (the "Extension Term"), upon the same terms and conditions (except Rent, which shall be subject to Paragraph 6 of this Lease) unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Lease at least ninety (90) days prior to the expiration of the existing Term.

3. Permitted Use. The Premises may be used by Tenant only for permitted uses, which are (i) the transmission and reception of communications signals; (ii) the construction, alteration, maintenance, repair, replacement and relocation of related facilities, antennas and equipment as defined in Paragraph 7; and (iii) activities related to any of the foregoing. Tenant shall obtain (prior to or after the Commencement Date), at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises from all applicable government and/or regulatory entities (the "Governmental Approvals"). Upon execution of the Lease, Landlord shall cooperate with Tenant's due diligence activities, which shall include, but not be limited to, access to the Property for inspections, testing, and permitting related to the permitted uses.

4. Rent. Within thirty (30) days of the Commencement Date, Tenant shall pay Landlord, as rent, the sum of one thousand five hundred dollars ($1,500.00) per month ("Rent"). Rent thereafter shall be payable on the first day of each month, in advance, to the Town of Prosper, at Landlord's address specified in Paragraph 14, below. If the Commencement Date should be other than the first day of a calendar month, Rent shall be prorated to the end of that calendar month. If this Lease is terminated at a time other than on the last day of a month, Rent shall be prorated as of the date of termination for any reason other than a default by Tenant.

5. Holdover Rent. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal without a written agreement, such tenancy

shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease, except as to Rent, which shall be fifteen percent (15%) over the most recent Term's monthly Rent.

6. Extended Term Rent. Upon the extension of this Lease as provided for in Section 2, Rent shall increase by fifteen percent (15%) over the most recent Term's monthly Rent for each and every Extended Term.

7. Interference.

(A) Tenant shall not use the Premises in any way that interferes with the use of the Property by Landlord, or tenants or licensees of Landlord, with rights to the Property prior in time to Tenant's (subject to Tenant's rights under this Lease, including non-interference). Such interference shall be deemed by Landlord a material breach and, upon notice to Tenant, may terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, Landlord shall have the right, in addition to any rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease immediately. Landlord makes no warranty or representation, express or implied, that the airspace used by Tenant will be free of electronic or other interference.

(B) Landlord shall not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to **use**, any portion of the Property in any way that interferes with the operations of Tenant or the rights of Tenant under this Lease, provided none of the users have any right to the Property upon the Commencement Date of this Lease. Landlord shall endeavor to promptly cause any such interference to cease after receipt of notice of interference from Tenant. In the event any such interference to Tenant's operations does not cease within the Cure Period, as defined in Paragraph 9, then the parties acknowledge that Tenant will have the option to terminate this Lease immediately.

8. Improvements; Utilities; Access.

(A) Tenant shall have the right, at its expense, to erect and maintain on the Premises the following improvements, personal property and facilities at no additional rent cost: An easement for buried cables, 6 antennas, 12 RRU's, and 3 COVP's on the tower at eighty six foot (86') and ninety six foot (96') RAD centers, related equipment, cables, accessories, improvements, equipment shelters or cabinets, fencing and any other items necessary to the successful and secure use of the Premises (collectively the "Communication Facilities"). Landlord shall approve the location of such all improvements including the Communication Facilities. Landlord hereby approves the equipment and location shown on Exhibit B. Tenant shall submit the construction plans and specifications for the Communication Facilities to Landlord for Landlord's approval, which approval shall not be unreasonably withheld or delayed; however, if Landlord has not responded to Tenant within fourteen (14) days of receipt of such plans and specifications, the plans and specifications shall be deemed disapproved by Landlord. With the prior written consent of Landlord, Tenant shall have the right to replace or

upgrade the Communication Facilities at any time during the term of this Lease, subject to the prior written approval of Landlord. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. The Communication Facilities shall remain the exclusive property of Tenant. Tenant shall have the right to remove the Communication Facilities upon the termination of this Lease; provided, however, that Tenant shall return the Premises to Landlord in the same condition as of the date of this Lease, reasonable wear and tear excepted.

(B) Tenant shall, at Tenant's expense maintain the leased area which includes Tenant's easements, shelter or platform and ground or tower mounted improvements in good condition and repair. Tenant will also perform all landscape maintenance including planting of trees and shrubs as required by the building code or by Town ordinance or permitting, as it relates to screening for the Tenant's Premises. Upon termination of this Lease, the Premises shall be returned to Landlord in the same condition as of the date of this Lease, reasonable wear and tear and casualty excepted.

(C) Tenant shall pay any utility charges due to Tenant's use of the Premises. Tenant shall not use utilities installed by or for Landlord. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Premises (including, but not limited to the installation of emergency power generators). Upon termination of this Lease, Tenant shall remove all utilities installed for Tenant.

(D) As partial consideration for rent paid under this Lease, Landlord hereby grants Tenant a temporary easement ("Easement") for ingress, egress, utilities, telecommunications services and access (including access as described in Paragraph 1) to the Premises adequate to service the Premises and the Communication Facilities at all times during the term of this Lease. Upon notice, Landlord shall have the right, at Landlord's sole expense, to relocate the Easement to Tenant, provided such new location shall not materially interfere with Tenant's operations. Any Easement provided hereunder shall terminate upon the termination of this Lease.

(E) Tenant and Landlord shall have 24-hours-a-day, 7-days-a-week access to the Premises at all times during the term of this Lease. Tenant agrees to notify Landlord at phone number 972-569-1056 and email fjaromin@prospertx.gov at least 24 hours in advance prior to entering the Communications Facilities for any reason, except in cases of emergency.

(F) Landlord reserves the right, at any time, to perform any type of maintenance and/or repair on the Property; provided however, except in emergency situations, if any maintenance and/or repair work will substantially affect Tenant's permitted uses of the Premises, Landlord will use its best efforts to provide Tenant with at least thirty (30) days' prior written notice of the intended repair and/or maintenance work, along with a schedule showing dates and duration of such repair and/or maintenance work. Landlord shall also provide Tenant with the opportunity, at Tenant's cost and expense, to temporarily relocate and continue to operate its antennas, or otherwise to secure the antennas or the Communication Facilities generally, to protect them from damage. Tenant shall be permitted to install temporary facilities necessary to

keep its Communication Facilities operational, subject to Landlord's prior written consent, which consent shall not be unreasonably withheld. Further, any maintenance will be conducted by Landlord as diligently and expeditiously as possible. If any temporary facilities are installed as a result of this paragraph, Tenant shall remove said temporary facilities immediately upon Landlord's completion of any maintenance and/or repair work.

9. Termination. If either party breaches any provision of this Agreement, the non-breaching party shall give the other party written notice of the breach. If the breaching party has not cured the breach within thirty (30) days of such notice ("Cure Period"), except as otherwise provided herein, this Lease may be terminated by the non-breaching party, without any penalty or further liability of the non-breaching party, as follows:

(A) Failing to pay Rent when due.
(B) Failing to pay taxes, assessments, insurance payments or other charges required to be paid by Tenant under this Lease.
(C) Failing to use, maintain and operate the Premises as required by this Lease.
(D) Assigning or subletting the Premises without the prior written consent of Landlord, except as permitted by Paragraph 17.
(E) Committing waste on the Premises.
(F) Maintaining, committing or permitting the maintenance or commission of a nuisance on the Premises.
(G) Denying Landlord access to the Premises.
(H) Using the Premises for any unlawful purpose, whether the purpose is in addition to or in lieu of, the uses specifically permitted by this Lease.
(I) Failing to comply with the terms and conditions of this Lease within the Cure Period.

Tenant may terminate at the time the Property transfers to a condemning authority, pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking.

Tenant may terminate this Lease at any time with ninety (90) days' notice to Landlord and payment of six (6) months' rent as an early termination fee.

10. Effect of Termination. No termination of this Lease caused by a breach of the lease shall relieve the party in default from paying any sum or sums then due and payable under this Lease, or either party from any claims for damages accruing under this Lease. No termination will prevent either party enforcing payment of the sum or sums or claims for damages by any remedy provided by law. The rights and remedies under this Lease are cumulative and non-exclusive, and the parties may pursue any of those rights and remedies or any other remedies provided by Texas law.

11. Waiver. No waiver by either party of a breach of any provision of this Lease may be deemed or alleged to be a continuing waiver or a waiver of any other breach, whether the same or of any other covenant, condition or restriction of this Lease.

12. Insurance. Tenant, at its own expense, shall provide and maintain in force during the term of this Lease liability insurance (covering bodily injury, including death, and property damage) in the amount of Two Million Dollars ($2,000,000.00) including Landlord as an additional insured, with one (1) or more insurance companies authorized to transact business in Texas. Tenant shall provide Landlord with a certificate of insurance indicating such coverage prior to beginning any activities under this Lease. The certificate shall include assurance that Landlord shall be notified in writing by the insurance company of any cancellation not less than thirty (30) days prior to the effective date of such cancellation. All insurance shall be with companies with a "Best's" Insurance Rating of A- VII or Better.

13. Hold Harmless/Release.

(A) Tenant shall defend, indemnify and hold harmless Landlord and its Town Council members, officers, agents, representatives and employees from any and all claims, demands, liabilities and expenses (including reasonable attorney's fees and costs of defense) arising from the conduct or management of Tenant's business on the Premises or from its use of the Premises; or from any act or negligence of Tenant, its agents, contractors, employees, subtenants or licensees in or about the Premises. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from landlord, will defend the action or proceeding by counsel acceptable to Landlord.

(B) Tenant hereby further releases, waives, discharges, holds harmless, indemnifies and agrees not to sue Landlord, its Town Council members, officers, agents, employees, and representatives (hereinafter referred to as the "Releases"), for any and all rights and claims, including, reasonable attorney fees, to the extent caused by or arising out of the negligent acts or omissions or willful misconduct in the operations or activities on the Property by Tenant or its employees, agents, contractors, licensees, tenants and/or subtenants, or a breach of any obligation of Tenant under this Lease. Landlord shall endeavor to provide prompt written notice to Tenant of any event giving rise to an obligation to indemnify Landlord. The release and waiver shall be binding on Tenant, its officers, directors, agents, employees, representatives, servants and assigns.

14. Notices. Unless otherwise provided, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following:

If to Landlord: Town Manager
P.O. Box 307
Prosper, Texas 75078

If to Tenant: T-Mobile West, LLC
12920 SE 38th Street
Bellevue, WA 98006

15. Title and Authority. Landlord covenants and warrants to Tenant that Landlord has the full right, power and authority to execute this Lease; it has good and unencumbered title to the Premises free and clear of any liens or mortgages, except those disclosed to Tenant. Landlord covenants that Tenant may quietly enjoy the premises.

16. Environmental Laws. Landlord and Tenant each represent, warrant and covenant that it will conduct its activities on the Property in compliance with all applicable state and/or federal environmental laws. Landlord and Tenant shall each be responsible for its own environmental liabilities that relate to or arise from its respective activities on the Property to the extent required by law.

17. Assignment and Subleasing. Tenant may assign or sublease this Lease, in whole or in part, without Landlord's consent, to the Tenant's principal, affiliates, subsidiaries, subsidiaries of its principal or to any entity which acquires all or substantially all of the Tenant's assets in the market defined by the Federal Communications Commission (FCC) in which the Property is located by reason of a merger, acquisition, or other business reorganization. Tenant may not otherwise assign or sublease this Lease without the prior written approval of Landlord. Additionally, Tenant may, with the prior written consent of Landlord, mortgage or grant a security interest in this Lease and the Communication Facilities.

18. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

19. Miscellaneous Provisions.

(A) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind that are not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

(B) If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker and shall hold the other party harmless from any claims for commission by such broker.

(C) This Lease shall be construed in accordance with the laws of the State of Texas. Exclusive venue shall be in Collin County, Texas.

(D) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect,

(E) This Lease may be executed in any number of counterparts and all such counterparts shall be deemed to constitute a single lease, and the execution of one (1) counterpart by any Landlord shall have the same force and effect as if he had signed all the other counterparts.

(F) Notwithstanding anything herein to the contrary, neither Landlord nor Tenant shall be liable for the failure to perform its respective duties under this Lease if such failure is caused by a catastrophe, riot, war, governmental order or regulation, fire, accident, act of God, or other similar or different contingency beyond the reasonable control of Landlord or Tenant.

(G) The parties agree that Landlord has not waived its sovereign immunity by entering into and performing its obligations under this Lease.

(H) Tenant will maintain its equipment in compliance with FCC guidelines. Tenant shall post legally required signs as required and in accordance with the Town of Prosper's Code of Ordinances, as it exists or may be amended, for the purpose of complying with FCC guidelines.

(I) After five (5) years, Tenant may terminate this Lease upon ninety (90) days' written notice to Landlord.

(J) Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third party beneficiaries by entering into this Agreement.

(K) The Parties agree that irreparable damage would occur if any of the provisions of this Agreement were not performed in accordance with their specified terms or were otherwise breached. Therefore, the parties agree the Parties shall be entitled to injunctive relief to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions of the Agreement this being in addition to any other remedy to which the Parties are entitled at law or in equity.

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

IN WITNESS WHEREOF, the parties have caused this Lease to be duly executed as of the date first above written.

LANDLORD:

TOWN OF PROSPER, TEXAS

By: _____
Ron K.Patterson, Interim Town Manager
Town of Prosper

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ___ day of _____, 2022, by David F. Bristol, Mayor of the Town of Prosper, Texas, on behalf of the Town of Prosper.

_____
Notary Public, State of Texas

TENANT:

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ___ day of _____, 2022, by _____ on behalf of T-Mobile West in the capacity herein stated.

_____
Notary Public, State of Texas

EXHIBIT A

Legal Description of the Property

Lots 1R & 2, Block A Prosper Sports Complex

Situated in the Collin County Land Survey Abstract No. 147 Prosper, Collin County, Texas

Recorded Instrument Nos. 2012092001002320 and 2019070801002870

EXHIBIT B

Site Plan of the Property

Next 3 Pages

CMU WALL/FOUNDATION
DESIGN BY OTHERS

ALL INSTALLATIONS SHOULD BE IN COMPLIANCE WITH ANSI/ASSE A10.48 AND ANY OTHER SAFETY STANDARDS

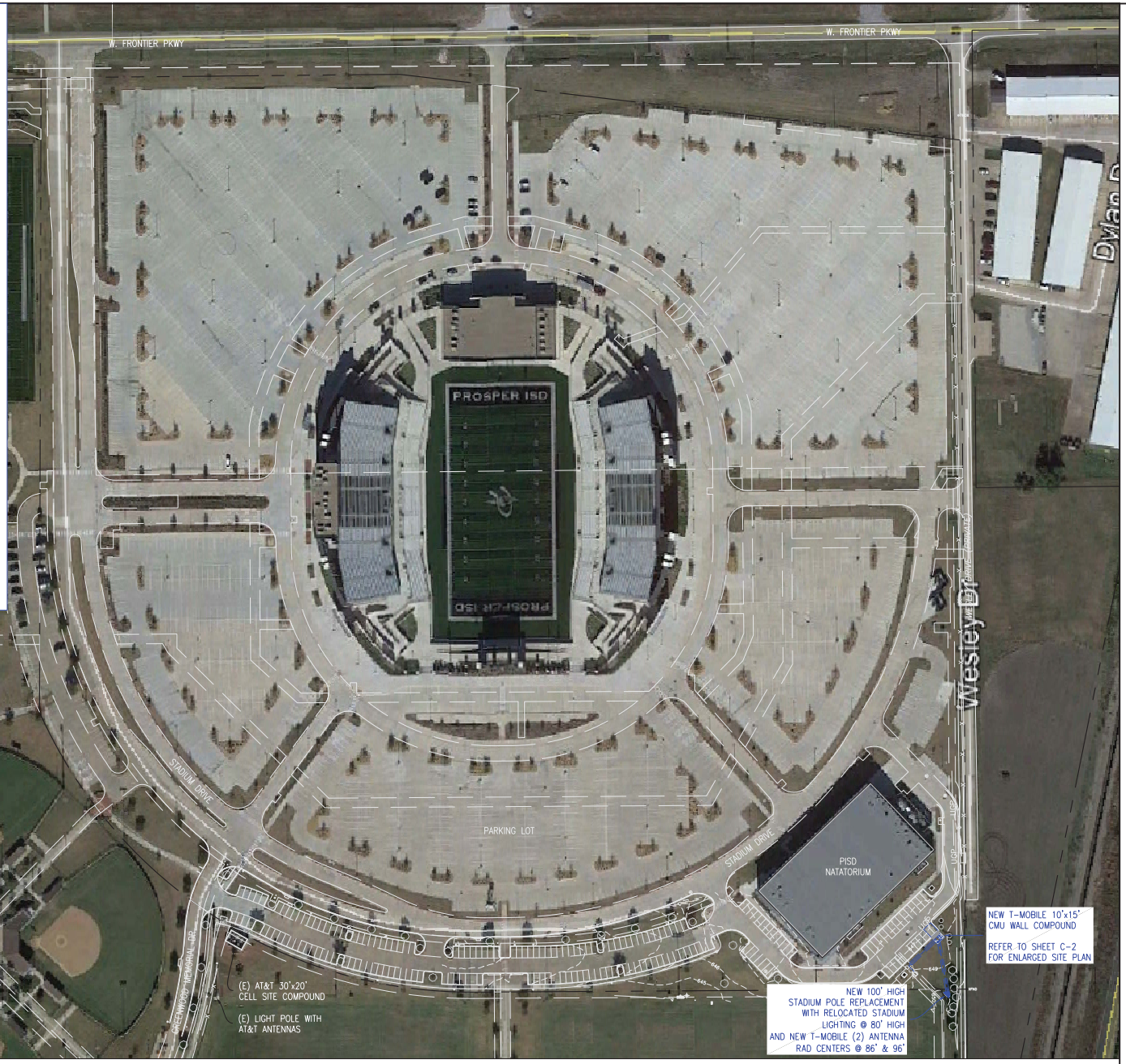
NOTE: POWER & FIBER/TELCO SOURCES AND ROUTING TO BE FIELD VERIFIED

SITE LAYOUT IS BASED ON SITE WALK BY ALLPRO CONSULTING GROUP, INC. ACGI#21-0857, DATED 03/23/2021.
DUE DILIGENCE SHALL BE DONE BY OTHERS BEFORE THE SITE IS BUILT AS SHOWN. IN CASE OF ANY CONFLICTS DUE TO PROPERTY LINES, OR EXISTING EASEMENTS, OR DUE TO LANDLORD PREFERENCE FOR A DIFFERENT DESIGN, PLEASE CONTACT ALLPRO CONSULTING GROUP, INC FOR A REDESIGN BEFORE SITE IS BUILT.

PROPOSED BURIED OR OVERHEAD UTILITIES MUST BE CONTAINED WITHIN A DEDICATED UTILITY EASEMENT AS SHOWN ON THE SURVEY BY SURVEY BY WEBB SURVEYING, KRW JOB NO. 221-018, DATED: 06/08/21 . ALL EXISTING AND NEW UTILITY EASEMENTS MUST BE VERIFIED PRIOR TO CONSTRUCTION. NO DIGGING OR TRENCHING SHALL BE ALLOWED WITHOUT PRIOR VERIFICATION OF EXISTING BURIED UTILITIES.

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS WITHIN ZONE "X", AREAS OUTSIDE OF A 100 YR. FLOOD PLAIN AS SHOWN BY FIRM MAP COMMUNITY-PANEL NUMBER 48085C0120J, DATED 06/02/2009. NO SURVEYING WAS DONE TO DETERMINE THIS FLOOD ZONE, IF A PROFESSIONAL CONSULTANT HAS FINDING OF FLOODING/WETLANDS CONTACT ALLPRO CONSULTING GROUP INC. FOR A RE-DESIGN.

PROPOSED ANTENNA PLACEMENT LOCATION TO BE FIELD VERIFIED BY GENERAL CONTRACTOR PRIOR TO CONSTRUCTION. TO AVOID ANY INTERFERENCE OR SHADOWING OF ANTENNAS. IF INTERFERENCE OR SHADOWING OF ANTENNAS IS DISCOVERED DURING FIELD VERIFICATION, PLEASE CONTACT ALLPRO CONSULTING GROUP INC. FOR DESIGN REVISION PRIOR TO ANY ANTENNA INSTALLATION.



LEGEND

- PP – POWER POLE
- TPED – TELEPHONE RISER
- WV– WATER VALVE
- FH – FIRE HYDRANT
- TOWER CENTROID
- LP – LIGHT POLE
- EM – ELECTRIC METER
- GM – GAS METER
- IRS – IRON ROD SET
- IRF – IRON ROD FOUND
- TBM BENCH MARK
- BUILDING LINES
- FENCE LINE
- POWER LINE

NORTH

FOR 24" X 36" PLOT – 1" = 80'
FOR 11" X 17" PLOT – 1" = 160'
0 40' 80' 160'

OVERALL SITE PLAN

T-Mobile

DUKE BRIDGES CAMPUS
7668 WARREN PARKWAY
FRISCO, TX 75034
OFFICE: (972) 464-3510

ACGI NO:	21-5315
DRAWN BY:	CG/MM/JS
CHECKED BY:	SY

0	9/14/21	ZONING DRAWINGS
1	3/7/22	REVISION
2	3/23/22	REVISION

ALLPRO
CONSULTING GROUP, INC.
9221 Lyndon B Johnson Fwy
Suite 204, Dallas, TX 75243
Phone: 972-231-8893
Fax: 866-364-8375
www.allprocgi.com
registration no. 8242

STATE OF TEXAS
SHIQIANG ZHANG
137482
LICENSED
PROFESSIONAL ENGINEER
03/23/22

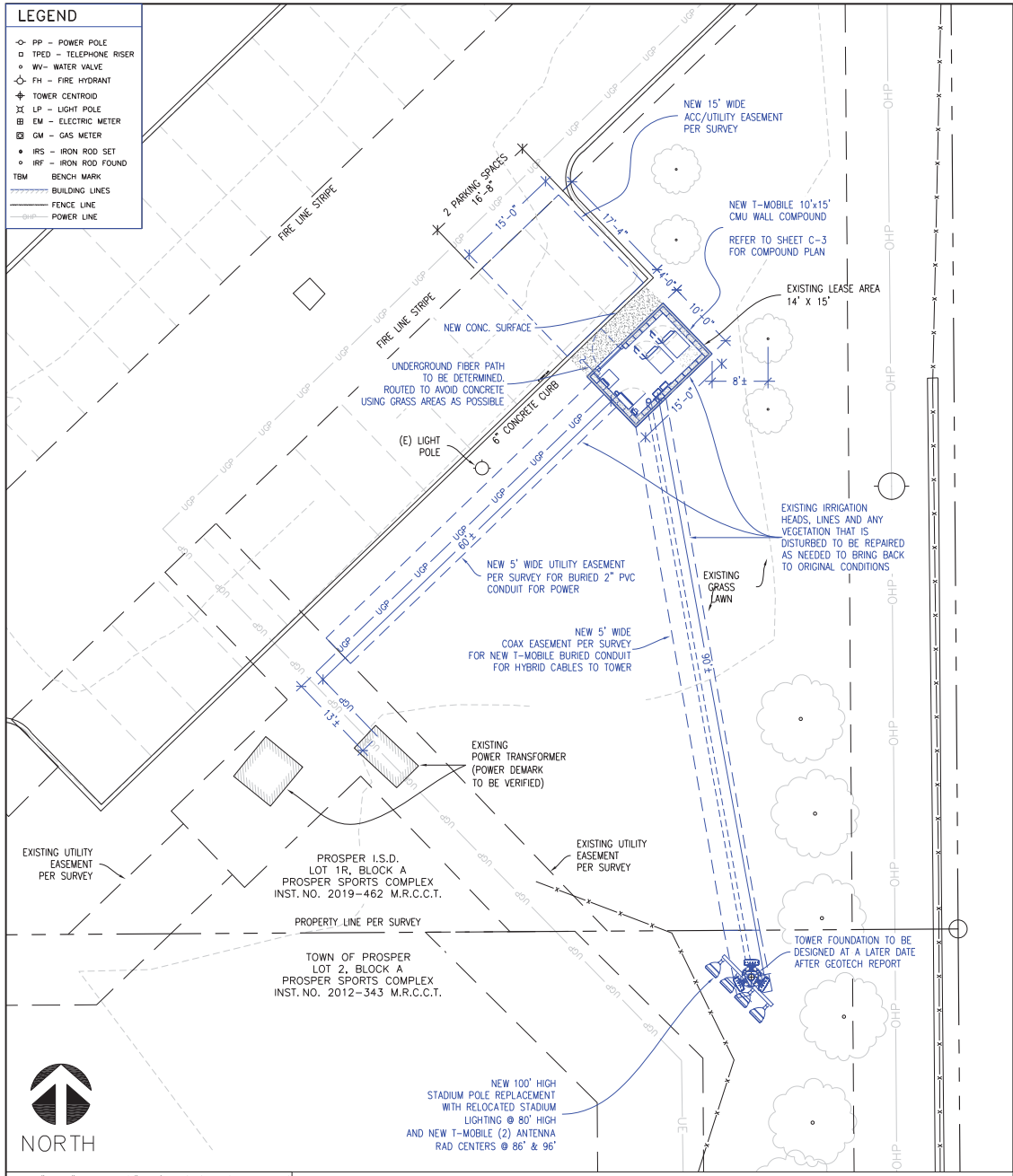
T-MOBILE SITE
DA03931D
PISD SPORT COMPLEX

ZONING DRAWINGS

1240 FRONTIER PKWY
PROSPER, TX 75078
COLLIN COUNTY

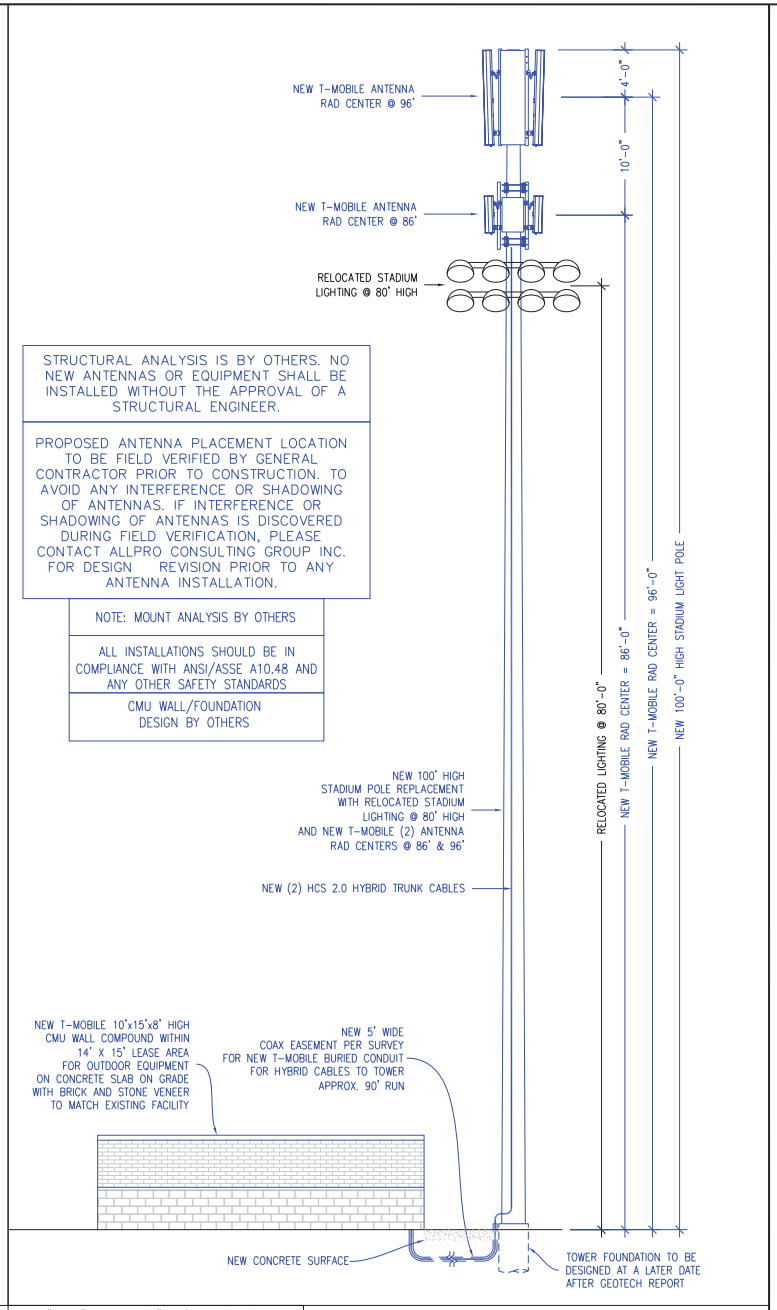
SHEET TITLE
OVERALL SITE PLAN

SHEET NUMBER
C-1



FOR 24" X 36" PLOT – 1/8" = 1' 0 2' 4' 8' 16'
FOR 11" X 17" PLOT – 1/16" = 1'

ENLARGED SITE PLAN



FOR 24" X 36" PLOT – 3/16" = 1' 0 2' 4' 8'
FOR 11" X 17" PLOT – 3/32" = 1'

ELEVATION

T-Mobile

DUKE BRIDGES CAMPUS
7668 WARREN PARKWAY
FRISCO, TX 75034
OFFICE: (972) 464-3510

ACGI NO:	21-5315
DRAWN BY:	CG/MM/JS
CHECKED BY:	SY

0	9/14/21	ZONING DRAWINGS
1	3/7/22	REVISION
2	3/23/22	REVISION

ALLPRO
CONSULTING GROUP, INC.
9221 Lyndon B Johnson Fwy
Suite 204, Dallas, TX 75243
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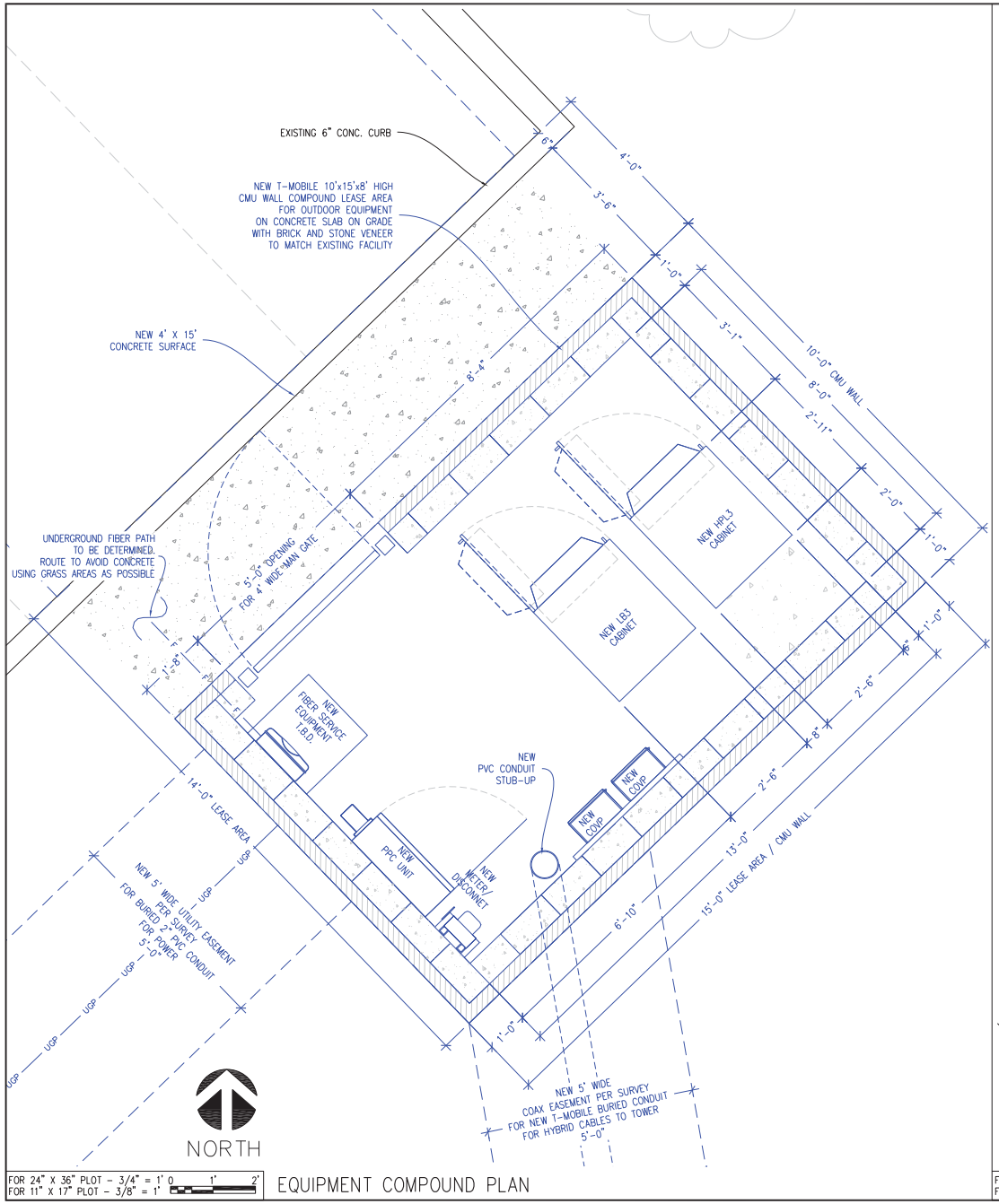
STATE OF TEXAS
SHIQIANG ZHANG
157482
LICENSED
PROFESSIONAL ENGINEER
03/23/22

T-MOBILE SITE
DA03931D
PISD SPORT COMPLEX
ZONING DRAWINGS

1240 FRONTIER PKWY
PROSPER, TX 75078
COLLIN COUNTY

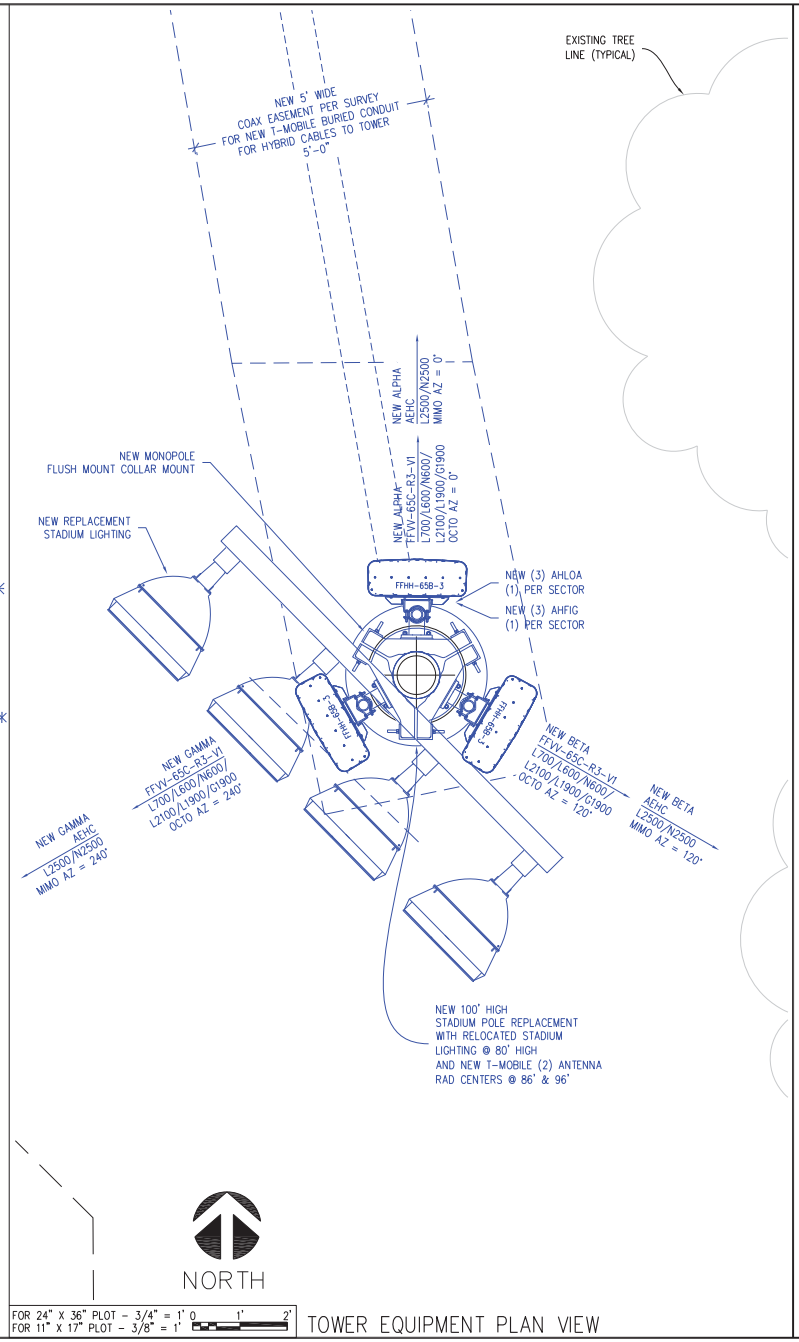
SHEET TITLE
ENLARGED SITE PLAN & ELEVATION

SHEET NUMBER
C-2



FOR 24" X 36" PLOT - 3/4" = 1' 0 1' 2'
FOR 11" X 17" PLOT - 3/8" = 1'

EQUIPMENT COMPOUND PLAN



FOR 24" X 36" PLOT - 3/4" = 1' 0 1' 2'
FOR 11" X 17" PLOT - 3/8" = 1'

TOWER EQUIPMENT PLAN VIEW

T-Mobile

DUKE BRIDGES CAMPUS
7668 WARREN PARKWAY
FRISCO, TX 75034
OFFICE: (972) 464-3510

ACGI NO:	21-5315
DRAWN BY:	CG/MM/JS
CHECKED BY:	SY

0	9/14/21	ZONING DRAWINGS
1	3/7/22	REVISION
2	3/23/22	REVISION

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STATE OF TEXAS
SHIQIANG ZHANG
157482
LICENSED
PROFESSIONAL ENGINEER
03/23/22

T-MOBILE SITE DA03931D PISD SPORT COMPLEX

ZONING DRAWINGS

1240 FRONTIER PKWY
PROSPER, TX 75078
COLLIN COUNTY

SHEET TITLE
EQUIPMENT COMPOUND PLAN & TOWER EQUIP PLAN

SHEET NUMBER
C-3

Prosper is a place where everyone matters.

TOWN SECRETARY

To: **Mayor and Town Council**

From: **Michelle Lewis Sirianni, Town Secretary**

Through: **Bob Scott, Executive Director of Administrative Services**
Robyn Battle, Executive Director of Community Services

Re: **Ratification of Documents**

Town Council Meeting – August 23, 2022

Agenda Item:
Consider and act upon a resolution ratifying the Mayor's signatures on certain documents.

Description of Agenda Item:
While in transition from the resignation of former Town Manager, Harlan Jefferson and Interim Town Manager, Ron Patterson, it was necessary for the Mayor to execute documents on behalf of the Town during such period.

This item will ratify and validate approval of the documents outlined within the resolution.

Budget Impact:
There are no budgetary impacts affiliated with this item.

Legal Obligations and Review:
Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attachments:
1. Resolution

Town Staff Recommendation:
Town Staff recommends approving a resolution ratifying the Mayor's signatures on certain documents.

Proposed Motion:
I move to approve a resolution ratifying the Mayor's signatures on certain documents.

TOWN OF PROSPER, TEXAS **RESOLUTION NO. 2022-XX**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, RATIFYING THE MAYOR'S SIGNATURES ON CERTAIN DOCUMENTS AS MORE FULLY DESCRIBED HEREIN; MAKING FINDINGS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the former Town Manager resigned effective at the close of business on Thursday, July 28, 2022; and

WHEREAS, an Interim Town Manager shall begin employment with the Town of Prosper ("Town") on Monday, August 22, 2022, and in the period between the close of business on Thursday, July 28, 2022, and the starting date of the Interim Town Manager on Monday, August 22, 2022, it was necessary for the Mayor to execute certain documents on behalf of the Town during such period; and

WHEREAS, by this Resolution, the Town Council hereby ratifies and approves the Mayor's signature to the documents described herein.

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

SECTION 1

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

SECTION 2

The signature of Mayor David F. Bristol on the following documents is hereby ratified and approved by the Town Council as the valid and binding approval of the Town:

Community Development Block Grant Program
Fishtrap Elevated Storage Tank, Change Order No. 1
PSA - Lowery Property Advisors
Easements - North Texas Conference of United Methodist Church/Grace Chapel
PSA - Freese & Nichols (Public Works and Parks & Rec Facility Master Plan Project)
Development Agreement - North Texas Conference of the United Methodist Church
Development Agreement - 104 Prosper and 310 Prosper, Prosper Hollow LP and Paramount Soft LP
Easement - Star Trail Phase 10
Construction Agreement - American Landscape Systems - CSP NO. 2022-44-B
Law Enforcement Support Office (LESO) SPO
Denton PD Training Facilities MOU
Development Agreement - Grace Chapel
Easements - Prosper Condo Office
2022 Celebrate Prosper in the Park - In Depth Events
Advanced Funding Agreement for Blue Ribbon Project

SECTION 3

This Resolution shall become effective immediately upon its passage and approval.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 23RD DAY OF AUGUST, 2022.

_____
David F. Bristol, Mayor

ATTEST:

_____
Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____
Terrence S. Welch, Town Attorney

TOWN OF PROSPER

Prosper is a place where everyone matters.

BUILDING INSPECTIONS

To: **Mayor and Town Council**

From: **Brady Cudd, Building Official**

Through: **Bob Scott, Executive Director of Administrative Services**
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: **Sign Waiver – 4200 W. University Drive**

Town Council Meeting – August 23, 2022

Agenda Item:
Conduct a public hearing and consider and act upon a request for a Sign Waiver at 4200 W. University Drive, regarding two (2) wall signs for Cook Children's Medical Center on the northeast corner of Windsong Parkway and US 380. (MD22-0008)

Description of Agenda Item:
The Town has received a request for a sign waiver for two (2) wall signs for Cook Children's Medical Center, located on the northeast corner of Windsong Parkway and US 380. The Town's Sign Ordinance requires wall signs to be located below the building parapet and not exceed a height of twelve feet (12'). The applicant is proposing to increase the height of the proposed wall signs to eighteen feet (18') and project the wall signs nearly seven feet (7') above the top of the parapet as part of a rebranding effort to support the culture and strategic vision of Cook Children's Health Care System.

Legal Obligations and Review:
Notification was provided to neighboring property owners as required by the Sign Ordinance. Staff has not received any Public Hearing Notice Reply Forms.

Attachments:
1. Proposed Wall Sign Renderings
2. Letter of Intent and Purpose from Cook Children's Medical Center
3. Letter of Support from David Blom, COO, Tellus Group

Town Staff Recommendation:
Town staff recommends that the Town Council approve the request for a Sign Waiver at 4200 W. University Drive, regarding two (2) wall signs for Cook Children's Medical Center on the northeast corner of Windsong Parkway and US 380.

Proposed Motion:

I move to approve the request for a Sign Waiver at 4200 W. University Drive, regarding two (2) wall signs for Cook Children's Medical Center on the northeast corner of Windsong Parkway and US 380.

Babendure Design Group
8140 Walnut Hill Ln. #950
Dallas, Texas 75231
214.265.1960
www.babendure.com

Cook Children's
Prosper, TX

High-Level Logo Study
July 11, 2022

1 **East Elevation - New Logo (Above Roofline)**
Scale: 1/16"=1'-0"

Babendure Design Group
8140 Walnut Hill Ln. #950
Dallas, Texas 75231
214.265.1960
www.babendure.com

New Logo
East Elevation

Cook Children's Prosper
High-Level Logo

July 11, 2022

1 **West Elevation - New Logo (Above Roofline)**
Scale: 1/16"=1'-0"

Babendure Design Group
8140 Walnut Hill Ln. #950
Dallas, Texas 75231
214.265.1960
www.babendure.com

New Logo
West Elevation

Cook Children's Prosper
High-Level Logo

July 11, 2022

Babendure Design Group
8140 Walnut Hill Ln. #950
Dallas, Texas 75231
214.265.1960
www.babendure.com

High Level Logo Measurements

Cook Children's Prosper
High-Level Logo

July 11, 2022

Letter of Intent and Purpose

In 2017, Cook Children's Health Care System began looking to expand their service footprint further north surrounding the DFW area. Cook Children's chose to serve the community and families located in the Town of Prosper off of US Hwy 380 and Windsong Parkway. News of Cook Children's building their second medical campus in Prosper was well received by the Town and surrounding communities, especially Windsong Ranch. The first phase of the medical campus development was planned as an Urgent Care Center (UCC), Primary Care Center (PCC), Pediatric Specialty Care offices, and an Ambulatory Surgery Center. The UCC and PCC were open and operational towards the end of 2019 with the rest of the buildings being open and operational in 2020. Since opening their doors, Cook Children's has cared for over 40,000 children on the Prosper campus.

Cook Children's Health Care System is expanding their Prosper campus with the addition of an inpatient medical center. The Pediatric Medical Center is scheduled to be open at the end of 2022 and will include surgical services, a medical and surgical inpatient unit, a pediatric intensive care unit, an emergency department, as well as ancillary functions like radiology, infusion services and a sleep lab.

Cook Children's Health Care System will be rebranding to a look and feel that aligns with and supports our culture and strategic vision beginning this year. Cook Children's Health Care System connects kids and families throughout our integrated system of specialists, pediatricians, clinics, medical center and community programs. To easily show that connection, our rebrand and new logo includes a "connect-the-dot" theme. Our logo also expands the blue peaks over the entire word "Children's" to emphasize and reinforce our Promise to improve the well-being of every child in our care and our communities. Our rebrand also strengthens the connection between all of our locations to each other, referring physicians and our patient families.

With the creation of this Sign Ordinance – Petition for Waiver, the Prosper Campus will be the first to receive the new Cook Children's Healthcare System branding.

Per Section 1.4 (Sign Requirements Relief Procedure) we would like to specifically address the following:

- 1.4.B.3.i: The new branding that has been developed by Cook Children's Health Care System with the intent of deploying at the Prosper Campus and then to the Fort Worth Campus. The City of Fort Worth signage ordinance will allow the proposed sign without

waiver. But without the approval of this waiver, the signage at the two campuses will not be consistent.

- 1.4.B.3.ii: The new branding that has been developed by Cook Children's Health Care System will be of a unique design and configuration.
- 1.4.B.3.iii: The new branding results in a hardship caused by restricted area, shape and physical features.
- 1.4.B.3.iv: The new sign will be of significance to the welfare of the community by signifying the location of Cook Children's.
- 1.4.B.3.v: The new branding will not adversely impact the adjacent property owners. We have received a letter of support from David Blom with Windsong Ranch.

This Petition for waiver will be for the building signage to exceed the maximum height for our building (12') and for the sign to extend beyond the parapet wall.

TELLUS
GROUP

July 15, 2022

The Honorable Mayor David Bristol
250 West First Street
Prosper, Texas 75078

Subject: Cook Children's – Application for Signage Variance

Dear Mayor Bristol and Town Council Members,

I am writing on behalf of Cook Children's Health Care System to show my support for their signage waiver requests. Over the last five years, I've had the pleasure to get to know the Cook leadership team and can attest to their commitment to always achieving, if not exceeding, the standards set forth by the Town of Prosper. The professionalism with which they have presented themselves to our Windsong Ranch community and their proficient communication is as good as I have seen in my career. I can also say with certainty that the proposed requests focused around Cook Children's rebranding efforts will further serve as a gold standard of pediatric healthcare excellence to every child, family, business and patron that experiences our community.

In addition to my comments above, provided below are a few points that support the proposed requests:

- The Prosper campus will be the first location in the Cook Children's system to receive the new brand. This would provide a great opportunity to market the Town's investment in becoming a pediatric healthcare hub for the region.
- Cook Children's has been a great neighbor to Windsong Ranch/Tellus and will continue to play an important role in providing high quality pediatric care to families in Prosper and throughout our region.
- Cook Children's has made a significant financial investment in our community and will employ over 400 team members with the opening of the medical center in December 2022.
- Cook Children's facility standards have consistently aligned with an aesthetically pleasing and ordinance-respectful approach. These standards reflect to quality that the Town has consistently expected from businesses looking to include Prosper in their plans.

Thank you for your leadership and continuing commitment to excellence for our Town.

Best Regards,

David R. Blom
Partner/Chief Operating Officer

130 N. Preston Road, Suite 130 | Prosper, Texas 75078
(469) 532-0689 | www.tellusgroupllc.com

TOWN OF PROSPER
Prosper is a place where everyone matters.

ENGINEERING SERVICES

To: **Mayor and Town Council**

From: **Hulon T. Webb, Jr., P.E., Interim Executive Director of Development and Infrastructure Services**

Through: **Bob Scott, Executive Director of Administrative Services**

Re: **Town Council Meeting – August 23, 2022**

Agenda Item:
Consider and act upon awarding CSP No. 2022-48-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the First Street (Coit to Custer) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same.

Description of Agenda Item:
On July 7, 2022, at 3:00 PM, three (3) Competitive Sealed Proposals were received for the First Street (Coit to Custer) - 4 lanes project. The project consists of all work needed for construction of four lanes of concrete roadway, underground storm drainage system, bridge construction, concrete trails, pedestrian trail tunnel, and related grading and utility improvements along First Street between Coit Road and Custer Road. The project was advertised using the Competitive Sealed Proposal Construction alternative procurement method to allow the Town to award the project to the contractor that offers the best value proposal based on the following criteria:

- Qualifications and Experience (30%)
  - Outline contractor and subcontractor experience with similar projects.
  - Outline qualifications of key personnel assigned to this project.
  - Provide references.
- Project Timeline (20%)
- Cost Proposal (50%)

The verified proposal totals ranged between $20,484,776.87 and $23,912,429.35. The Engineer's estimate was $15,124,000.00. The proposal final completion times ranged from 539 calendar days to 730 calendar days. Mario Sinacola & Sons Excavating, Inc. (MSSEI), was the firm that ranked the highest after consideration of Costs, Time, and Qualifications with a cost of $23,912,429.35, and a project timeline of 539 calendar days. MSSEI successfully completed the Prosper Trail (Coit to Custer) project. Staff also checked the references provided and received positive feedback.

The Competitive Sealed Proposal Construction alternative procurement method allows for negotiations as part of the process to make sure that the best value is achieved. Staff is actively working with MSSEI to find cost saving alternatives, and this effort has resulted in an initial $600,000 reduction in the proposal. The initial reduction is achieved through a modification in phasing (limiting traffic to eastbound only from Coit Road to Granite Shoal for approximately 8 months) and cost reductions from the landscape supplier.

Town staff and MSSEI are also exploring additional value engineering ideas such as revisiting the following bid items: ROW Preparation, Tree Removal, and Tree Trimming and Protection, as well as utilizing form liner instead of stone veneer on the retaining walls, and some alternate designs to the bridge and pedestrian tunnel areas. Any additional cost reductions will be handled by Change Orders to reduce the overall contract amount.

Budget Impact:
The cost for the construction of this project is $23,312,429.35 and reflects the $600,000 cost savings already determined. The original FY 2021-2022 Capital Improvement Program included $18,600,000 for the First Street (Coit to Custer) – 4 lanes project. The issuance of the General Obligations Bonds, Series 2022 approved at the July 26, 2022, Town Council meeting, allocated an additional $3,050,500 of debt funding to the project budget. To increase the overall budget to $24,300,000 in Account No. 750-6610-10-00-2014-ST, the following additional funding will be allocated in the FY 2022-2023 Capital Improvement Program: $1,149,500 East Thoroughfare Impact Fee Fund and $1,500,000 from the proposed Capital Dedicated Fund.

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

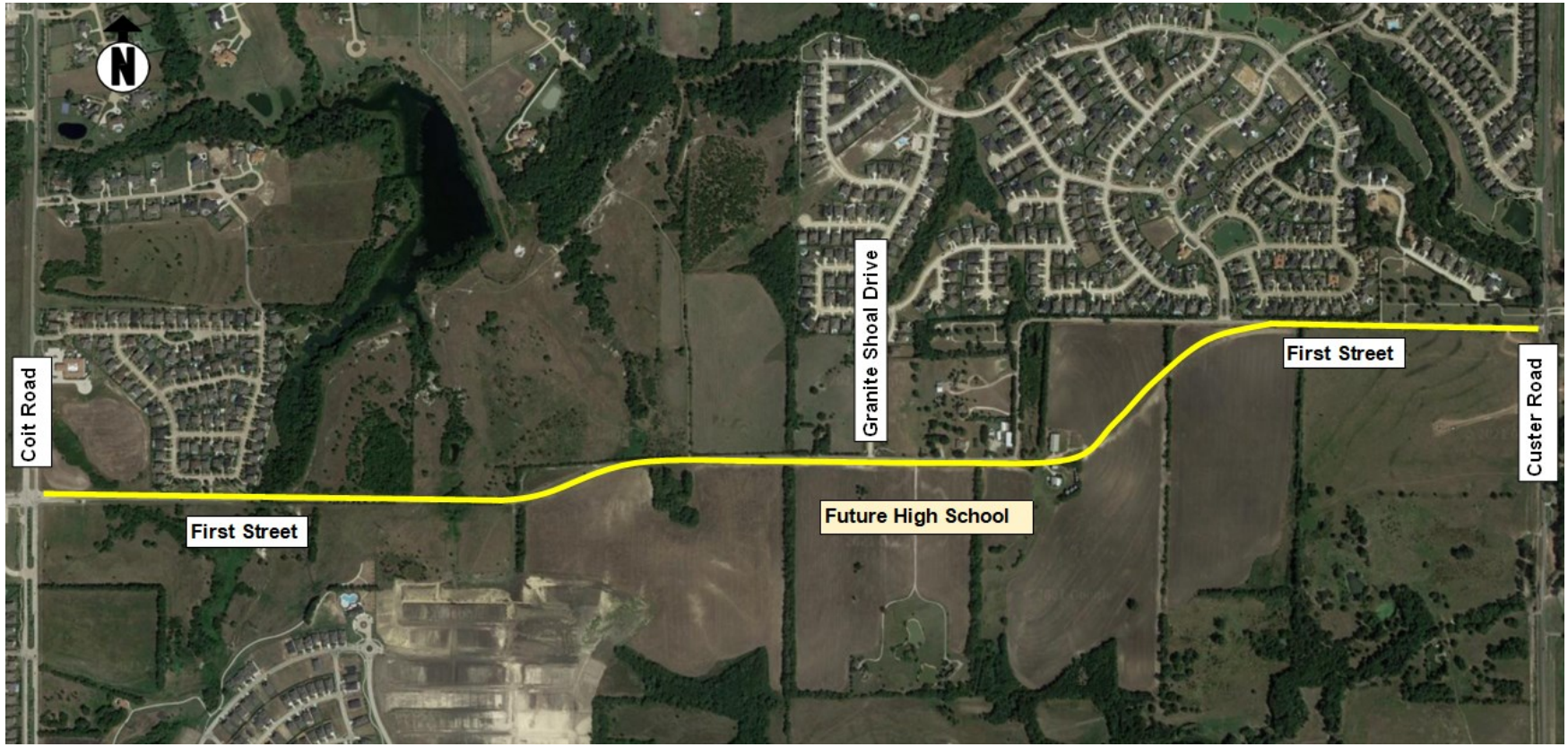
Attachments:
1. Location Map
2. Bid Tabulation Summary
3. Construction Agreement

Town Staff Recommendation:
Town staff recommends that the Town Council award CSP No. 2022-48-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the First Street (Coit to Custer) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same.

Proposed Motion:
I move to award CSP No. 2022-48-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the First Street (Coit to Custer) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same.

LOCATION MAP

First Street (Coit Road - Custer Road)



TOWN OF PROSPER
BID TABULATION SUMMARY

Solicitation Number		Bid No. 2022-48-B
Solicitation Title		First Street (Coit-Custer) - 4 Lanes (2014-ST)
Close Date		7/7/2022 @ 2:00PM

Responding Supplier	City	State	Response Submitted	Response Total
Mario Sinacola & Sons Excavatir	Frisco	TX	7/7/2022 01:39:48 PM (CT)	$23,912,429.35
McMahon Contracting LP	Grand Prairie	TX	7/7/2022 12:41:56 PM (CT)	$20,484,776.88
Tiseo Paving Co.	Mesquite	TX	7/7/2022 01:33:41 PM (CT)	$20,946,618.38

**All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.

Certified By: Jay Carter, NIGP-CPP, CPPB, C.P.M.
Purchasing Manager
Town of Prosper, Texas

Date: 7/7/2022

CONSTRUCTION AGREEMENT

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

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

CSP NO. 2022-48-B
FIRST STREET (COIT TO CUSTER) 4-LANES (CIP #2014-ST)

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

A. Contract Documents and Order of Precedence

The Contract Documents shall consist of the following documents:

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

These Contract Documents are incorporated by reference into this Construction Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided, however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be

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

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed **$Twenty three million three-hundred twelve thousand four-hundred twenty-nine dollars and 35 cents ($23,312,429.35).** This amount is subject to adjustment by change order in accordance with the Contract Documents.

C. Dates to Start and Complete Work

Contractor shall begin work within ten (10) calendar days after receiving a written Notice to Proceed or written Work Order from the Owner. All Work required under the Contract Documents shall be substantially completed within 479 calendar days after the date of the Notice to Proceed for the base proposal. Within 60 additional calendar days after Substantial Completion, all outstanding issues shall be addressed and ready for final payment.

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

D. CONTRACTOR'S INDEMNITY TO THE OWNER AND OTHERS

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

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

AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR INJURY OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGES TO, OR LOSS OF USE OF ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHETHER THE CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE TOWN OF PROSPER (OWNER), ITS MAYOR AND TOWN COUNCIL, OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT TOWN OF PROSPER (OWNER) FROM THE CONSEQUENCES OF TOWN OF PROSPER'S (OWNER'S) OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE CONTRACTOR, ANY SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR ANY SUB-CONTRACTOR UNDER WORKMEN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

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

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

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

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

E. Insurance Requirements

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

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

re: CSP No. 2022-48-B FIRST STREET (COIT TO CUSTER) 4-LANES (CIP NO. 2014-ST)

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

a. ISO Form Number GL 00 01 (or similar form) covering Comprehensive General Liability. "Occurrence" form only, "claims made" forms are unacceptable.

b. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.

c. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.

2. Minimum Limits of Insurance

Contractor shall maintain throughout contract limits not less than:

a. Commercial General Liability: $1,000,000 per occurrence / $2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:

1) Premises / Operations

2) Broad Form Contractual Liability

3) Products and Completed Operations

4) Personal Injury

5) Broad Form Property Damage

6) Explosion Collapse and Underground (XCU) Coverage.

b. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of $100,000 per injury, $300,000 per occurrence, and $100,000 per occupational disease.

c. Automobile Liability: $1,000,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired and non-owned autos.

d. Builders' Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the structure. Town shall be listed as Loss Payee.

e. $1,000,000 Umbrella Liability Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverages.

3. Deductible and Self-Insured Retentions

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

4. Other Insurance Provisions

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

a. General Liability and Automobile Liability Coverage

1) The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.

2) The contractor's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self- insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.

4) The contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limits of liability.

b. Workers' Compensation and Employer's Liability Coverage

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

c. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

5. Acceptability of Insurers

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

6. Verification of Coverage

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

F. Performance, Payment and Maintenance Bonds

The Contractor shall procure and pay for a Performance Bond applicable to the work in the amount of one hundred fifteen percent (115%) of the total proposed price, and a Payment Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The Contractor shall also procure and pay for a Maintenance Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in this Construction Agreement. The performance, payment and maintenance bonds shall be issued in the form attached to this Construction Agreement as Exhibits A, B and C. Other performance, payment and

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

The performance, payment and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment and maintenance bonds upon Town request. In addition to the foregoing requirements, if the amount of the bond exceeds One Hundred Thousand Dollars ($100,000) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand Dollars ($100,000) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

G. Progress Payments and Retainage

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

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

1. copies of documents reasonably necessary to aid the Owner in preparing an estimate of the value of Work properly completed;

2. full or partial releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Owner releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;

3. an updated and current schedule clearly detailing the project's critical path elements; and

4. any other documents required under the Contract Documents.

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

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

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

1. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;

2. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and

3. provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

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

H. Withholding Payments to Contractor

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

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

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

I. Acceptance of the Work

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

It is specifically provided that Work shall be deemed accepted on the date specified in the Owner's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on

"substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Owner's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

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

J. Acceptance of Erosion Control Measures

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

K. Final Payment

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

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;

2. correct prior progress payments; and

3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens from the Contractor and its subcontractors, or other evidence satisfactory to the Owner to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Owner may, but is not obligated to issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Owner original copies of all documents that the Owner determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Owner has satisfied its obligation to administer the Construction Agreement in accordance with applicable law. The following documents shall, at a minimum, be required to be submitted prior to final payment being due: redline as-built construction plans; consent of surety to final payment; public infrastructure inventory; affidavit of value for public infrastructure; and, final change order(s). “Redline as-built construction plans” shall include, but are not limited to markups for change orders, field revisions, and quantity overruns as applicable. The list of documents contained in this provision is not an exhaustive and exclusive list for every project performed pursuant to these Contract Documents

and Contractor shall provide such other and further documents as may be requested and required by the Owner to close out a particular project.

Subject to the requirements of the Contract Documents, the Owner shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

L. Contractor's Warranty

For a two-year period after the date specified in a written notice of acceptance of Work, Contractor shall provide and pay for all labor and materials that the Owner determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Owner may make a warranty inspection of the Work. The Owner shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Owner shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Owner may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Owner determines that a hazard exists because of defective materials and workmanship, then the Owner may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Owner to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Owner may make as many warranty inspections as it deems appropriate.

M. Compliance with Laws

The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the

Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

N. "Anti-Israel Boycott" Provision

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Contract that the company does not boycott Israel and will not boycott Israel during the term of this Contract.

O. Other Items

The Contractor shall sign the Construction Agreement, and deliver signed performance, payment and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within ten (10) calendar days after the Owner makes available to the Contractor copies of the Contract Documents for signature. Six (6) copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided, however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Owner delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure:

1. that Contractor timely delivers to the Owner all bonds and insurance documents; and

2. that the Owner retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST OWNER, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE OWNER BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE

OWNER DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Collin County, Texas.

In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

Although the Construction Agreement has been drafted by the Owner, should any portion of the Construction Agreement be disputed, the Owner and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Owner and Contractor and shall insure to their benefit and as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

[*Signatures continued on following page.*]

CONTRACTOR	TOWN OF PROSPER, TEXAS
_____	_____
By: _____	By: RON K. PATTERSON
Title: _____	Title: Interim Town Manager
Date: _____	Date: _____
Address: _____ _____	Address: 250 W. First St. P.O. Box 307 Prosper, Texas 75078
Phone: _____ Email: _____	Phone: (972) 346-2640 Email: rpatterson@prospertx.gov

ATTEST:

_____

MICHELLE LEWIS SIRIANNI
Town Secretary

PERFORMANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Beneficiary", in the penal sum of Twenty-three million three hundred twelve thousand four hundred twenty nine dollars and thirty-five cents ($23,312,429.35) plus fifteen percent (15%) of the stated penal sum as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Beneficiary, dated on or about the **23rd day of August, A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-48-B
FIRST STREET (COIT TO CUSTER) 4-LANES (CIP NO. 2014-ST)

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

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

PAYMENT BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and_____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of Twenty three million three hundred twelve thousand four hundred twenty nine dollars and thirty five cents ($23,312,429.35) (one hundred percent (100%) of the total bid price) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Owner, dated on or about the **23rd day of August A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-48-B
FIRST STREET (COIT TO CUSTER) 4-LANES (CIP NO. 2014-ST)

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may

be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

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

MAINTENANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is_____, hereinafter referred to as "Principal," and _____, a corporate surety/sureties organized under the laws of the State of _____ and fully licensed to transact business in the State of Texas, as Surety, hereinafter referred to as "Surety" (whether one or more), are held and firmly bound unto the **TOWN OF PROSPER**, a Texas municipal corporation, hereinafter referred to as "Owner," in the penal sum of twenty three million three hundred twelve thousand four hundred twenty nine dollars and thirty five cents ($23,312,429.35) (one hundred percent (100%) of the total bid price), in lawful money of the United States to be paid to Owner, its successors and assigns, for the payment of which sum well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and successors and assigns, jointly and severally; and firmly by these presents, the condition of this obligation is such that:

WHEREAS, Principal entered into a certain written Contract with the Town of Prosper, dated on or about the **23rd day of August, 2022**, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-48-B
FIRST STREET (COIT TO CUSTER) 4-LANES (CIP NO. 2014-ST)

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract, such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word:

WHEREAS, in said Contract, the Principal binds itself to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by Owner the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during the period of two (2) years following the date of final acceptance of the Work by Owner, Principal binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Town Manager or his designee shall determine to be necessary for the preservation of the public health, safety or welfare. If Principal does not repair or reconstruct the improvements within the time period designated, Owner shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

NOW, THEREFORE, if Principal will maintain and keep in good repair the Work herein contracted to be done and performed for a period of two (2) years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Plans and Specifications and Contract.

PROVIDED, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.

PROVIDED, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, on this the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

TOWN OF PROSPER
Prosper is a place where everyone matters.

ENGINEERING SERVICES

To: **Mayor and Town Council**

From: **Hulon T. Webb, Jr., P.E., Interim Executive Director of Development and Infrastructure Services**

Through: **Bob Scott, Executive Director of Administrative Services**

Re: **Town Council Meeting – August 23, 2022**

Agenda Item:
Consider and act upon awarding CSP No. 2022-50-B to McMahon Contracting, LP, related to construction services for the Fishtrap (Teel - Gee Road) & Gee Road (Fishtrap - Windsong Retail) project; and authorizing the Interim Town Manager to execute a construction agreement for same.

Description of Agenda Item:
On July 28, 2022, at 3:00 PM, three (3) Competitive Sealed Proposals were received for the Fishtrap (Teel - Gee Road) & Gee Road (Fishtrap - Windsong Retail) project. The project will consist of the construction of the remaining lanes of Fishtrap Road from Gee Road to Teel Parkway and Gee Road from Fishtrap Road to Windsong Retail. Work will include but not be limited to excavation, embankment, moisture conditioning, subgrade treatment/concrete pavement, sidewalks/hike and bike trails, median landscaping/irrigation, retaining walls, culverts, storm drainage, water mains, traffic signals, and pavement markings/markers. The project was advertised using the Competitive Sealed Proposal Construction alternative procurement method to allow the Town to award the project to the contractor that offers the best value proposal based on the following criteria:

- Qualifications and Experience (30%)
  - Outline contractor and subcontractor experience with similar projects.
  - Outline qualifications of key personnel assigned to this project.
  - Provide references.
- Project Timeline (20%)
- Cost Proposal (50%)

The verified proposal totals ranged between $10,302,053.88 and $14,112,712,.08. The Engineer's estimate was $8,884,045.00. The proposal final completion times ranged from 284 calendar days to 570 calendar days. McMahon Contracting, LP, was the firm that ranked the highest after consideration of Costs, Time, and Qualifications with a cost of $10,302,053.88, and a project timeline of 284 calendar days. McMahon Contracting, LP, successfully completed the

Victory Way (Coleman – Frontier) project. Staff also checked the references provided and received positive feedback.

The Competitive Sealed Proposal Construction alternative procurement method allows for negotiations as part of the process to make sure that the best value is achieved. Staff is actively working with McMahon Contracting, LP, to find cost saving alternatives, and this effort has resulted in an initial $107,474.68 reduction in the proposal. The initial reduction is achieved through the use of concrete form liners and stains for the surface finish of the retaining walls in lieu of stone facia masonry.

Town staff and McMahon Contracting, LP, are also exploring additional value engineering ideas such as alternative pavement subgrade and reduction in length of retaining walls. Any additional cost reductions will be handled by Change Orders to reduce the overall contract amount.

Budget Impact:
The cost for the construction of this project is $10,194,579.20 and reflects the $107,474.68 cost savings already determined. The original FY 2021-2022 Capital Improvement Program included $6,025,000 for the Fishtrap (Teel - Gee Road) project in Account No. 750-6610-10-00-2010-ST, and $3,520,000 in Account No. 750-6610-10-00-2011-ST for the Gee Road (Fishtrap - Windsong Retail) project. To increase the overall project budget to $10,723,793 (additional $1,178,793 in Account No. 750-6610-10-00-2011-ST), the following additional funding will be allocated in the FY 2022-2023 Capital Improvement Program: $178,793 Escrows and $1,000,000 from the proposed Capital Dedicated Fund.

Legal Obligations and Review:
Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

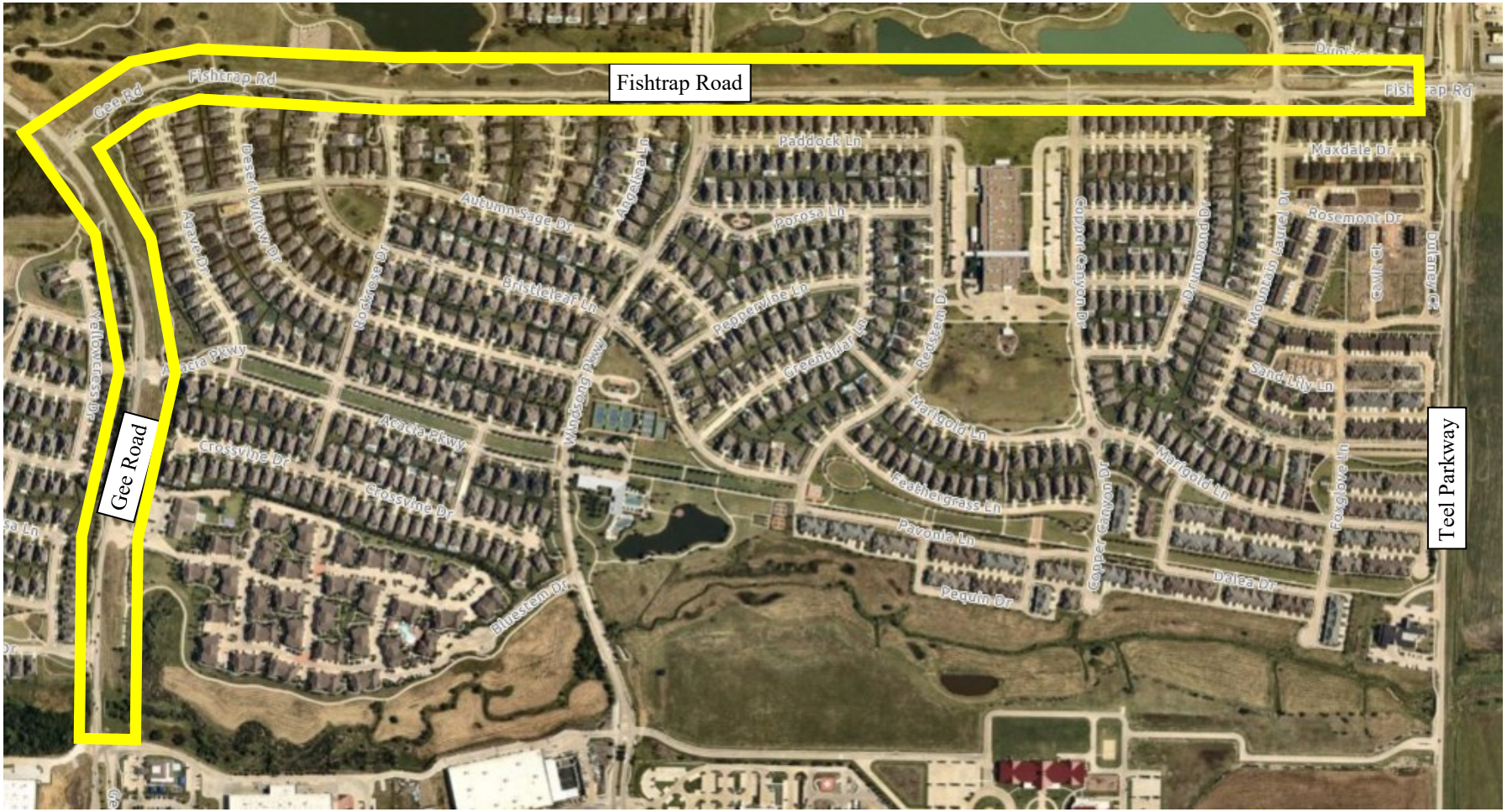
Attachments:
1. Location Map
2. Proposal Tabulation Summary
3. Construction Agreement

Town Staff Recommendation:
Town staff recommends that the Town Council award CSP No. 2022-50-B to McMahon Contracting, LP, related to construction services for the Fishtrap (Teel-Gee Road) & Gee Road (Fishtrap-Windsong Retail) project; and authorizing the Interim Town Manager to execute a construction agreement for same.

Proposed Motion:
I move to award CSP No. 2022-50-B to McMahon Contracting, LP, related to construction services for the Fishtrap (Teel-Gee Road) & Gee Road (Fishtrap-Windsong Retail) project; and authorizing the Interim Town Manager to execute a construction agreement for same.

LOCATION MAP

Fishtrap (Teel - Gee Road) (2010-ST) and
Gee Road (Fishtrap - Windsong Retail) (2011-ST)



TOWN OF PROSPER
PROPOSAL TABULATION SUMMARY

Solicitation Number	CSP No. 2022-50-B
Solicitation Title	Fishtrap(2010-ST) and Gee Road (2011-ST)
Close Date	5/5/2022 @ 10:00AM

Responding Supplier	City	State	Response Submitted	Response Total
McMahon Contracting LP	Grand Prairie	TX	7/28/2022 01:34:34 PM (CT)	$10,302,053.88
Mario Sinacola & Sons Excavating, Inc.	Frisco	TX	7/28/2022 01:42:09 PM (CT)	$11,812,121.55
Tiseo Paving Co.	Mesquite	TX	7/28/2022 12:21:06 PM (CT)	$14,112,712.08

**All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.

Certified by:	Jay Carter, NIGP-CPP, CPPB, C.P.M. Purchasing Manager Town of Prosper, Texas	Certified on:	July 28, 2022

CONSTRUCTION AGREEMENT

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

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

CSP NO. 2022-50-B
FISHTRAP (TEEL – GEE ROAD) & GEE ROAD (FISHTRAP – WINDSONG RETAIL)
CIP No. 2010-ST & 2011-ST

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

A. Contract Documents and Order of Precedence

The Contract Documents shall consist of the following documents:

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

These Contract Documents are incorporated by reference into this Construction Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided,

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

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed **Ten Million one hundred ninety-four thousand five hundred seventy nine dollars and 20 cents ($10,194,579.20).** This amount is subject to adjustment by change order in accordance with the Contract Documents.

C. Dates to Start and Complete Work

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

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

D. CONTRACTOR'S INDEMNITY TO THE OWNER AND OTHERS

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

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

TOWN COUNCIL AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR INJURY OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGES TO, OR LOSS OF USE OF ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHETHER THE CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE TOWN OF PROSPER (OWNER), ITS MAYOR AND TOWN COUNCIL, OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT TOWN OF PROSPER (OWNER) FROM THE CONSEQUENCES OF TOWN OF PROSPER'S (OWNER'S) OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE CONTRACTOR, ANY SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR ANY SUB-CONTRACTOR UNDER WORKMEN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

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

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

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

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

E. Insurance Requirements

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

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

re: **CSP No. 2022-50-B FISHTRAP (TEEL – GEE ROAD) & GEE ROAD (FISHTRAP – WINDSONG RETAIL) CIP NO. 2010-ST & 2011-ST**

1. Minimum Scope of Insurance

   Coverage shall be at least as broad as:

   a. ISO Form Number GL 00 01 (or similar form) covering Comprehensive General Liability. "Occurrence" form only, "claims made" forms are unacceptable.

   b. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.

   c. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.

2. Minimum Limits of Insurance

   Contractor shall maintain throughout contract limits not less than:

   a. Commercial General Liability: $1,000,000 per occurrence / $2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:

      1) Premises / Operations

      2) Broad Form Contractual Liability

      3) Products and Completed Operations

4) Personal Injury

5) Broad Form Property Damage

6) Explosion Collapse and Underground (XCU) Coverage.

b. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of $100,000 per injury, $300,000 per occurrence, and $100,000 per occupational disease.

c. Automobile Liability: $1,000,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired and non-owned autos.

d. Builders' Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the structure. Town shall be listed as Loss Payee.

e. $1,000,000 Umbrella Liability Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverages.

3. Deductible and Self-Insured Retentions

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

4. Other Insurance Provisions

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

a. General Liability and Automobile Liability Coverage

1) The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.

2) The contractor's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self- insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.

4) The contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limits of liability.

b. Workers' Compensation and Employer's Liability Coverage

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

c. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

5. Acceptability of Insurers

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

6. Verification of Coverage

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

F. Performance, Payment and Maintenance Bonds

The Contractor shall procure and pay for a Performance Bond applicable to the work in the amount of one hundred fifteen percent (115%) of the total proposed price, and a Payment Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The Contractor shall also procure and pay for a Maintenance Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in this Construction Agreement. The performance, payment and maintenance bonds shall be issued in the form attached to this Construction Agreement as Exhibits A, B and C. Other performance, payment and

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

The performance, payment and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment and maintenance bonds upon Town request. In addition to the foregoing requirements, if the amount of the bond exceeds One Hundred Thousand Dollars ($100,000) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand Dollars ($100,000) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

G. Progress Payments and Retainage

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

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

1. copies of documents reasonably necessary to aid the Owner in preparing an estimate of the value of Work properly completed;

2. full or partial releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Owner releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;

3. an updated and current schedule clearly detailing the project's critical path elements; and

4. any other documents required under the Contract Documents.

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

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

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

1. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;

2. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and

3. provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

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

H. Withholding Payments to Contractor

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

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

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

I. Acceptance of the Work

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

It is specifically provided that Work shall be deemed accepted on the date specified in the Owner's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on

"substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Owner's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

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

J. Acceptance of Erosion Control Measures

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

K. Final Payment

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

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;

2. correct prior progress payments; and

3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens from the Contractor and its subcontractors, or other evidence satisfactory to the Owner to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Owner may, but is not obligated to issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Owner original copies of all documents that the Owner determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Owner has satisfied its obligation to administer the Construction Agreement in accordance with applicable law. The following documents shall, at a minimum, be required to be submitted prior to final payment being due: redline as-built construction plans; consent of surety to final payment; public infrastructure inventory; affidavit of value for public infrastructure; and, final change order(s). “Redline as-built construction plans” shall include, but are not limited to markups for change orders, field revisions, and quantity overruns as applicable. The list of documents contained in this provision is not an exhaustive and exclusive list for every project performed pursuant to these Contract Documents

and Contractor shall provide such other and further documents as may be requested and required by the Owner to close out a particular project.

Subject to the requirements of the Contract Documents, the Owner shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

L. Contractor's Warranty

For a two-year period after the date specified in a written notice of acceptance of Work, Contractor shall provide and pay for all labor and materials that the Owner determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Owner may make a warranty inspection of the Work. The Owner shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Owner shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Owner may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Owner determines that a hazard exists because of defective materials and workmanship, then the Owner may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Owner to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Owner may make as many warranty inspections as it deems appropriate.

M. Compliance with Laws

The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the

Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

N. "Anti-Israel Boycott" Provision

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Contract that the company does not boycott Israel and will not boycott Israel during the term of this Contract.

O. Other Items

The Contractor shall sign the Construction Agreement, and deliver signed performance, payment and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within ten (10) calendar days after the Owner makes available to the Contractor copies of the Contract Documents for signature. Six (6) copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided, however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Owner delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure:

1. that Contractor timely delivers to the Owner all bonds and insurance documents; and

2. that the Owner retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST OWNER, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE OWNER BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE

OWNER DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Collin County, Texas.

In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

Although the Construction Agreement has been drafted by the Owner, should any portion of the Construction Agreement be disputed, the Owner and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Owner and Contractor and shall insure to their benefit and as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

[*Signatures continued on following page.*]

CONTRACTOR	TOWN OF PROSPER, TEXAS
_____	_____
By: _____	By: RON K. PATTERSON
Title: _____	Title: Interim Town Manager
Date: _____	Date: _____
Address: _____ _____	Address: 250 W. First St. P.O. Box 307 Prosper, Texas 75078
Phone: _____ Email: _____	Phone: (972) 346-2640 Email: rpatterson@prospertx.gov

ATTEST:

_____
MICHELLE LEWIS SIRIANNI
Town Secretary

PERFORMANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Beneficiary", in the penal sum of ten million one hundred ninety-four thousand five hundred seventy nine dollars and twenty cents ($10,194,579.20 plus fifteen percent (15%) of the stated penal sum as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Beneficiary, dated on or about the **23rd day of August, A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-50-B
FISHTRAP (TEEL – GEE ROAD) & GEE ROAD (FISHTRAP – WINDSONG RETAIL)
CIP NO. 2010-ST & 2011-ST

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

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

PAYMENT BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and_____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of ten million one hundred ninety-four thousand five hundred seventy nine dollars and twenty cents ($10,194,579.20) (one hundred percent (100%) of the total bid price) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Owner, dated on or about the **23rd day of August A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-50-B
FISHTRAP (TEEL – GEE ROAD) & GEE ROAD (FISHTRAP – WINDSONG RETAIL)
CIP NO. 2010-ST & 2011-ST

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may

be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

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

MAINTENANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is_____, hereinafter referred to as "Principal," and _____, a corporate surety/sureties organized under the laws of the State of _____ and fully licensed to transact business in the State of Texas, as Surety, hereinafter referred to as "Surety" (whether one or more), are held and firmly bound unto the **TOWN OF PROSPER**, a Texas municipal corporation, hereinafter referred to as "Owner," in the penal sum of ten million one hundred ninety-four thousand five hundred seventy-nine dollars and 20 cents ($10,194,579.20) (one hundred percent (100%) of the total bid price), in lawful money of the United States to be paid to Owner, its successors and assigns, for the payment of which sum well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and successors and assigns, jointly and severally; and firmly by these presents, the condition of this obligation is such that:

WHEREAS, Principal entered into a certain written Contract with the Town of Prosper, dated on or about the **23rd day of August, 2022**, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-50-B
FISHTRAP (TEEL – GEE ROAD) & GEE ROAD (FISHTRAP – WINDSONG RETAIL)
CIP NO. 2010-ST & 2011-ST

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract, such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word:

WHEREAS, in said Contract, the Principal binds itself to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by Owner the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during the period of two (2) years following the date of final acceptance of the Work by Owner, Principal binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Town Manager or his designee shall determine to be necessary for the preservation of the public health, safety or welfare. If Principal does not repair or reconstruct the improvements within the time period designated, Owner shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

NOW, THEREFORE, if Principal will maintain and keep in good repair the Work herein contracted to be done and performed for a period of two (2) years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Plans and Specifications and Contract.

PROVIDED, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.

PROVIDED, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, on this the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

TOWN OF PROSPER
Prosper is a place where everyone matters.

ENGINEERING SERVICES

To: **Mayor and Town Council**

From: **Hulon T. Webb, Jr., P.E., Interim Executive Director of Development and Infrastructure Services**

Through: **Bob Scott, Executive Director of Administrative Services**

Re: **Town Council Meeting – August 23, 2022**

Agenda Item:
Consider and act upon awarding CSP No. 2022-51-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the Fishtrap (Elem - DNT) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same.

Description of Agenda Item:
On July 14, 2022, at 3:00 PM, two (2) Competitive Sealed Proposals were received for the Fishtrap (Elem - DNT) - 4 lanes project. The project consists of the construction of 4 lanes of Fishtrap Road/First Street from Stuber Elementary to the Dallas North Tollway. Work will include but not be limited to excavation, embankment, moisture conditioning, subgrade/pavement, median landscape/irrigation, bridges/culverts, storm drainage, and water mains. The project was advertised using the Competitive Sealed Proposal Construction alternative procurement method to allow the Town to award the project to the contractor that offers the best value proposal based on the following criteria:

- Qualifications and Experience (30%)
  - Outline contractor and subcontractor experience with similar projects.
  - Outline qualifications of key personnel assigned to this project.
  - Provide references.
- Project Timeline (20%)
- Cost Proposal (50%)

The verified proposal totals ranged between $26,811,506.99 and $29,045,195.45. The Engineer's estimate was $19,979,339.00. The proposal final completion times ranged from 608 calendar days to 750 calendar days. Mario Sinacola & Sons Excavating, Inc. (MSSEI), was the firm that ranked the highest after consideration of Costs, Time, and Qualifications with a cost of $26,811,506.99, and a project timeline of 608 calendar days. MSSEI successfully completed the Prosper Trail (Coit to Custer) project. Staff also checked the references provided and received positive feedback.

The Competitive Sealed Proposal Construction alternative procurement method allows for negotiations as part of the process to make sure that the best value is achieved. Staff is actively working with MSSEI to find cost saving alternatives and is currently exploring value engineering ideas such as changes to the rock riprap material proposed along the creeks and drainage channels. Any cost reductions will be handled by Change Orders to reduce the overall contract amount.

Budget Impact:

The cost for the construction of this project is $26,811,506.99. In addition to the construction costs, the Town paid $765,582 in mitigation bank credits. The original FY 2021-2022 Capital Improvement Program included $18,000,000 for the Fishtrap (Elem - DNT) - 4 lanes project. The issuance of the General Obligations Bonds, Series 2022 approved at the July 26, 2022, Town Council meeting, allocated an additional $3,000,000 of debt funding to the project budget. To increase the overall budget to $28,050,000 in Account No. 750-6610-10-00-2012-ST, the following additional funding will be allocated in the FY 2022-2023 Capital Improvement Program: $6,300,000 West Thoroughfare Impact Fee Fund and $750,000 from the proposed Capital Dedicated Fund.

Legal Obligations and Review:

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

Attachments:

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

Town Staff Recommendation:

Town staff recommends that the Town Council award CSP No. 2022-51-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the Fishtrap (Elem - DNT) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same.

Proposed Motion:

I move to award CSP No. 2022-51-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the Fishtrap (Elem - DNT) - 4 lanes project; and authorizing the Interim Town Manager to execute a construction agreement for same.

LOCATION MAP

Fishtrap Road (Elem - DNT) - 4 Lanes (2012-ST)

TOWN OF PROSPER
BID TABULATION SUMMARY

Solicitation Number		Bid No. 2022-51-B
Solicitation Title		Fishtrap (Elem-DNT) - 4 Lanes
Close Date		7/7/2022 @ 2:00PM

Responding Supplier	City	State	Response Submitted	Response Total
Mario Sinacola & Sons Excavating, In	Frisco	TX	7/14/2022 01:17:01 PM (CT)	$26,811,506.99
Tiseo Paving Co.	Mesquite	TX	7/14/2022 01:25:30 PM (CT)	$29,045,195.45

**All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.

Certified By: Jay Carter, NIGP-CPP, CPPB, C.P.M.
Purchasing Manager
Town of Prosper, Texas

Date: 7/14/2022

CONSTRUCTION AGREEMENT

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

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

CSP NO. 2022-51-B
FISHTRAP (ELEM – DNT) – 4 LANES (CIP NO. 2012-ST)

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

A. Contract Documents and Order of Precedence

The Contract Documents shall consist of the following documents:

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

These Contract Documents are incorporated by reference into this Construction Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided,

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

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed T**wenty-six million eight hundred eleven thousand five hundred six dollars and 99 cents ($26,811,506.99).** This amount is subject to adjustment by change order in accordance with the Contract Documents.

C. Dates to Start and Complete Work

Contractor shall begin work within ten (10) calendar days after receiving a written Notice to Proceed or written Work Order from the Owner. All Work required under the Contract Documents shall be substantially completed within 608 calendar days after the date of the Notice to Proceed for the base proposal. Within 30 additional calendar days after Substantial Completion, all outstanding issues shall be addressed and ready for final payment.

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

D. CONTRACTOR'S INDEMNITY TO THE OWNER AND OTHERS

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

CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS TOWN OF PROSPER (OWNER) TOGETHER WITH ITS MAYOR AND TOWN COUNCIL AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR INJURY OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGES TO, OR LOSS OF USE OF ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHETHER THE CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE TOWN OF PROSPER (OWNER), ITS MAYOR AND TOWN COUNCIL, OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT TOWN OF PROSPER (OWNER) FROM THE CONSEQUENCES OF TOWN OF PROSPER'S (OWNER'S) OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE CONTRACTOR, ANY SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR ANY SUB-CONTRACTOR UNDER WORKMEN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

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

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

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

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

E. Insurance Requirements

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

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

re: CSP No. 2022-51-B **FISHTRAP (ELEM – DNT) – 4 LANES (CIP NO. 2012-ST)**

1. Minimum Scope of Insurance

   Coverage shall be at least as broad as:

   a. ISO Form Number GL 00 01 (or similar form) covering Comprehensive General Liability. "Occurrence" form only, "claims made" forms are unacceptable.

   b. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.

   c. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.

2. Minimum Limits of Insurance

   Contractor shall maintain throughout contract limits not less than:

   a. Commercial General Liability: $1,000,000 per occurrence / $2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:

      1) Premises / Operations

      2) Broad Form Contractual Liability

      3) Products and Completed Operations

4) Personal Injury

5) Broad Form Property Damage

6) Explosion Collapse and Underground (XCU) Coverage.

b. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of $100,000 per injury, $300,000 per occurrence, and $100,000 per occupational disease.

c. Automobile Liability: $1,000,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired and non-owned autos.

d. Builders' Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the structure. Town shall be listed as Loss Payee.

e. $1,000,000 Umbrella Liability Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverages.

3. Deductible and Self-Insured Retentions

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

4. Other Insurance Provisions

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

a. General Liability and Automobile Liability Coverage

1) The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.

2) The contractor's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self- insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.

4) The contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limits of liability.

b. Workers' Compensation and Employer's Liability Coverage

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

c. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

5. Acceptability of Insurers

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

6. Verification of Coverage

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

F. Performance, Payment and Maintenance Bonds

The Contractor shall procure and pay for a Performance Bond applicable to the work in the amount of one hundred fifteen percent (115%) of the total proposed price, and a Payment Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The Contractor shall also procure and pay for a Maintenance Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in this Construction Agreement. The performance, payment and maintenance bonds shall be issued in the form attached to this Construction Agreement as Exhibits A, B and C. Other performance, payment and

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

The performance, payment and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment and maintenance bonds upon Town request. In addition to the foregoing requirements, if the amount of the bond exceeds One Hundred Thousand Dollars ($100,000) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand Dollars ($100,000) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

G. Progress Payments and Retainage

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

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

1. copies of documents reasonably necessary to aid the Owner in preparing an estimate of the value of Work properly completed;

2. full or partial releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Owner releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;

3. an updated and current schedule clearly detailing the project's critical path elements; and

4. any other documents required under the Contract Documents.

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

amount specified by the Owner within thirty (30) calendar days after it receives written demand from the Owner.

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

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

1. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;

2. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and

3. provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

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

H. Withholding Payments to Contractor

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

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

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

I. Acceptance of the Work

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

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

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

J. Acceptance of Erosion Control Measures

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

K. Final Payment

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

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;

2. correct prior progress payments; and

3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens from the Contractor and its subcontractors, or other evidence satisfactory to the Owner to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of

the final payment in the form of joint checks made payable to Contractor and others. The Owner may, but is not obligated to issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Owner original copies of all documents that the Owner determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Owner has satisfied its obligation to administer the Construction Agreement in accordance with applicable law. The following documents shall, at a minimum, be required to be submitted prior to final payment being due: redline as-built construction plans; consent of surety to final payment; public infrastructure inventory; affidavit of value for public infrastructure; and, final change order(s). "Redline as-built construction plans" shall include, but are not limited to markups for change orders, field revisions, and quantity overruns as applicable. The list of documents contained in this provision is not an exhaustive and exclusive list for every project performed pursuant to these Contract Documents and Contractor shall provide such other and further documents as may be requested and required by the Owner to close out a particular project.

Subject to the requirements of the Contract Documents, the Owner shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

L. Contractor's Warranty

For a two-year period after the date specified in a written notice of acceptance of Work, Contractor shall provide and pay for all labor and materials that the Owner determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Owner may make a warranty inspection of the Work. The Owner shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Owner shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Owner may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Owner determines that a hazard exists because of defective materials and workmanship, then the Owner may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Owner to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Owner may make as many warranty inspections as it deems appropriate.

M. Compliance with Laws

The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

N. "Anti-Israel Boycott" Provision

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Contract that the company does not boycott Israel and will not boycott Israel during the term of this Contract.

O. Other Items

The Contractor shall sign the Construction Agreement, and deliver signed performance, payment and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within ten (10) calendar days after the Owner makes available to the Contractor copies of the Contract Documents for signature. Six (6) copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided, however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Owner delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure:

1. that Contractor timely delivers to the Owner all bonds and insurance documents; and

2. that the Owner retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST OWNER, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE OWNER BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE OWNER DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Collin County, Texas.

In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

Although the Construction Agreement has been drafted by the Owner, should any portion of the Construction Agreement be disputed, the Owner and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Owner and Contractor and shall insure to their benefit and as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

[*Signatures continued on following page.*]

CONTRACTOR	TOWN OF PROSPER, TEXAS
_____	_____
By: _____	By: RON K. PATTERSON
Title: _____	Title: Interim Town Manager
Date: _____	Date: _____
Address: _____ _____	Address: 250 W. First St. P.O. Box 307 Prosper, Texas 75078
Phone: _____ Email: _____	Phone: (972) 346-2640 Email: rpatterson@prospertx.gov

ATTEST:

_____

MICHELLE LEWIS SIRIANNI
Town Secretary

PERFORMANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Beneficiary", in the penal sum of Twenty-six million eight-hundred eleven dollars five-hundred six dollars and 99 cents ($26,811,506.99) plus fifteen percent (15%) of the stated penal sum as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Beneficiary, dated on or about the **23rd day of August, A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-51-B
FISHTRAP (ELEM – DNT) – 4 LANES (CIP NO. 2012-ST)

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

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

PAYMENT BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and_____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of twenty-six million eight-hundred eleven thousand five hundred six dollars and 99 cents ($26,811,506.99) (one hundred percent (100%) of the total bid price) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Owner, dated on or about the **23rd day of August, A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-51-B
FISHTRAP (ELEM – DNT) – 4 LANES (CIP NO. 2012-ST)

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may

be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

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

MAINTENANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is_____, hereinafter referred to as "Principal," and _____, a corporate surety/sureties organized under the laws of the State of _____ and fully licensed to transact business in the State of Texas, as Surety, hereinafter referred to as "Surety" (whether one or more), are held and firmly bound unto the **TOWN OF PROSPER**, a Texas municipal corporation, hereinafter referred to as "Owner," in the penal sum of twenty-six million eight hundred eleven thousand five hundred six dollars and 99 cents ($26,811,506.99) (one hundred percent (100%) of the total bid price), in lawful money of the United States to be paid to Owner, its successors and assigns, for the payment of which sum well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and successors and assigns, jointly and severally; and firmly by these presents, the condition of this obligation is such that:

WHEREAS, Principal entered into a certain written Contract with the Town of Prosper, dated on or about the **23rd day of August, 2022**, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-51-B
FISHTRAP (ELEM – DNT) – 4 LANES (CIP NO. 2012-ST)

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract, such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word:

WHEREAS, in said Contract, the Principal binds itself to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by Owner the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during the period of two (2) years following the date of final acceptance of the Work by Owner, Principal binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Town Manager or his designee shall determine to be necessary for the preservation of the public health, safety or welfare. If Principal does not repair or reconstruct the improvements within the time period designated, Owner shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

NOW, THEREFORE, if Principal will maintain and keep in good repair the Work herein contracted to be done and performed for a period of two (2) years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Plans and Specifications and Contract.

PROVIDED, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.

PROVIDED, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, on this the _____ day of _____, 2022.

ATTEST:

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

PRINCIPAL:

_____
Company Name

By: _____
Signature

_____
Typed/Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

[*Signatures continued on following page.*]

ATTEST:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

SURETY:

By: _____
Signature

_____
Printed Name

_____
Title

_____
Address

_____
City State Zip

_____
Phone Fax

TOWN OF PROSPER
Prosper is a place where everyone matters.

PLANNING

To: **Mayor and Town Council**

From: **David Soto, Planning Manager**

Through: **Bob Scott, Executive Director of Administrative Services**
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: **Town Council Meeting – August 23, 2022**

Agenda Item:
Discussion regarding open fence standards and screening requirements.

Description of Agenda Item:
At the July 26, 2022, Town Council meeting, a citizen commented about the Town's open space fence standards. The citizen's property backs up to an open space lot with a hike and bike trail and he is requesting alternative consideration to the current requirements to allow the attachment of an artificial screening material to the existing wrought iron fence.

To address the citizen's comments, the Town Council requested this issue be brought up at a future Town Council meeting for discussion. Town staff will be discussing the Town's requirements for open space fencing to address the citizen's comments, and also providing the Town Council with the open fence screening requirements along thoroughfares adjacent to residential and the screening fence and wall requirements adjacent to non-residential for discussion purposes.

OPEN SPACE FENCING STANDARDS

ARTICLE 3.19.001.(10) - Fence Regulations (Open Fencing Requirements):
Fences adjacent to public or private open space, public or private parks, or hike and bike trails shall be ornamental metal, tubular steel or split rail with a minimum 50 percent through vision. Wooden fences legally installed on or before October 7, 2015, may be replaced with a wooden fence in compliance with the wooden fence standards as they exist or as may be amended.

Examples of Open Space Fence Requirements are shown below:

RESIDENTIAL THOROUGHFARE SCREENING STANDARDS

Purpose statement. The image of the Town and its related influence on property values and the types of development that occur directly affect the public welfare of the town. With streets being the largest public land use, the image people experience when traveling town streets can have a substantial impact on the overall image of the town. This section is designed to create a positive visual image from town streets by providing quality screening. In addition to improving the town's image, these landscape screening options are intended to buffer residential uses from roadway noise to minimize sound and visual nuisances of roadway adjacency.

Sec. 10.03.148 - Residential Thoroughfare Screening:
Per the Subdivision Ordinance, Screening is required for all single-family, two-family, and townhome lots and subdivisions as follows:

(1) The rear of all lots that back to a thoroughfare or collector.
(2) The side of all lots that side to a thoroughfare or collector, unless a lot sides to a median divided entry street to a subdivision; and
(3) Between any street and an adjoining parallel alley or street.

In addition to the landscape requirements a continuous ornamental metal fence with a minimum height between 6ft – 8ft with masonry columns spaced between 75 feet and 100 feet shall be constructed along the shared property line between the landscape buffer and the abutting lots. The purpose of this screening is to provide quality screening that will create a positive visual image from the Town streets.

Examples of Residential Thoroughfare Screening is shown below:

There have been some variations of screening requested by Planned Developments or existed prior to the adoption of the screening ordinance. These neighborhoods have a masonry wall, a combination of masonry wall and wrought iron fence, and or wood fence.

SCREENING FENCE AND WALL REQUIREMENTS ADJACENT TO NON-RESIDENTIAL

SECTION 5. - Screening Fences and Walls (Non-residential to non-residential screening): Screening between non-residential to non-residential is not required. The only time screening is required is when you have multifamily, institutional, or non-residential use sides or backs to a property that is zoned or designated on the future land use plan for residential (non-multifamily) uses, or when any institutional or non-residential use sides or backs to a MF District.

Prior to the construction of the Town Hall, there was a 6' chain link fence surrounding the warehouses at the southeast corner of McKinley Street and Broadway Street. As there are no requirements between non-residential and non-residential at that time, the Town requested additional screening be provided as shown below.

Prohibited Screening:

Green Mesh – Open Space

Black Mesh – Residential Thoroughfare Screening

Artificial Landscape – Residential Thoroughfare Screening

Artificial Landscape – Open Space (Requested by Citizen)

Town Staff Recommendation:

Town staff recommends that the Town Council provide feedback on the current open fence standards and screening requirements.

TOWN OF PROSPER

Prosper is a place where everyone matters.

ADMINISTRATION

To: **Mayor and Town Council**

From: **Robert Bob Scott, Executive Director of Administrative Services**

Through: **Robert Bob Scott, Executive Director of Administrative Services**

Re: **Denton Central Appraisal District 2023 Budget**

Town Council Meeting – August 23, 2022

Agenda Item:
Consider and act upon a resolution disapproving the Denton Central Appraisal District (DCAD) 2023 Budget.

Description of Agenda Item:
The Town received notification from the Denton County Commissioner's office to consider disapproving the Denton Central Appraisal District's (DCAD) 2023 budget. To date 24 taxing entities have passed a resolution disapproving of their budget. Denton County is seeking a total of 31 entities to support the disapproval.

At the June 23, 2022, meeting of the DCAD Board, Western Valuation and Consulting provided a presentation to allow the DCAD Board to review the challenges and opportunities that DCAD has faced and will face in the upcoming years, including operations, facilities, and personnel needs, and the proposed 2023 budget to fund DCAD. On July 28, 2022, action was taken to approve the 2023 budget. After adoption of the 2023 budget by the DCAD Board, each Denton County taxing unit has one (1) vote that it may cast via resolution to disapprove the DCAD budget and such action must be taken within thirty (30) days of the date of adoption of the DCAD budget or the DCAD budget will be deemed automatically approved.

Upon reaching out to our neighboring cities, we received feedback from the City of Aubrey and the City of Celina. They have taken action or will be taking action to support the disapproval of the DCAD 2023 budget.

The deadline to consider the resolution and send back to DCAD is Saturday, August 27.

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

Attachments:
1. Resolution
2. Denton County Resolution
3. Letter from Judge Eads

Town Staff Recommendation:
Town staff recommends that the Town Council discuss and consider the proposed resolution as deemed appropriate.

Proposed Motion:
I move to approve/deny a resolution disapproving the Denton Central Appraisal District (DCAD) 2023 Budget.

TOWN OF PROSPER **RESOLUTION NO. 2022-XX**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEAXAS, DISAPPROVING THE DENTON CENTRAL APPRAISAL DISTRICT ("DCAD") 2023 BUDGET AS APPROVED BY THE DCAD BOARD OF DIRECTORS; MAKING FINDINGS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in January 2022, the Denton County Commissioners Court called on the Denton Central Appraisal District Board of Directors ("DCAD Board") to review the operations of the Denton Central Appraisal District ("DCAD"), and in response, an outside consultant, Western Valuation and Consulting ("Consultant"), was retained to review DCAD operations and provide a report; and

WHEREAS, at the June 23, 2022, meeting of the DCAD Board, Consultant provided a presentation to allow the DCAD Board to review the challenges and opportunities that DCAD has faced and will face in the upcoming years, including operations, facilities, and personnel needs, and the proposed 2023 budget to fund DCAD; and

WHEREAS, the DCAD Board took action on July 28, 2022, to adopt its 2023 budget; and

WHEREAS, as a representative of the public and as a Denton County taxing entity, it is an obligation of the Prosper Town Council to ensure that DCAD, as an entity entrusted with tax dollars, operates at optimum levels with efficiency; that the DCAD budget reflects funding necessary to fairly meet its operational needs; and that the DCAD budget allows DCAD to provide the level of service necessary to provide good service for Denton County taxpayers; and

WHEREAS, after adoption of the 2023 budget by the DCAD Board, each Denton County taxing unit has one (1) vote that it may cast via resolution to disapprove the DCAD budget and such action must be taken within thirty (30) days of the date of adoption of the DCAD budget or the DCAD budget will be deemed automatically approved; and

WHEREAS, based upon the information provided by Consultant and the budget proposed by DCAD, the Town Council has determined that the proposed DCAD budget does not serve the interests of the Town's constituents and has determined it appropriate to adopt this Resolution disapproving the 2023 DCAD budget.

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

SECTION 1

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

SECTION 2

The Town Council hereby adopts this Resolution casting its vote of disapproval of the 2023 DCAD budget as adopted by the DCAD Board on July 28, 2022.

SECTION 3

This Resolution shall become effective immediately upon its passage and approval.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THIS THE 23rd DAY OF AUGUST, 2022.

_____
David F. Bristol, Mayor

ATTEST:

_____
Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____
Terrence S. Welch, Town Attorney

RESOLUTION DISAPPROVING OF THE DENTON CENTRAL APPRAISAL DISTRICT 2023 BUDGET

WHEREAS, Denton County is a taxing entity within the Denton Central Appraisal District and relies on the Denton Central Appraisal District for appraising property within the boundaries of the county for ad valorem tax purposes; and

WHEREAS, the Denton Central Appraisal District operations are funded solely by the local taxing entities served by the appraisal district, which includes Denton County; and

WHEREAS, on July 28, 2022 the Denton Central Appraisal District Board of Directors voted to approve of the 2023 Budget in the amount of $17,997,944.33, an increase of 17.45% from the current 2022 budget; and

WHEREAS, pursuant to Chapter 6 of the Texas Property Tax Code, each taxing unit has a right to adopt a resolution disapproving of the Denton Central Appraisal District budget; and

WHEREAS, the Section 6.06 (b) of the Texas Property Tax Code further states that "if governing bodies of a majority of the taxing units entitled to vote on the appointment of board members adopt resolutions disapproving a budget and file them with the secretary of the board within 30 days after its adoption, the budget does not take effect, and the board shall adopt a new budget within 30 days of the disapproval."

NOW, THEREFORE, BE IT RESOLVED, the Denton County Commissioner Court disapprove of the 2023 Budget of the Denton Central Appraisal District; and

BE IT FURTHER RESOLVED, that this action demonstrate a lack of confidence in the Denton Central Appraisal District.

DONE IN OPEN COURT, this the 2nd Day of August, 2022 upon a motion made by Andy Eads and seconded by Dianne Edmondson and 3 members of the court being present and voting.

Andy Eads
ANDY EADS, COUNTY JUDGE

Absent
RYAN WILLIAMS, COMMISSIONER
PRECINCT 1

Absent
RON MARCHANT, COMMISSIONER
PRECINCT 2

BOBBIE J. MITCHELL, COMMISSIONER
PRECINCT 3

Dianne Edmondson
DIANNE EDMONDSON, COMMISSIONER
PRECINCT 4

ATTEST:
JULI LUKE, County Clerk and Ex-Officio Clerk of the Commissioners Court
Of Denton County, Texas
By:

COURT OF DENTON COUNTY TEXAS COMMISSIONER'S

Andy Eads
Denton County Judge

August 2, 2022

Denton County Judge Andy Eads delivered the following remarks during Commissioners Court today regarding the Denton Central Appraisal District and the resolution disapproving of the 2023 Denton CAD budget.

As prepared for delivery:

For several months, this Court has been critical of the operations of the Denton Central Appraisal District and sent a formal letter back in January to the Board of Directors expressing our great frustrations and lack of trust with the Denton CAD. It took over two months for them to reply.

To receive the latest news that the Denton CAD was unable to meet the deadline to deliver a Certified Tax Roll to the taxing entities and instead provided us with a Certified Estimate adds to our continued disappointment with the appraisal district.

More importantly, as a taxing entity, the County cannot maximize tax relief to our citizens during our current budget process if we do not have numbers that we can rely on.

Our County budget process is simple compared to the school districts and the complexities of funding education in the state.

Many people move to Denton County because of our great schools and we recognize the need for strong schools within our county.

It is concerning to me that the State Comptroller found that the Denton CAD failed to meet the ratio studies for several of our local school districts in tax year 2021, which can ultimately reduce funding for our schools.

From my understanding, the Denton CAD did not notify these school districts of this finding. Instead, some learned the property values were invalid from the Comptroller's Office.

In the Denton CAD's letter on July 21 to the taxing entities, the staff makes a plea to the taxing entities to approve the 2023 budget – a budget which increases by over 17%.

To increase a budget by over 17% is a clear sign that the appraisal district is out of touch with the needs of the taxing entities, especially as we face rising costs to provide services to our citizens, in addition to revenue caps imposed on us by the State Legislature.

For the past three years, the Denton County taxing entities have experienced challenges with DCAD's inability to timely and accurately certify the tax roll. This has been an alarming trend and the justification for not being able to meet the deadline is full of blame and excuses.

It is especially troubling the lack of trust in the information provided by the appraisal district. We recently reached out to the appraisal district to understand how over 24,000 properties under protests, which accounts for almost 25 percent of the total number of protests filed this season, were closed in the last week prior to sending a certified estimate to the taxing entities.

There is no doubt that many of the rank and file employees put in a lot of hard work. That is not the issue. We are all facing staffing challenges, yet we continue to do what is needed to meet the requirement. Examples include the law enforcement shortages we face in Denton County and working with other counties to house inmates to keep Denton County citizens safe or our school districts across the county facing teacher shortages yet still find ways to make sure our kids our educated.

When we face challenges, we have an opportunity to provide leadership and, sadly, leadership is lacking at Denton CAD.

While additional staffing requested in the new budget may be warranted due to Denton County's growth, lack of training among current staff is concerning. Adding an additional 18 full-time employees would not improve the situation if training, such as utilizing the software, is not addressed.

Exemptions are significantly delayed. This was publicly disclosed at the January board meeting by our Tax Assessor-Collector Michelle French, who discussed the challenges of not having exemptions applied to taxpayer accounts. At that time, exemption processing was six months behind. As I mentioned at a prior board meeting, I have taken calls from constituents who requested an exemption and it has been 9 months and still no response. Since January, very little has been done to resolve this situation.

The inability of the appraisal district to complete its work in a timely manner can have a devastating impact on our taxpayers, in particular, our elderly residents, disabled individuals and disabled veterans – all of whom will be forced to pay higher taxes without the exemptions in place. This is unacceptable.

A decision was made by the Denton CAD leadership to hire a Communications Liaison to help address "bad publicity." This clearly demonstrates a lack of prioritization when there is a significant need for additional residential appraisers to help with the protest process to meet the 95% threshold or customer service representatives to help get caught up on exemptions.

Additionally, in the recent five-year strategic plan presented at the board meeting last week, the report stated that there will be an effort to amend the 2022 budget to add 5 additional full-time employees and will utilize contingency funds in the upcoming months. Why was use of contingency funds not taken sooner to deliver a certified tax roll for this cycle?

The appraisal district has the ability to work with the taxing entities and amend the budget; however, no efforts were made during the 2022 appraisal cycle to find solutions to the continued challenges at the appraisal district.

As a taxing entity, we must know that DCAD is working efficiently and effectively before investing any more taxpayer dollars into the appraisal district.

This vote to veto the budget is also a vote of no confidence in the Denton Central Appraisal District. Denton County will not fund failure.

TOWN OF PROSPER

Prosper is a place where everyone matters.

ADMINISTRATIVE SERVICES

To: **Mayor and Town Council**

From: **Robert B. Scott, Executive Director of Administrative Services**

Through: **Robert B. Scott, Executive Director of Administrative Services**

Re: **Budget Public Hearing**

Town Council Meeting – August 23, 2022

Agenda Item:
Conduct a public hearing to receive public input, consider such input and discuss the FY 2022-2023 Budget as proposed.

Description of Agenda Item:
The Preliminary Budget was presented to Town Council on August 9, 2022. Council provided staff direction regarding desired changes to the budget which staff has presented to the Finance Committee on August 22, 2022. The Council also passed all items needed to begin the advertising process and to set the date of the Public Hearing. According to Local Government Code Chapter 102 and the Town Charter, the Town must hold a public hearing on the proposed budget.

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 act on this item. Passage of the Proposed Budget is tentatively set for September 13, 2022.