



Prosper is a place where everyone matters.

AGENDA

Meeting of the Prosper Town Council
Prosper Independent School District
Central Administration Building
Board Room
605 East 7th Street, Prosper, TX 75078
Tuesday, October 27, 2015
6:00 p.m.

1. Call to Order/Roll Call.
2. Invocation, Pledge of Allegiance and Pledge to the Texas Flag.
3. Announcements of recent and upcoming events.
4. Presentations
 - Presentation on Earthkind Research Garden. **(FJ)**
 - Proclamation presented to members of the Prosper Police Department declaring October 23-31, 2015, as *Red Ribbon Week*. **(DK)**
 - Presentation to members of the Town of Prosper Finance Division for receiving a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association for the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2014. **(CD)**
 - Presentation to the Town of Prosper Finance Department for receiving the Achievement in Procurement Award for 2015 from the National Procurement Institute, Inc. **(CD)**
5. **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.)

 - 5a. Consider and act upon minutes from the following Town Council meetings. **(RB)**
 - Regular Meeting – October 13, 2015
 - 5b. Consider and act upon a resolution accepting and approving the 2015 tax roll. **(HJ)**
 - 5c. Consider and take action upon a resolution expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or other obligations. **(CD)**
 - 5d. Consider and act upon approving the purchase of three pick-up trucks for the Building Inspections Division, from Caldwell Country Chevrolet, through the Texas Local Government Purchasing Cooperative; and two chassis with flat bed trucks for the Streets Division, from Chastang Ford, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program. **(JC)**

- 5e. Consider and act upon approving the purchase of two fire engines, from Siddons-Martin Emergency Group, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program, and a pre-payment discount option. **(JC)**
- 5f. Consider and act upon authorizing the Town Manager to execute a Development Agreement between the Town of Prosper, Texas, and CADG Prosper Lakes North, LLC., related to early issuance of building permits and Town cost participation on a retaining wall for the Lakes of Prosper North, Phase 2 development. **(HW)**
- 5g. Consider and act upon a resolution in support of statewide Proposition 7 for increased state funding for transportation. **(RB)**

6. CITIZEN COMMENTS:

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

REGULAR AGENDA:

(If you wish to address the Council during the regular agenda portion of the meeting, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting. Citizens wishing to address the Council for items listed as public hearings will be recognized by the Mayor. Those wishing to speak on a non-public hearing related item will be recognized on a case-by-case basis, at the discretion of the Mayor and Town Council.)

PUBLIC HEARINGS:

- 7. Conduct a Public Hearing, and consider and act upon a request to rezone 15.7± acres, from Commercial (C) and Planned Development-25 (PD-25) to Planned Development-Retail (PD-R), located on north side of US 380, 580± feet west of Custer Road. (Z15-0011). **(JW)**
- 8. Presentation of service plan and first Public Hearing to consider the involuntary annexation of a 0.2± acre tract of land, located on the north side of First Street, 1.2± miles east of Coit Road. (A15-0002). **(AG)**

DEPARTMENT ITEMS:

- 9. Consider and act upon authorizing the Town Manager to execute a Benefit Program Application with Blue Cross Blue Shield for group medical insurance, effective January 1, 2016; and, a renewal letter acceptance with Delta Dental for group dental insurance, effective January 1, 2016. **(BR)**
- 10. Consider and act upon awarding Bid No. 2015-40-B to Tiseo Paving Co. related to construction services for the Coleman Street Improvements (Victory Way to SH 289) project; and authorizing the Town Manager to execute a construction agreement for same. **(MR)**

11. Consider and act upon approving the purchase of lighting and installation services for the Frontier Park - Southeast Corner, Phase 2 Field Lighting project, from Musco Sports Lighting, LLC, through the Texas Local Government Purchasing Cooperative. **(PN)**
12. Conduct an annual review of the Town's Comprehensive Plan. **(JW)**
13. **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:
 - 13a. *Section 551.087 – To discuss and consider economic development incentives.*
 - 13b. *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.*
14. Reconvene in Regular Session and take any action necessary as a result of the Closed Session.
15. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.
 - Discuss cancelling the November 24 and December 22 Town Council Meetings. **(RB)**
16. Adjourn.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted at Prosper Town Hall, located at 121 W. Broadway Street, Prosper, Texas 75078, a place convenient and readily accessible to the general public at all times, and said Notice was posted on October 23, 2015, by 5:00 p.m., and remained so posted at least 72 hours before said meeting was convened.

 Robyn Battle, Town Secretary

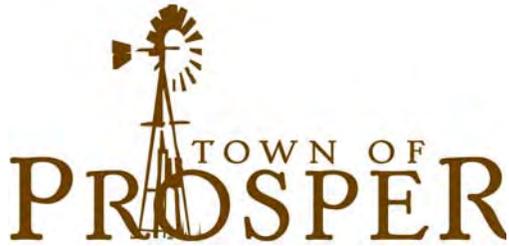
 Date Noticed Removed

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

NOTICE

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

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



Prosper is a place where everyone matters.

MINUTES
Regular Meeting of the
Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, October 13, 2015

1. Call to Order/Roll Call.

The meeting was called to order at 6:01 p.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Meigs Miller
Deputy Mayor Pro-Tem Curry Vogelsang, Jr. (arrived at 6:12 p.m.)
Councilmember Kenneth Dugger
Councilmember Michael Korbuly

Council Members Absent:

Councilmember Mike Davis
Councilmember Jason Dixon

Staff Members Present:

Harlan Jefferson, Town Manager
Robyn Battle, Town Secretary
Terry Welch, Town Attorney
Hulon Webb, Executive Director of Development and Community Services
John Webb, Development Services Director
Alex Glushko, Senior Planner
Paul Naughton, Landscape Architect
Dan Heischman, Senior Engineer
Matt Richardson, Senior Engineer
Leslie Scott, Library Director
Cheryl Davenport, Finance Director
Ronnie Tucker, Fire Chief
Doug Kowalski, Police Chief

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

Jeremy Nottingham of Prestonwood Baptist Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

3. Announcements of recent and upcoming events.

Councilmember Dugger read the following announcements:

Thanks to everyone who participated in National Night Out on October 6th. There were over 22 block parties registered this year, and the Town Council, Police Department, and

Fire Department had a great time stopping by to visit with residents. The Town appreciates the support of the community in keeping our Town safe.

Residents are invited to join the fun at Prosper's Homecoming Parade, to be held on Wednesday, October 14th, starting at 5:30 p.m. Coleman will become a one-way southbound road from Prosper Trail to Broadway at 4:45 p.m. Broadway will be closed from Church Street to Craig Road at 4:00 p.m. Come see a variety of floats representing Prosper's community and school groups at one of the Town's biggest Fall events. The parade will be followed by a Pep Rally at the High School.

The Public Works Department is hosting a Composting Course on Monday, October 19th, at the Public Works Office located at 601 W. Fifth Street. Please pre-register by contacting Tristan Cisco in the Public Works Department.

The Friends of the Prosper Community Library Used Book Sale will be held at the Library on Saturday, October 24th, from 10:00 a.m. - 3:00 p.m. The Children's Fall Event at the library, which will include pumpkin painting, will begin at 11:00 a.m.

4. **Presentations**

- **Presentation of Certificates of Appreciation to former members of the Town's Boards and Commissions. (RB)**

Craig Andres, Leray Meeks, and Craig Moody were present to receive their certificates.

- **Presentation of a Scenic City Award to members of the Development and Community Services Department.**

Paul Naughton, Dan Heischman, and Alex Glushko were present to receive the award.

5. **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.)

- 5a. **Consider and act upon minutes from the following Town Council meetings. (RB)**

- **Regular Meeting – September 22, 2015**
- **Town Council Work Session – September 30, 2015**

- 5b. **Consider and act upon authorizing the Town Manager to execute an Interlocal Agreement for Geographic Information System (GIS) Services between the Town of Prosper and the City of Frisco. (JW)**

- 5c. Consider and act upon Ordinance No. 15-63 amending the Future Land Use Plan, located on the northwest corner of Prosper Trail and future Shawnee Trail, from Medium Density Residential to Dallas North Tollway District. The property is zoned Single Family-15 (SF-15) and Commercial Corridor (CC). (CA15-0002). [Companion Case Z14-0005] (JW)
- 5d. Consider and act upon Ordinance No. 15-64 rezoning 67.7± acres, located on the northwest corner of Prosper Trail and Dallas Parkway, from Single Family-15 (SF-15) and Commercial Corridor (CC) to Planned Development-Single Family/Office/Retail (PD-SF/O/R). (Z14-0005). [Companion case CA15-0002] (JW)
- 5e. Consider and act upon Ordinance No. 15-65 amending Planned Development-38 (PD-38), on 83.6± acres, located on the northeast corner of US 380 and Coit Road. (Z15-0008). (JW)

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve all items on the Consent Agenda. The motion was approved by a vote of 5-0.

6. CITIZEN COMMENTS:

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

Bruce Carlin, 921 Grapevine Court, Prosper, thanked the Town Council for the improvements to Preston Road. He also urged the Council to modify the current truck route ordinance to minimize truck traffic on Prosper Trail.

Mark Wilson, 3B Rhea Mills Circle, Prosper, submitted a Public Meeting Appearance Card via email regarding a commercial building being build in his neighborhood, but was not present to speak.

REGULAR AGENDA:

(If you wish to address the Council during the regular agenda portion of the meeting, please fill out a “Public Meeting Appearance Card” and present it to the Town Secretary prior to the meeting. Citizens wishing to address the Council for items listed as public hearings will be recognized by the Mayor. Those wishing to speak on a non-public hearing related item will be recognized on a case-by-case basis, at the discretion of the Mayor and Town Council.)

DEPARTMENT ITEMS:

7. Consider and act upon an ordinance amending Article 1.10, “Code of Ethics,” of Chapter 1, “General Provisions,” of the Town’s Code of Ordinances by repealing the existing Code of Ethics and replacing it with a new Code of Ethics. (TW)

Terrence Welch, Town Attorney, presented this item before the Town Council. The current Code of Ethics warrants review as a result of recent changes in state legislation. There are two components to the proposed revised Code of Ethics: the definition of what constitutes a violation, and the process for dealing with complaints. The Town's current Code of Ethics has some deficiencies with definitions and the complaint process, and raises questions of impartiality due to the nature of the investigative process mandated by the current ordinance. The proposed ordinance more clearly defines actions that would constitute a violation, relegates investigations of ethics violations to the municipal court, rather than the Town Council, is a more fair process which eliminates any question of impartiality, and guarantees due process to any individual alleged to have violated the Code of Ethics.

Councilmember Korbuly made a motion and Councilmember Dugger seconded the motion to adopt Ordinance No. 15-66 amending Article 1.10, "Code of Ethics," of Chapter 1, "General Provisions," of the Town's Code of Ordinances by repealing existing Article 1.10 and replace it with a new Article 1.10, "Code of Ethics." The motion was approved by a vote of 5-0

8. Consider and act upon authorizing the Town Manager to execute a Professional Engineering Services Agreement between the Town of Prosper, Texas, and Alan Plummer Associates, Inc., related to the BNSF Pressure Reducing Valve project. (MR)

Senior Engineer Matt Richardson presented this item before the Town Council. The proposed Pressure Reducing Valves (PRVs) will reduce pressure in the Town's water lines. This project will install a PRV on the 12" water line on Prosper Trail. Mr. Richardson discussed the terms of the agreement.

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to authorize the Town Manager to execute a Professional Engineering Services Agreement between the Town of Prosper, Texas, and Alan Plummer Associates, Inc., related to the BNSF Pressure Reducing Valve project. The motion was approved by a vote of 5-0.

9. Discussion on the Lower Pressure Plane Ground Storage Tank and Pump Station Project. (HW)

Hulon Webb, Executive Director of Development and Community Services, introduced Jeff Payne, of Freese and Nichols to discuss site options for the Lower Pressure Plan Ground Storage Tank and Pump Station. At the September 22, 2015, Town Council meeting, Town staff was given direction to pursue Option 2 near Richland Boulevard west of Prosper Commons Boulevard, and Option 3 near Richland Boulevard east of Coit Road. Mr. Payne provided photo examples of buried tanks, similar to what is proposed for the two potential site options. He then provided cost estimate for both options, and responded to questions from the Town Council. The consensus from the Town Council was to pursue Option 2, since there is better access to the site already in place, and the site is closer to the west side of Town.

10. 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:

10a. Section 551.087 – To discuss and consider economic development incentives.

10b. 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.

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

Mayor Smith left the Executive Session at 8:15 p.m.

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

The Town Council reconvened the Regular Session at 8:27 p.m.

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

The Town Council directed staff to research the truck route ordinance as it pertains to Prosper Trail.

13. Adjourn.

The meeting was adjourned at 8:30 p.m. on Tuesday, October 13, 2015.

These minutes approved on the 27th day of October, 2015.

APPROVED:

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary



Prosper is a place where everyone matters.

TOWN MANAGER'S OFFICE

To: Mayor and Town Council
From: Harlan Jefferson, Town Manager
Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon a resolution accepting and approving the 2015 Tax Roll.

Description of Agenda Item:

The Texas Property Tax Code, Section 26.09 (e) requires the Town Council to approve the Appraised Roll with tax amounts entered by the Assessor. The Collin County Tax Assessor Collector provided the attached 2014 Tax Roll Summary with a total levy of \$11,594,882.67. Although the enclosed document is titled "Collin County," this refers to the Tax Assessor Collector, who performs tax collection for Prosper properties in both Collin and Denton Counties.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached resolution as to form and legality. Council approval of this resolution is required by the Texas Property Tax Code, Section 26.09 (e).

Attached Documents:

1. Resolution

Town Staff Recommendation:

Town staff recommends that the Town Council approve the resolution approving the 2015 Tax Roll as provided by the Assessor.

Recommended Motion:

I move to approve the resolution accepting and approving the 2015 Tax Roll.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 15-___

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ACCEPTING AND APPROVING THE 2015 TAX ROLL; RESOLVING OTHER MATTERS RELATING TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 26.09(e) of the Texas Property Tax Code requires the Town Council to approve the Tax Roll; and

WHEREAS, the Town received notification from the Collin County Tax Assessor Collector as to the Tax Roll jurisdiction summary as of October 1, 2015, and

WHEREAS, a summary statement of said 2015 Tax Roll is attached hereto as Exhibit A.

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

SECTION 1

All matters stated in the preamble of this Resolution are true and correct and are hereby incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2

The Town Council of the Town of Prosper, Texas, does hereby accept and approve the 2015 Tax Roll as submitted by the Collin County Tax Assessor Collector.

SECTION 3

The attached Exhibit A constitutes the official Town of Prosper 2015 Tax Roll, containing a tax levy of \$11,594,882.67.

SECTION 4

This Resolution is effective on the date of passage by the Town Council.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF OCTOBER, 2015.

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

2015 TAX ROLL SUMMARY

05 - PROSPER CITY

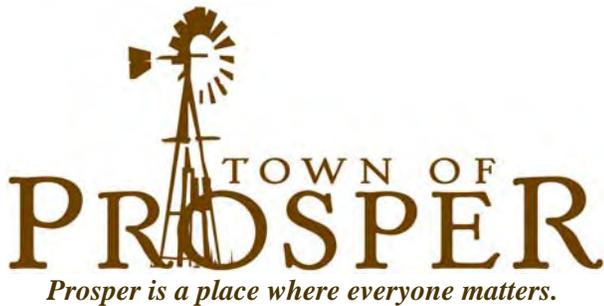
	Amount	Count
NUMBER OF ACCOUNTS		7,644
MARKET VALUES		
ROLLCODE: MOBILE HOME		
Improvement	\$110,550	
Improvement Non-Home Site	\$2,687	
ROLLCODE: PERSONAL		
Land	\$0	
Personal	\$63,155,337	
ROLLCODE: REAL		
Agriculture	\$635,711,753	
Improvement	\$1,414,984,793	
Improvement Non-Home Site	\$306,429,815	
Land	\$508,083,762	
Land Aq Land	\$1,451,992	
Land Non-Home Site	\$305,631,594	
TOTAL MARKET VALUE	\$3,235,562,283	
DEFERRALS		
Aq	\$635,711,753	300
TOTAL DEFERRALS	\$635,711,753	
EXEMPTIONS		
Absolute Exemption , XG , XG	\$73,933	2
Cap Adjustment , XT , XT	\$27,930,132	1,625
Disabled	\$153,480	54
Disabled Veteran	\$7,371,894	85
Miscellaneous , XV , XV	\$302,666,117	295
Nominal Value	\$7,277	30
Other, XF, XH, XU , XF, XH, XU, XF, XH, XU	\$12,370	1
Over 65	\$5,187,070	525
Pollution Control	\$2,576,187	3
TOTAL EXEMPTIONS	\$345,978,460	
GRAND TOTAL FOR DEFERRALS AND EXEMPTIONS	\$981,690,213	
TOTAL MARKET VALUE	\$3,235,562,283	
TAXABLE VALUE	\$2,253,872,070	
TAX RATE	0.52	
ROLLCODE: MOBILE HOME		
Levy	\$588.80	24
ROLLCODE: PERSONAL		
Levy	\$328,054.70	410
ROLLCODE: REAL		
Levy	\$11,266,239.17	7,210
TOTAL LEVY	\$11,594,882.67	
LEVY LOST DUE TO FROZEN	\$125,252.17	
OTHER LOST LEVY	\$0.00	
TOTAL LOST LEVY	\$125,252.17	

2015 TAX ROLL SUMMARY

05 - PROSPER CITY

Calculation Analysis

	Calc Levy	- Tax Amount	=	Diff.	Market Value	Exemption	Taxable Value
Frozen	889,130.23	763,878.06		125,252.17	188,758,899	17,772,303	170,986,596
DV100 (Excl. Frozen)	1,002.90	1,002.90		0.00	2,259,425	2,014,946	244,479
Prorated (Excl. Frozen)	0.00	0.00		0.00	0	0	0
Other	10,830,001.71	10,830,001.71		0.00	3,044,543,959	961,902,964	2,082,640,995
Total	11,720,134.84	11,594,882.67		125,252.17	3,235,562,283	981,690,213	2,253,872,070
DV100 (Incl. Frozen)	1,700.99	306.26		1,394.73	5,265,696	4,788,948	476,748
Prorated (Incl. Frozen)	0.00	0.00		0.00	0	0	0



FINANCE

To: Mayor and Town Council

From: Cheryl Davenport, Finance Director

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and take action upon a resolution expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or other obligations.

Description of Agenda Item:

The attached resolution allows the Town to pay for the projects listed in the Fiscal Year 2015-2016 CIP, including costs associated with the construction of street improvements (\$571,184), park improvements (\$8,686,225), design and construction of a town hall/multi-purpose facility (\$1,450,000), storm drainage system improvements (\$2,370,000), and the related infrastructure improvements. The resolution provides for up to \$13,077,409 in capital project expenditures.

Budget Impact:

The reimbursement resolution itself has no budget impact; repayment of the expenditures will be included in the debt service portion of the tax rate after the bonds are issued. Initial funding for the work will come from the Capital Projects Fund.

Legal Obligations and Review:

Dan Culver of McCall, Parkhurst and Horton, the Town's bond counsel, reviewed the resolution as to form and legality.

Attached Documents:

1. Resolution
2. Fiscal Year 2015-2016 CIP

Town Staff Recommendation:

Town staff recommends the Town Council approve the reimbursement resolution.

Recommended Motion:

I move to approve the resolution expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations, if those costs are paid prior to the issuance of such bonds or other obligations.

TOWN OF PROSPER, TEXAS**RESOLUTION NO. 15-__****RESOLUTION EXPRESSING OFFICIAL INTENT TO REIMBURSE COSTS
OF TOWN FISCAL YEAR 2015-2016 CAPITAL IMPROVEMENT PROGRAM
PROJECTS**

WHEREAS, the Town of Prosper, Texas (the "Issuer") is a duly created governmental body of the State of Texas; and

WHEREAS, the Issuer expects to pay, or have paid on its behalf, expenditures in connection with the design, planning, acquisition and construction of portions of its Fiscal Year 2015-2016 capital improvement program projects, including costs associated with the construction of street improvements, park improvements, design and construction of a town hall/multi-purpose facility, storm drainage system improvements, and the related infrastructure improvements (collectively, the "Project") prior to the issuance of tax-exempt obligations, tax-credit obligations and/or obligations for which a prior expression of intent to finance or refinance is required by Federal or state law (collectively and individually, the "Obligations") to finance the Project; and

WHEREAS, the Issuer finds, considers, and declares that the reimbursement for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the Issuer and, as such, chooses to declare its intention to reimburse itself for such payments at such time as it issues Obligations to finance the Project;

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

SECTION 1

The Issuer reasonably expects to incur debt, as one or more series of Obligations, with an aggregate maximum principal amount equal to \$13,077,409 for the purpose of paying the costs of the Project.

SECTION 2

All costs to be reimbursed pursuant hereto will be capital expenditures. No Obligations will be issued by the Issuer in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid, or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

SECTION 3

The foregoing notwithstanding, no Obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

SECTION 4

The foregoing Sections 2 and 3 notwithstanding, all costs to be reimbursed with qualified tax credit obligations shall not be paid prior to the date hereof and no tax credit obligations shall be issued after 18 months of the date the original expenditure is made.

SECTION 5

. To evidence the adoption of this Resolution on this, the 27th day of October, 2015 by the Town Council of the Issuer, the signatures of the Town Secretary and Mayor are set forth below.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THIS 27TH DAY OF OCTOBER, 2015.

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

Summary of Capital Improvement Program - 09/22/2015
General Fund Projects

Index	Park Projects	Project Schedule						Total Cost	Other Sources	Funding Sources				Unissued Debt Schedule					Index	
		Prior Yrs	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019			2019-2025	Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Reimbursement Resolution	2015-2016	2016-2017	2017-2018	2018-2019		2019-2025
01	1303-PK Cockrell Park	90,000				643,000		733,000	90,000 G			643,000								01
02	Frontier Park - North Field Improvements			9,536,225				9,536,225	850,000 B,G		8,686,225			8,686,225						02
03	Frontier Park - Parking Improvements 2016			450,000				450,000	450,000 G											03
04	Frontier Park - Southeast Corner Field Lighting Phase 2			600,000				600,000	600,000 G											04
05	Hike & Bike Trails						750,000	750,000			750,000								750,000	05
06	Pecan Grove Irrigation	100,000			75,000			175,000	175,000 D											06
07	Preston Lakes Playground			90,000				90,000	90,000 G											07
08	1417-PK Richland Boulevard Median Landscaping	5,000					170,000	175,000	5,000 D			170,000							170,000	08
09	Sexton Farms Park, Phase I						12,000,000	12,000,000				12,000,000							12,000,000	09
	Unassigned - 2011 Prop 4 GO Bonds						400,000	400,000			400,000								400,000	00
	Subtotal	195,000	0	10,676,225	75,000	643,000	0	13,320,000	24,909,225	2,260,000	0	9,836,225	12,813,000	0	8,686,225	0	643,000	0	13,320,000	

Index	Facility Projects	Project Schedule						Total Cost	Other Sources	Funding Sources				Unissued Debt Schedule					Index	
		Prior Yrs	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019			2019-2025	Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Reimbursement Resolution	2015-2016	2016-2017	2017-2018	2018-2019		2019-2025
01	Central Fire Station, Phase II						850,000	850,000				850,000							850,000	01
02	Cook Lane Fire Station (station,training,admin,EOC)						14,670,000	14,670,000				14,670,000							14,670,000	02
03	Gentle Creek Fire Station						5,625,000	5,625,000				5,625,000							5,625,000	03
04	Library Facility						6,000,000	6,000,000				6,000,000							6,000,000	04
05	Parks and Recreation Maintenance Building						5,450,000	5,450,000			450,000	5,000,000							5,450,000	05
06	Police Station						7,000,000	7,000,000			1,000,000	6,000,000							7,000,000	06
07	Public Works Complex						5,450,000	5,450,000			450,000	5,000,000							5,450,000	07
08	Recreation Center					1,500,000	13,500,000	15,000,000				15,000,000					1,500,000		13,500,000	08
09	Senior Facility						5,000,000	5,000,000				5,000,000							5,000,000	09
10	1402-FC Town Hall - Professional Services	50,000	200,000	1,300,000				1,550,000			1,250,000	300,000	1,250,000	1,450,000	100,000					10
11	1601-FC Town Hall - Construction			10,000,000	8,813,000			18,813,000				18,813,000			9,175,000	5,000,000	4,638,000			11
12	Town Hall - Furniture, Fixtures, and Equipment				1,362,000			1,362,000				1,362,000					1,362,000			12
13	1514-ST Town Hall - Offsite Infrastructure			1,275,000				1,275,000				1,275,000			1,275,000					13
14	1401-FC Windsong Ranch Fire Station	300,000	6,996,000	204,000				7,500,000	1,837,000 D	5,663,000										14
15	1308-EQ Windsong Ranch Fire Station - Apparatus			815,000		263,000		1,078,000	1,078,000 D											15
	Subtotal	350,000	7,196,000	13,594,000	10,175,000	263,000	1,500,000	63,545,000	96,623,000	2,915,000	5,663,000	3,150,000	84,895,000	1,250,000	1,450,000	10,550,000	5,000,000	7,500,000	63,545,000	

Grand Total General Fund	924,100	15,678,993	46,318,132	21,347,000	1,756,000	1,500,000	122,868,254	210,392,479	68,521,000	12,300,820	19,812,659	109,758,000	1,615,000	10,707,409	11,351,996	6,068,000	7,500,000	93,943,254	
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Description Codes - Other Sources	
A	Impact Fees
B	Grant and Interlocal Funds
C	Developer Agreements
D	General Fund
E	Water / Wastewater Fund
F	Stormwater Drainage Fund
G	Park Development Fund
H	TIRZ #1
J	TIRZ #2
K	Escrows
X	Non-Cash Contributions
Z	Other Sources (See Detail)

Summary of Capital Improvement Program - 09/22/2015
 Capital Improvement Program Summary

	Capital Improvement Program Summary		Project Schedule					Total Cost	Other Sources	Funding Sources				Unissued Debt Schedule					Index
			Prior Yrs	2014-2015	2015-2016	2016-2017	2017-2018			2018-2019	2019-2025	Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Reimbursement Resolution	2015-2016	2016-2017	2017-2018	
General Fund	924,100	15,678,993	46,318,132	21,347,000	1,756,000	1,500,000	122,868,254	210,392,479	68,521,000	12,300,820	19,812,659	109,758,000	1,615,000	10,707,409	11,351,996	6,068,000	7,500,000	93,943,254	
Enterprise Funds	0	7,147,400	13,005,000	16,784,300	400,000	28,274,000	34,027,695	99,638,395	21,737,881	1,439,519	0	76,460,995	0	2,370,000	16,539,300	400,000	28,274,000	28,877,695	
Grand Total Capital Improvement Program	924,100	22,826,393	59,323,132	38,131,300	2,156,000	29,774,000	156,895,949	310,030,874	90,258,881	13,740,339	19,812,659	186,218,995	1,615,000	13,077,409	27,891,296	6,468,000	35,774,000	122,820,949	



FINANCE

To: Mayor and Town Council

From: January Cook, CPPO, CPPB, Purchasing Agent

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon approving the purchase of three pick-up trucks for the Building Inspections Division, from Caldwell Country Chevrolet, through the Texas Local Government Purchasing Cooperative; and two chassis with flat bed trucks for the Streets Division, from Chastang Ford, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program.

Description of Agenda Item:

The following items are on the list of approved replacements for the FY 2015-2016 Vehicle Equipment Replacement Program:

- Two 2016 Ford F-150 Regular Cab Pick-Up Trucks (Replacing Units 1302 and 1303)

The following items are approved FY 2015-2016 supplemental requests:

- One 2016 Ford F-150 Regular Cab Pick-Up Truck (Building Inspections, Building Inspector II position)
- One 2016 Ford F-250 Chassis with Flat Bed (Streets Division, Crew Leader position)
- One 2016 Ford F-350 Chassis with Flat Bed (Streets Division, Emergency Sanding Equipment)

The 2016 Ford F-150 pick-up trucks will be purchased from Caldwell Country Chevrolet, through the Texas Local Government Purchasing Program. The chassis with flat bed trucks will be purchased from Chastang Ford, through the HGAC Cooperative Purchasing Program.

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

The Town of Prosper entered into an interlocal participation agreement in June 2005, providing the Town's participation in the Texas Local Government Purchasing Cooperative. Participation in the cooperative purchasing program allows our local government to purchase goods and services from the cooperative's online purchasing system, BuyBoard, while satisfying all competitive bidding requirements.

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

Budget Impact:

The total price for the purchase of three pick-up trucks is \$58,720, and the total price for the purchase of two chassis with flat bed trucks is \$80,465. Funding will be as follows:

Public Works	Budget	Purchase Price	Difference
Approved Supplemental Requests	\$ 83,000	\$ 80,465	\$ 2,535
Building Inspections	Budget	Purchase Price	Difference
Approved Supplemental Requests	\$ 21,000	\$ 19,573	\$ 1,427
Approved Replacements (VERF)	\$ 40,000	\$ 39,147	\$ 853
Grand Total	\$ 144,000	\$ 139,185	\$ 4,815

Attached Documents:

1. Caldwell Country Chevrolet Quote - Three 2016 Ford F-150 Regular Cab Pick-Up Trucks
2. Chastang Ford Quote - One 2016 Ford F-350 Chassis with Flat Bed
3. Chastang Ford Quote - One 2016 Ford F-550 Chassis with Flat Bed

Town Staff Recommendation:

Town staff recommends approval of the purchase of three pick-up trucks for the Building Inspections Division, from Caldwell Country Chevrolet, through the Texas Local Government Purchasing Cooperative; and two chassis with flat bed trucks for the Streets Division, from Chastang Ford, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program.

Proposed Motion:

I move to approve the purchase of three pick-up trucks for the Building Inspections Division, from Caldwell Country Chevrolet, through the Texas Local Government Purchasing Cooperative; and two chassis with flat bed trucks for the Streets Division, from Chastang Ford, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program.

QUOTE# 00A-SHORT BOX

CONTRACT PRICING WORKSHEET

End User: TOWN OF PROSPER			Contractor: CALDWELL COUNTRY		
Contact Name: JANUARY COOK			CALDWELL COUNTRY		
Email: JANUARY_COOK@PROSPERTX.GOV			Prepared By: Averyt Knapp		
Phone #: 972-569-1018			Email: aknapp@caldwellcountry.com		
Fax #: 972-347-3579			Phone #: 800-299-7283 or 979-567-6116		
Location City & State: PROSPER, TX			Fax #: 979-567-0853		
Date Prepared: OCTOBER 23, 2015			Address: P. O. Box 27, Caldwell, TX 77836		
Contract Number: BUY BOARD #430-13			Tax ID # 14-1856872		
Product Description: 2016 CHEVROLET 1500 SILVERADO 4X2 REG CAB CC15703					
A Base Price & Options:					\$19,440
B Fleet Quote Option					
Code	Description	Cost	Code	Description	Cost
	4X2-REGULAR CAB, 4.3L-V6, 6-SPD AUTOMATIC, AIR CONDITION, AMFM- STEREO, 40-20-40 VINYL BENCH, FULL RUBBER FLOOR TILT, CRUISE, POWER DOOR LOCKS, 6.5' BED, REAR STEP BUMPER	INCL			
	GM WARRANTY 5YR/100,000 MILES POWERTRAIN @ N/C	INCL		CALDWELL COUNTRY	
				PO BOX 27	
				CALDWELL, TEXAS 77836	
Subtotal B					INCL
C Unpublished Options					
Code	Description	Cost	Code	Description	Cost
Subtotal C					
D Other Price Adjustments (Installation, Delivery, Etc...)					
Subtotal D					INCL
E Unit Cost Before Fee & Non-Equipment Charges(A+B+C+D)					\$19,440
Quantity Ordered					3
X					

Subtotal E		\$58,320
F Non-Equipment Charges (Trade-In, Warranty, Etc...)		
BUY BOARD		\$400
G. Color of Vehicle: WHITE EXTERIOR		
H. Total Purchase Price (E+F)		
		\$58,720
	Estimated Delivery Date:	60-90 DAYS APPX



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract No.: HT06-14

Date Prepared: 9/14/2015

*This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents **MUST** be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.*

Buying Agency:	TOWN OF PROSPER	Contractor:	CHASTANG FORD
Contact Person:	JANUARY COOK	Prepared By:	ED MILLER
Phone:	972-569-1018	Phone:	713-678-5007
Fax:		Fax:	713-678-5001
Email:	january_cook@prospertx.gov	Email:	emiller@chastangford.com

Product Code:	DC2	Description:	2016 FORD F550
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A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 29,409

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
201WB - 201" WHEELBASE	347	GFB1 - GENERAL 12' X 96" FLATBED	4530
F4H - 4 WHEEL DRIVE UPGRADE	2795		
997 - 6.7L POWERSTROKE DIESEL	7055		
44W- 6 SPEED AUTO TRANS	125		
68M - 19500LB GVWR	1095		
512 - SPARE TIRE/WHEEL	325		
61J - JACK	35		
X8L - 4.88 LIMITED SLIP AXLE	325		
FP1 - FRAME PREP FOR BODY INSTALL	275		
58D - SPECIAL WIRING HARNESS	325		
FLR1 - FLOOR PLAN INT DURING UPFIT 30X8	240		
Subtotal From Additional Sheet(s):			
Subtotal B:			17472

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
16'FB - UPGRADE TO 16' FLATBED	788		
FRT1 - DELIVER TO CUSTOMER	218		
Subtotal From Additional Sheet(s):			
Subtotal C:			1006

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 2%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	47887	=	Subtotal D:	47887
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E. H-GAC Order Processing Charge (Amount Per Current Policy) Subtotal E: 1000

F. Trade-Ins / Other Allowances / Special Discounts / Freight / Installation

Description	Cost	Description	Cost
Subtotal F:			0

Delivery Date: 150 DAYS **G. Total Purchase Price (D+E+F):** 48887



FINANCE

To: Mayor and Town Council

From: January Cook, CPPO, CPPB, Purchasing Agent

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon approving the purchase of two fire engines, from Siddons-Martin Emergency Group, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program, and a pre-payment discount option.

Description of Agenda Item:

The fire engines will be purchased from Siddons-Martin Emergency Group, through the HGAC Cooperative Purchasing Program. The cost per unit is \$596,816.99, plus the HGAC processing fee of \$2,000, for a total expenditure of \$1,195,633.99. A chassis pre-payment discount of \$16,635.99 has been offered, which would reduce the total expenditure to \$1,178,998.00. If the pre-payment discount is elected, \$554,540.00 would be due at the time of order.

One fire engine is on the list of approved replacements for the FY 2015-2016 Vehicle Equipment Replacement Program, and the other fire engine is an approved addition to the fleet, included in the Capital Improvement Program as Windsong Ranch Fire Station - Apparatus.

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment). The Town of Prosper and HGAC entered into an interlocal agreement, effective January 4, 2001, which allows our local government to purchase certain goods or services through HGAC. The agreement renews automatically each fiscal year, unless cancelled by either party.

Budget Impact:

The total price for the purchase of two fire engines, including the pre-payment discount, is \$1,178,998.00. The purchase price is for the fire engines only. The remaining funds will be utilized to outfit the fire engines with additional equipment. Funding will be as follows:

CIP	Budget	Purchase Price	Difference
Windsong Ranch Fire Station - Apparatus	\$ 815,000.00	\$ 589,499.00	\$ 225,501.00
Fire Department	Budget	Purchase Price	Difference
Approved Replacement (VERF)	\$ 800,000.00	\$ 589,499.00	\$ 210,501.00
Grand Total	\$ 1,615,000.00	\$ 1,178,998.00	\$ 436,002.00

Attached Documents:

1. HGAC Contract Pricing Worksheet
2. HGAC Contract Pricing Verification

Town Staff Recommendation:

Town staff recommends approval of the purchase of two fire engines, from Siddons-Martin Emergency Group, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program, and a pre-payment discount option.

Proposed Motion:

I move to approve the purchase of two fire engines, from Siddons-Martin Emergency Group, through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program, and a pre-payment discount option.



Helping Governments Across the Country BuyPO Box 22777 • 3555 Timmons Ln. • Houston, Texas 77227-2777 • 1-800-926-0234

CONTRACT PRICING VERIFICATION

TO:

January Cook

FROM:

Jackie Palmer

COMPANY:

Prosper Fire Department

DATE:

10/18/2015PHONE NUMBER:

RE:

Price Verification

10/1/2015

Contract Pricing Worksheet dated 10/01/2015

We have reviewed the pricing worksheet provided through HGACBuy Contract FS12-13. Our review verifies that the pricing provided is in compliance with the contract.

Please advise if we can assist further in this matter.

*******This is not an Order Confirmation*******



ENGINEERING

To: Mayor and Town Council

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

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Development Agreement between the Town of Prosper, Texas, and CADG Prosper Lakes North, LLC., related to early issuance of building permits and Town cost participation on a retaining wall for the Lakes of Prosper North, Phase 2 development.

Description of Agenda Item:

CADG Prosper Lakes North, LLC, is developing the Lakes of Prosper North which includes the property encompassing the existing large drainage and detention pond adjacent to the future north-south collector road that connects Prosper Trail to Frontier Parkway. At this time, the construction of the public utilities and roadways are complete in Phase 2 and ready for final acceptance. However, the improvements on the lot that includes the drainage and detention pond are not completed. These improvements include the construction of a retaining wall, to address the slope failures on the eastern edge of the pond, headwall repair, sidewalk adjacent to the pond, landscaping and irrigation. Per the Town's standards, all improvements must be complete prior to issuing final acceptance of the subdivision.

With the planned improvements being isolated to the private homeowner's association lot, the developer is requesting release of single family building permits on lots not affected by the construction as well as the amenity center lot so that construction may begin. The developer is also requesting cost participation from the Town on the retaining wall being constructed to address slope failures on the eastern edge of the pond. The attached agreement clarifies the obligations of CADG Prosper Lakes North, LLC, and the Town of Prosper related to early issuance of building permits and Town cost participation on a retaining wall for the Lakes of Prosper North, Phase 2 development.

Budget Impact:

The Town will reimburse CADG Prosper Lakes North, LLC, \$35,000, towards the construction cost of the retaining wall being constructed to address slope failures on the eastern edge of the pond after final acceptance of Phase 2. The funding will be allocated from the Storm Water Utility Fund in an upcoming Budget Adjustment.

Legal Obligations and Review:

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

Attached Documents:

1. Development Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Manager to execute a Development Agreement between the Town of Prosper, Texas, and CADG Prosper Lakes North, LLC., related to early issuance of building permits and Town cost participation on a retaining wall for the Lakes of Prosper North, Phase 2 development.

Proposed Motion:

I move to authorize the Town Manager to execute a Development Agreement between the Town of Prosper, Texas, and CADG Prosper Lakes North, LLC., related to early issuance of building permits and Town cost participation on a retaining wall for the Lakes of Prosper North, Phase 2 development.

**TOWN OF PROSPER AND CADG PROSPER LAKES NORTH, LLC,
DEVELOPMENT AGREEMENT**

THIS TOWN OF PROSPER AND CADG PROSPER LAKES NORTH, LLC, DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2015, by and between the Town of Prosper, Texas (hereinafter referred to as the “Town”), and CADG Prosper Lakes North, LLC (hereinafter referred to as “Owner”).

WITNESSETH:

WHEREAS, Owner is developing a residential subdivision known as Lakes of Prosper North, generally located east of Dallas Parkway and north of Prosper Trail, Phase 2 of which contains 21.715 gross acres, more or less, as more particularly described in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, Owner has nearly completed the construction of Phase 2 public infrastructure and has requested that the Town permit the issuance of building permits so that construction of single-family residences and an amenity center may proceed; and

WHEREAS, Owner and the Town agree and acknowledge that certain retaining wall construction is necessary to enhance the safety of the public along the shoreline of the detention pond in Phase 2, and both Owner and the Town shall participate in the costs of construction of such retaining wall; and

WHEREAS, the Town is agreeable to the issuance of building permits, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Owner covenant and agree as follows:

1. Town Issuance of Building Permits: Developer Obligations.

A. Upon execution of this Agreement by the Town and Owner, subject to the provisions hereinafter referenced in Subpart B of this Paragraph, the Town agrees that building permits may be released and issued for Lots 14-19, Block C; Lots 9-22, Block D; Lots 10 and 11, Block E; Lots 1-5, Block F; and Lot 5, Block X.

B. The Town agrees that it shall release and issue building permits prior to Owner completing construction and installation of the following improvements on Lot 6, Block X: the construction of a retaining wall, headwall repair, sidewalk, landscaping and irrigation, and all of such construction shall be subject to approval by the Town; however, no building permits shall be released or issued prior to the filing of the final plat for the Lakes of Prosper North, Phase 2, in the deed records of Collin Country, Texas, and no certificate of occupancy shall be issued for any structure until final acceptance of Phase 2 of the Lakes of Prosper North by the Town. Prior

to the date of final acceptance of said Phase 2 by the Town, Owner shall be responsible for the maintenance of all public improvements therein.

C. Upon acceptance of Phase 2 by the Town, the Town shall remit to Owner Thirty-Five Thousand and No/100 Dollars (\$35,000) for partial reimbursement of the construction costs of the retaining wall referenced in this Paragraph. Such payment shall not relieve Owner of any maintenance or other obligations in any way associated with the retaining wall and any other improvement on Lot 6, Block X, including but not limited to other retaining walls, the drainage and detention pond, erosion control improvements, sidewalks, landscaping, irrigation systems and improvements, and any other improvement or structure thereon. Further, the Town shall have no responsibility or any other obligation related to any of the foregoing.

D. Owner and its heirs, successors, assigns, vendors, grantees, and/or trustees do hereby agree to waive all claims, release, indemnify and hold harmless Town from any and all claims, suits, judgments, and demands, including its costs and reasonable attorney's fees, brought pursuant to or arising out of the performance of this Agreement.

2. **Other Obligations of Owner.** Nothing herein shall relieve the Owner from responsibilities for the construction of other public improvements under applicable development ordinances of the Town.

3. **Applicable Laws and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Venue for any action arising under this Agreement shall lie in Collin County, Texas.

4. **Notices.** Any notices required or permitted to be given hereunder shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town:	Town of Prosper, Texas P.O. Box 307 Prosper, Texas 75078 Att'n: Town Manager's Office
-----------------	--

If to the Owner:	CADG Prosper Lakes North, LLC 1800 Valley View Lane, Suite 300 Farmers Branch, Texas 75234 Att'n: Mr. Mehrdad Moayed
------------------	---

5. **Prevailing Party.** In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal). Nothing herein shall constitute a waiver of any claim or defense that could be asserted in any litigation related to this

Agreement, and this Agreement is not subject to Section 271.152 of the Texas Local Government Code, as amended.

6. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

7. **Facsimiles.** A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein.

8. **Town Manager Authorized to Execute Agreement.** The Town Council hereby authorizes the Town Manager of the Town of Prosper to execute this Agreement on behalf of the Town.

9. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

10. **Filing in Deed Records.** This Agreement shall be filed in the deed records of Collin County, Texas. Upon any sale or other transfer of any ownership rights in the Property, Owner shall notify the Town in writing of such sale or transfer within ten (10) business days of such sale or transfer. This is a material term of this Agreement.

11. **Signatory Authority.** The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Owner warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Owner to same.

12. **Binding Obligation.** This Agreement is and shall be binding upon Owner, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

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

14. **Attorney's Fees.** Owner agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, preparation of, legal review of and any revisions to this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$5,000.00 within ten (10) days upon receipt of an invoice of same from Prosper.

15. **Covenant Running with Land.** This Agreement shall be a covenant running with the land and shall be binding upon and inure to the benefit of Developer, and its successors and assigns. In addition, the parties shall cause this Agreement to be filed in the Deed Records of Collin County, Texas.

16. **Sovereign Immunity.** The parties agree that the Town has not waived its sovereign or governmental immunity by entering into and performing its obligations under this Agreement; however, for purposes of enforcement of this Agreement, Town agrees that it has waived its sovereign immunity, and to that extent only.

17. **Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the effective date; (b) form the basis upon which the parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the parties reflected by the recitals, would not have entered into this Agreement.

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

19. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

20. **Application of Town Ordinances.** The signatories hereto shall be subject to all applicable ordinances of the Town, whether now existing or in the future arising. This Agreement shall confer no vested rights on the Property unless specifically enumerated herein.

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

[Remainder of Page Intentionally Left Blank]

THE TOWN OF PROSPER, TEXAS

By: _____

Name: Harlan Jefferson

Title: Town Manager, Town of Prosper

STATE OF TEXAS)

)

COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of _____, 2015, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas

My Commission Expires:

OWNER:

CADG Prosper Lakes North, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS)
)
COUNTY OF DALLAS)

This instrument was acknowledged before me on the ____ day of _____, 2015, by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Member of CADG Prosper Lakes North, LLC, a Texas limited liability company on behalf of said company.

Notary Public, State of Texas

My Commission Expires:

EXHIBIT A**Lakes of Prosper North (Phase 2) Property Description**

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 12, City of Prosper, Collin County, Texas, the subject tract being a portion of a tract of land conveyed to CADG Prosper Lakes North, LLC according to the deed recorded in Document No. 20120627000772030 of the Deed Records, Collin County, Texas (DRCCT), the subject tract being more particularly described as follows:

COMMENCING at a 1/2" iron rod with plastic cap found on the north line of a tract conveyed to the Prosper-Tollroad Joint Venture, Ltd., recorded in Document No. 1996-0090247 DRCCT, for the southwest corner of said CADG Prosper Lakes North tract, and being the southeast corner of a tract conveyed to Trejax, LP, recorded in Document No. 20121206001558000 DRCCT;

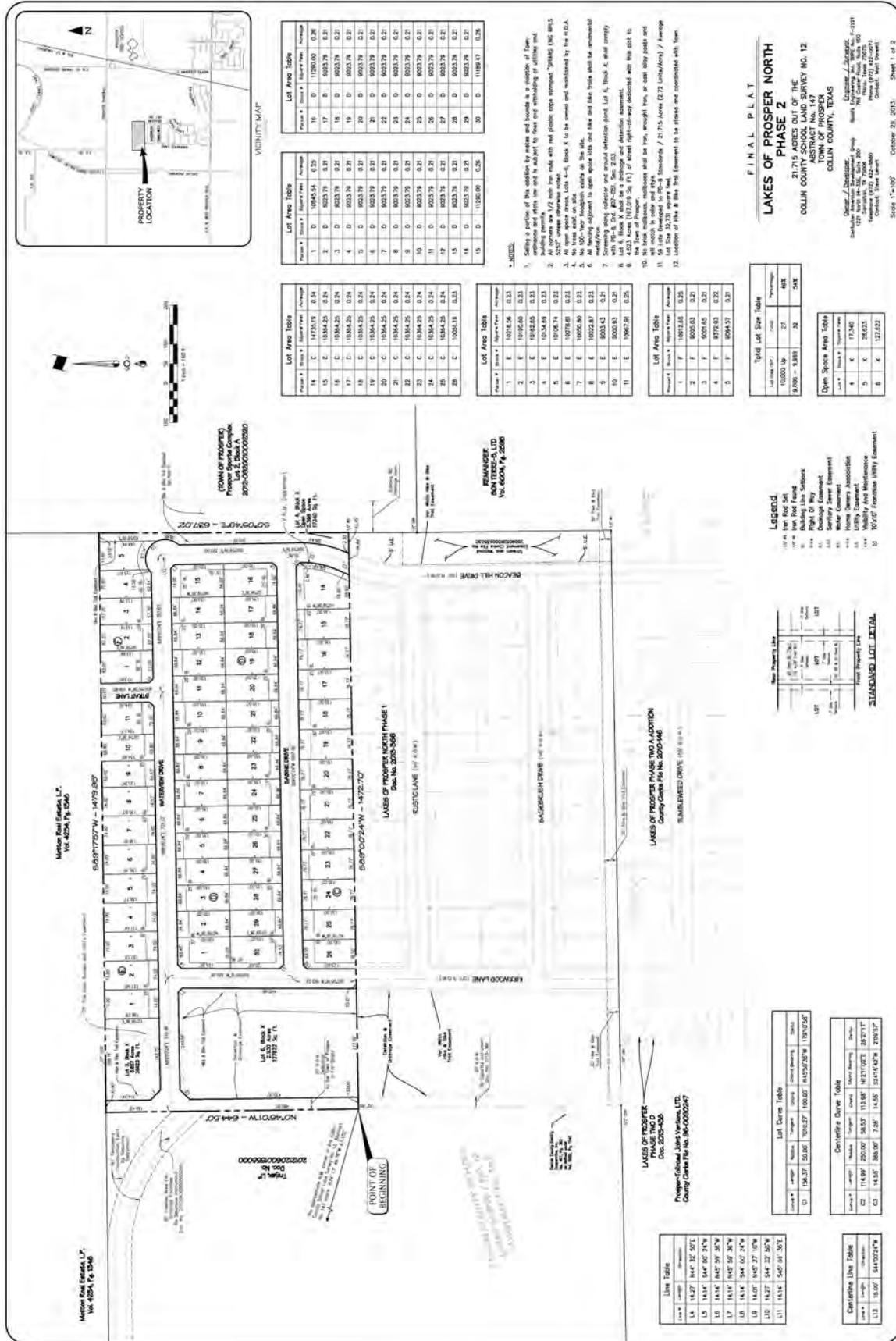
THENCE N 00°45'01" W, 670.39 feet along the common line thereof to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set for the POINT OF BEGINNING of the subject tract;

THENCE N 00°45'01" W, 644.50 feet continuing along the common line thereof to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set on the south line of a tract conveyed to Metten Real Estate, L.P., recorded in Volume 4234, Page 1348 DRCCT;

THENCE N 89°17'57" E, along the common line thereof, passing at 170.61 feet a 1/2" iron rod with plastic cap found, continuing along a total distance of 1479.95 feet to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set on the west line of a tract conveyed to the Town of Prosper, recorded in Document No. 20070312000330490 DRCCT;

THENCE S 00°05'49" E, 637.02 feet along the common line thereof to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set;

THENCE S 89°00'24" W, 1472.70 feet departing said line, to the POINT OF BEGINNING with the subject tract containing 945,924 square feet or 21.715 acres of land.





TOWN SECRETARY'S OFFICE

To: Mayor and Town Council

From: Robyn Battle, Town Secretary

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon a resolution in support of statewide Proposition 7 for increased state funding for transportation.

Description of Agenda Item:

Senate Joint Resolution 5, approved by the 84th Texas Legislature, proposed a constitutional amendment that will appear on the November 3, 2015, ballot for voter approval. Statewide Proposition 7 reads as follows:

“The constitutional amendment dedicating certain sales and use tax revenue and motor vehicle sales, use, and rental tax revenue to the state highway fund to provide funding for nontolled roads and the reduction of certain transportation-related debt.”

If approved by the voters, Proposition 7 would require the Comptroller of Public Accounts to deposit portions of the state sales tax revenue and the motor vehicle sales tax revenue that exceed certain amounts to the State Highway Fund to be used for construction, maintenance, and acquisition of rights-of-way for nontolled roadway projects, and to repay principal and interest on general obligation bonds issued by the state. The Regional Transportation Council (RTC) has adopted a position statement in support of Proposition 7, and has encouraged local Town and City Councils and Commissioners Courts to adopt resolutions in support of the same.

If the Proposition passes, beginning in 2017, the State Highway Fund would receive up to \$2.5 billion per fiscal year in additional funds from general sales tax revenue once that statewide account reaches \$28 billion. This allocation would expire in 2032. Starting in 2019, if the state collects more than \$5 billion from the motor vehicle sales tax revenues in one fiscal year, 35 percent of the remaining revenue collected that fiscal year would be added to the State Highway Fund. This allocation would continue until 2029. The shift of these sales tax revenue funds would typically have been allocated to the state's General Revenue Fund. The Legislature has the option to extend these revenue allocations beyond their expiration dates for 10-year periods.

Together, the two components are expected to provide an additional \$3 billion per year to the State Highway Fund. Although the Proposition would not fully fund the state's transportation shortfalls, it would be a step towards securing future funding for transportation needs in North Texas, and across the state, especially given the current conditions of increasing population and economic growth.

Legal Obligations and Review:

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

Attached Documents:

1. Resolution

Town Staff Recommendation:

Town staff recommends the Town Council adopt a resolution in support of statewide Proposition 7 for increased state funding for transportation.

Proposed Motion:

I move to adopt a resolution in support of statewide Proposition 7 for increased state funding for transportation.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 15-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, IN SUPPORT OF STATEWIDE PROPOSITION 7 FOR INCREASED STATE FUNDING FOR TRANSPORTATION; MAKING FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 84th Texas Legislature authorized a constitutional amendment for increased transportation funding to be on the November 3, 2015, statewide ballot; and

WHEREAS, Proposition 7 is “the constitutional amendment dedicating certain sales and use tax revenue and motor vehicle sales, use, and rental tax revenue to the state highway fund to provide funding for non-tolled roads and the reduction of certain transportation-related debt;” and

WHEREAS, if approved by voters, Proposition 7 would result in increased state funding for transportation to be used for non-tolled roadway projects and to repay principal and interest on general obligation bonds issued by the state; and

WHEREAS, although this would not fully fund the state’s overall transportation needs, it would be a key step toward securing funding for transportation projects in Texas; and

WHEREAS, the Town Council hereby finds and determines that it will be advantageous, beneficial and in the best interests of the citizens of Prosper to support statewide Proposition 7 for increased state funding for transportation.

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

SECTION 1

The Town of Prosper supports Proposition 7, the proposed amendment on the November 3, 2015, ballot to address Texas’ transportation needs.

SECTION 2

This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 27TH DAY OF OCTOBER, 2015.

APPROVED:

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



PLANNING

To: Mayor and Town Council
From: John Webb, AICP, Director of Development Services
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – October 27, 2015

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to rezone 15.7± acres, from Commercial (C) and Planned Development-25 (PD-25) to Planned Development-Retail (PD-R), located on the north side of US 380, 580± feet west of Custer Road. (Z15-0011).

History:

On September 22, 2015, Town Council tabled this item to give the applicant an opportunity to revise the proposed elevations.

Description of Agenda Item:

The applicant has requested this item be tabled and the Public Hearing be continued to the December 8, 2015, Town Council meeting, as outlined in the attached letter.

Attached Documents:

1. Tabling request letter

Town Staff Recommendation:

Town staff recommends the Town Council continue the Public Hearing and table the item to the December 8, 2015, Town Council meeting.

Proposed Motion:

I move to continue the Public Hearing and table the item to the December 8, 2015, Town Council meeting.



CONSULTING CIVIL ENGINEERS * SURVEYORS
6750 HILLCREST PLAZA DR., STE. 325
DALLAS, TX 75230 (972) 490-7090 FAX (972) 490-7099

October 20, 2015

Town of Prosper
Development Services Department
Planning Division
P.O. Box 307
Prosper, Texas 75078

RE: Request to Table Zoning or Specific Use Permit Request

Planning Division:

As the applicant and/or representative of Z15-0011, I hereby request that this case be tabled by the Town Council to their 12/08/2015 meeting.

Sincerely,

A handwritten signature in blue ink that reads 'Maria C. Bonilla'.

Maria C. Bonilla, P.E.
Vice President

Cc: Craig Winkler, Kroger
Christina Konrad, Kroger
Michael Clark, WAI



PLANNING

To: Mayor and Town Council

From: Alex Glushko, AICP, Senior Planner

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Presentation of service plan and first Public Hearing to consider the involuntary annexation of a 0.2± acre tract of land, located on the north side of First Street, 1.2± miles east of Coit Road. (A15-0002).

Description of Agenda Item:

In 2008, the Town began instigating involuntary annexations and annexation agreements for a majority of the remaining unincorporated properties within the Town limits. The properties surrounding the subject property were annexed in 2008 and 2009, respectively; however, it was recently determined that the subject property was unintentionally excluded from past annexation processes. Because, the subject property is not eligible for an annexation agreement, the Town recommends moving forward with the involuntary annexation of the property.

The schedule for annexation, which is attached, calls for two Public Hearings. This is the first Public Hearing; the second Public Hearing is scheduled for November 10, 2015. The map of the proposed annexation, service plan, and annexation schedule are attached.

Legal Obligations and Review:

The Town Attorney reviewed the annexation schedule to ensure compliance with state law. The Public Hearing notice for the first Public Hearing has been published in the newspaper and placed on the Town's website per state law and the annexation schedule.

Attached Documents:

1. Annexation Exhibit
2. Annexation Map
3. Annexation Service Plan
4. Annexation Schedule

Town Staff Recommendation:

Town staff recommends the Town Council conduct the first Public Hearing to consider the annexation of a 0.2± acre tract of land, located on the north side of First Street, 1.2± miles east of Coit Road, and receive comments from the public.

Proposed Motion:

Once the public hearing has been held, no further action is required for this item.

ANNEXATION EXHIBIT

BEING a tract of land in the L. McCarty Survey, Abstract No. 600, Collin County, Texas, and being a part of a tract conveyed to Michael Lynn Nelson by deed recorded in Volume 1470, Page 171 of the Deed Records, Collin County, Texas (DRCCT), and being more particularly described as follows:

BEGINNING at the southwest corner of a tract conveyed to Nola Gertrude Nelson recorded in Volume 1470, Page 174 DRCCT, a point on the north line of First Street;

THENCE N 89°43'23" W, 78.83 feet along First Street to the southeast corner of a tract conveyed to Chad and Jessica Tolleson, recorded in Volume 5971, Page 1022 DRCCT;

THENCE N 00°31'29" W, 269.10 feet along the common line thereof to the south line of a tract conveyed to Dan and Debbie Tolleson, recorded in Volume 5438, Page 5938 DRCCT;

THENCE N 89°59'16" E, 83.00 feet along the common line thereof to the northwest corner of said Nola Gertrude Nelson tract;

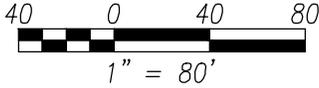
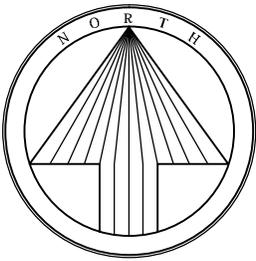
THENCE S 00°34'10" E, 119.17 feet along the common line thereof;

THENCE S 01°06'13" W, 150.35 feet continuing along the common line thereof to the POINT OF BEGINNING with the subject tract containing 22,050 square feet, or 0.506 acres of land.

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

PAGE 1 OF 2

					ANNEXATION EXHIBIT				
					L. McCARTY SURVEY, A-600				
765 Custer Road, Suite 100 • Plano, TX 75075 • (972) 422-0077 • TBPE No. F-2121					TOWN OF PROSPER				
Drawn By:	Checked By:	Scale	Date	Job No.	COLLIN COUNTY, TEXAS				
ED	DKB		9/17/15	08-010					



Basis of bearing derived from the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011).

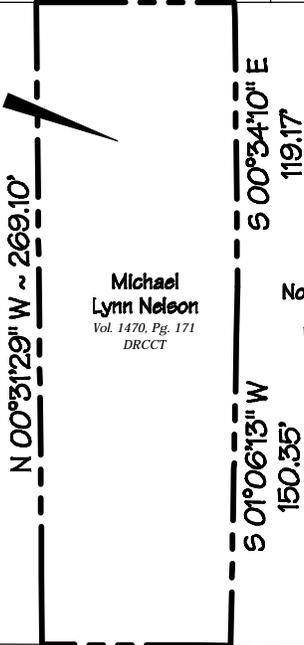
Dan Tolleson, Jr. & Debbie Tolleson
called 5.1989 ac.
Vol. 5438, Pg. 5938 DRCCT

Dan Tolleson, Jr. & Debbie Tolleson
called 0.2768 ac.
Vol. 5492, Pg. 5521 DRCCT

Harry Glen Gammons & wife, Wanda M. Gammons
called 2.28 ac.
Vol. 4723, Pg. 4020 DRCCT

N 89°59'16" E
83.00'

0.506 Acres
(22,050 Sq. Ft.)



Dan Tolleson, Jr. & Debbie Tolleson
called 1.4865 ac.
Vol. 5428, Pg. 115 DRCCT

Chad Tolleson, Jr. & Jessica Tolleson
called 1.000 ac.
Vol. 5971, Pg. 1022 DRCCT

Michael Lynn Nelson
Vol. 1470, Pg. 171 DRCCT

Nola Gertrude Nelson
called 0.745 ac.
Vol. 1470, Pg. 174 DRCCT

Patey Ruth Rincon
called 1.000 ac.
Vol. 2487, Pg. 142 DRCCT

N 00°31'29" W ~ 269.10'

S 00°34'10" E 119.17'
S 01°06'13" W 150.35'

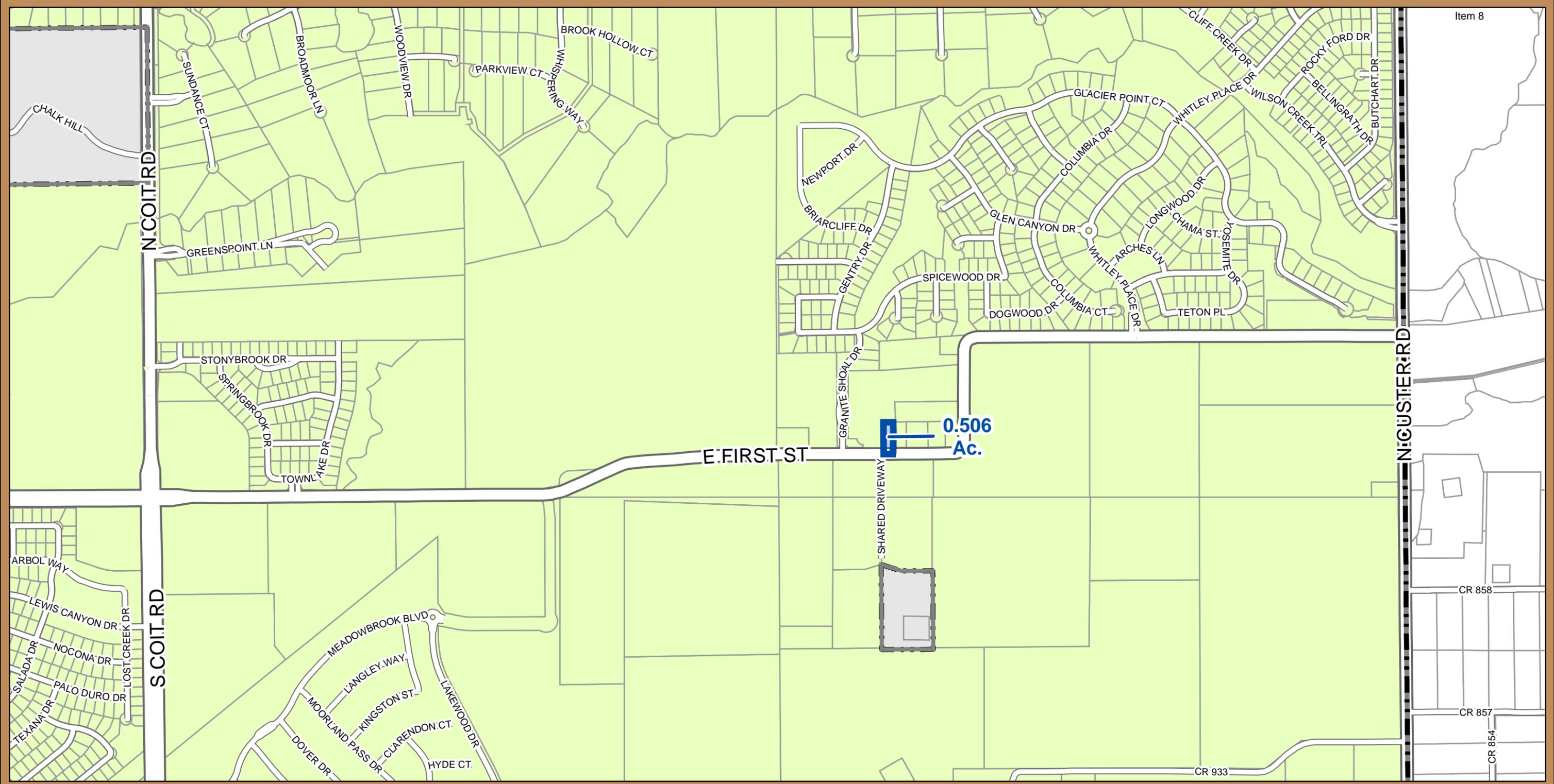
N 89°43'23" W
78.83'

FIRST STREET

POINT OF BEGINNING

PAGE 2 OF 2

					ANNEXATION EXHIBIT				
					L. McCARTY SURVEY, A-600				
765 Custer Road, Suite 100 • Plano, TX 75075 • (972) 422-0077 • TBPE No. F-2121					TOWN OF PROSPER				
Drawn By:	Checked By:	Scale	Date	Job No.	COLLIN COUNTY, TEXAS				
ED	DKB	1" = 80'	9/17/15	08-010					

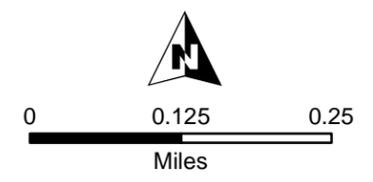


Legend

	Town Limits		Town
	Railroad		ETJ
	Major Roads		Proposed Annexations 2015 (0.506 Acres Total)
	Minor Roads		
	Parcels		

DISCLAIMER. The Town of Prosper has prepared this map or information for internal use only. It is made available under the Public Information Act. Any reliance on this map or information is AT YOUR OWN RISK. Prosper assumes no liability for any errors, omissions, or inaccuracies in the map or information regardless of the cause of such or for any decision made, action taken, or action not taken in reliance upon any maps or information provided herein. Prosper makes no warranty, representation, or guarantee of any kind regarding any maps or information provided herein or the sources of such maps or information and DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESSED AND IMPLIED, including the implied warranties of merchantability and fitness for a particular purpose.

Proposed Annexations 2015
 Source: Town of Prosper, Planning
 Date: September 22, 2015



SERVICE PLAN FOR ANNEXED AREA

ANNEXATION ORDINANCE NO. _____

DATE OF ANNEXATION ORDINANCE: _____, 2015

Municipal Services to the area of land depicted in Exhibit A shall be furnished by or on behalf of the Town of Prosper, Texas ("Town") at the following levels and in accordance with the following schedule:

A. POLICE PROTECTION:

Police personnel and equipment from the Prosper Police Department shall be provided to the area annexed, at a level consistent with current methods and procedures presently provided to similar areas of the Town, on the effective date of this Ordinance.

B. FIRE PROTECTION / EMERGENCY MEDICAL SERVICES:

Fire protection and Emergency Medical Services (EMS) from the Town shall be provided to the area annexed, at a level consistent with current methods and procedures presently provided to similar areas of the Town, on the effective date of this Ordinance.

C. FIRE PREVENTION / INVESTIGATION:

The services of the Town of Prosper Fire Department shall be provided to the area on the effective date of this Ordinance. The non-emergency services of fire prevention and fire investigation will be added to the list of services provided by the Prosper Fire Department.

D. SOLID WASTE COLLECTION:

Solid waste collection shall be provided to the area annexed upon request on the effective date of this Ordinance up to the second anniversary of the annexation. After that time, residents will be required to use the Town's solid waste collection company. The collection of refuse from individual properties shall be made in accordance with the Town's usual solid waste collection scheduling.

E. WATER SERVICE:

1. This area is currently serviced by the Town's water distribution system. Future expansion and extensions of the Town's Water Distribution System will provide better flow rates and line pressures, and in accordance with applicable Town codes and policies.
2. Maintenance of private lines will be the responsibility of the owner or occupant.

F. SANITARY SEWER SERVICE:

1. The annexed area will be provided sanitary sewer service in accordance with applicable codes and departmental policy. When development occurs in adjacent areas, sanitary sewer service shall be provided in accordance with applicable Town codes and policies, including extensions of service.
2. Operation and maintenance of private wastewater facilities in the annexed area will be the responsibility of the owner.

G. ROADS AND STREETS / STREET LIGHTING:

1. Operation and maintenance of private streets in the annexed area will be the responsibility of the owner.
2. Operation and maintenance of public streets in the annexed area will be provided by the Town on the effective date of this Ordinance.
3. The Town will coordinate any request for improved street lighting with the local electric provider in accordance with Town policy.

H. PARKS AND RECREATION:

Residents within the area annexed may utilize all existing Town park and recreation facilities, on the effective date of this Ordinance. Fees for such usage shall be in accordance with current fees established by Town ordinance.

I. ENVIRONMENTAL HEALTH AND CODE ENFORCEMENT SERVICES:

1. Enforcement of current environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicles ordinances and animal control ordinances, shall begin within this area on the effective date of the annexation.
2. Inspection services, including but not limited to, the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical, and electrical work to ensure compliance with Town codes and ordinances will be provided on the effective date of the annexation.

J. MISCELLANEOUS:

Any publicly owned facility, building, or service located within the annexed area shall be maintained by the Town on the effective date of the annexation ordinance. All other applicable municipal services shall be provided to the annexation area in accordance with the Town's established policies governing extension of municipal services to newly annexed areas.

2015 Annexation Schedule

Annexation Petition and Materials Submitted to TSO by Noon	Mail Notice of Intent to Annex to Property Owners and Other Entities <i>(30 days prior to 1st PH)</i>	Town Council Considers Petition at Regular Meeting <i>(5-30 days after petition submittal)</i>	Newspaper Deadline for Notice of 1 st PH	Notice of 1 st PH Published in Newspaper and Posted on Website <i>(10-20 days prior to 1st PH)</i>	1 st PH Held by Town Council at Regular Meeting	Newspaper Deadline for Notice of 2 nd PH	Notice of 2 nd PH Published in Newspaper and Posted on Website <i>(10-20 days prior to 2nd PH)</i>	2 nd PH Held by Town Council at Regular Meeting	Annexation Ordinance Considered by Council at Regular Meeting <i>(20-40 days after 2nd PH)</i>
Monday	Friday	Tuesday	Friday	Wednesday	Tuesday	Friday	Wednesday	Tuesday	Tuesday
1/5/2015	1/23/2015	1/27/2015	2/6/2015	2/11/2015	2/24/2015	2/20/2015	2/25/2015	3/10/2015	4/7/2015
2/2/2015	2/20/2015	2/24/2015	3/6/2015	3/11/2015	3/24/2015	3/20/2015	3/25/2015	4/14/2015	5/12/2015
3/2/2015	3/20/2015	3/24/2015	4/3/2015	4/28/2015	4/28/2015	4/17/2015	4/22/2015	5/12/2015	6/9/2015
4/6/2015	4/24/2015	4/21/2015	5/8/2015	5/13/2015	5/26/2015	5/22/2015	5/27/2015	6/9/2015	7/7/2015
5/4/2015	5/22/2015	5/26/2015	6/5/2015	6/10/2015	6/23/2015	6/19/2015	6/24/2015	7/14/2015	8/11/2015
6/1/2015	6/19/2015	6/23/2015	7/2/2015 (Thursday)	7/28/2015	7/28/2015	7/17/2015	7/22/2015	8/11/2015	9/8/2015
7/6/2015	7/24/2015	7/21/2015	8/7/2015	8/12/2015	8/25/2015	8/21/2015	8/26/2015	9/8/2015	10/13/2015
8/3/2015	8/21/2015	8/25/2015	9/4/2015	9/9/2015	9/22/2015	9/18/2015	9/23/2015	10/13/2015	11/10/2015
9/4/2015 (Friday)	9/25/2015	9/22/2015	10/9/2015	10/14/2015	10/27/2015	10/23/2015	10/28/2015	11/10/2015	12/8/2015
10/5/2015	10/23/2015	10/27/2015	11/6/2015	11/11/2015	11/24/2015	11/20/2015	11/25/2015	12/8/2015	1/12/2016
11/2/2015	11/20/2015	11/24/2015	12/4/2015	12/9/2015	12/22/2015	12/18/2015	12/23/2015	1/12/2016	2/9/2016
12/7/2015	12/23/2015 (Wednesday)	12/22/2015	1/8/2016	1/13/2016	1/26/2016	1/22/2016	1/27/2016	2/9/2016	3/9/2016



HUMAN RESOURCES

To: Mayor and Town Council

From: Baby Raley, Human Resources Director

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Benefit Program Application with Blue Cross Blue Shield for group medical insurance, effective January 1, 2016; and, a renewal letter acceptance with Delta Dental for group dental insurance, effective January 1, 2016.

Description of Agenda Item:

The Town has historically provided a competitive and innovative benefits package to employees, offering a selection which best suits employees' individual and family needs. Providing these options has benefitted not only recruitment efforts, but also retention of employees. Options include primary benefits consisting of basic life insurance, accidental death and dismemberment insurance, long-term disability insurance, and major medical (cost shared with employees) health savings accounts (HSA), and health reimbursement accounts (HRA). Town staff solicited requests for proposals (RFP) for medical and dental benefits in order to seek cost-effective insurance benefits for the Town and its employees effective January 1, 2016.

The medical RFP was advertised in the local newspaper, through the Town's e-procurement system, and sent directly to the following five carriers: Aetna, Blue Cross Blue Shield (current carrier), CIGNA Medical, Continental Benefits, and United Healthcare. After evaluation of the proposals, staff, the Employee Benefits Committee, and Council Benefits Subcommittee recommends Blue Cross Blue Shield as the group medical provider for employees and their eligible dependents with an enhanced benefit plan.

In addition, staff recommends changing the name of the group benefits application with Blue Cross Blue Shield from "Town of Prosper" to "Town of Prosper Employee Benefits Trust" in order to take advantage of the pre-tax premium rates proposed by Blue Cross Blue Shield. This name change attached with the Town's Trust in the same name will allow decreased employee/employer premiums by approximately 2% (\$25,000). BCBS does not have a "contract" per se but refers to the group application as their "contract."

Finally, the dental RFP was advertised in the local newspaper, through the Town's e-procurement system, and sent directly to the following thirteen carriers: Aetna Dental, Ameritas, Assurant, Blue Cross Blue Shield, CIGNA Dental, Delta Dental (current carrier), Guardian, Humana, MetLife, Principal Financial Group, United Concordia, United Healthcare, and UNUM. After evaluation of the proposals, staff, the Employee Benefits Committee, and Council Benefits

Subcommittee recommends contract renewal with Delta Dental as the group dental provider for employees and their eligible dependents.

The recommended benefit plans continue to support the Town's consumer-driven health philosophy and meet the Town's goals.

Budget Impact:

The estimated annual combined cost for group medical based on Blue Cross Blue Shield's proposal is \$1,141,943 (+11.99% increase over current). The estimated annual total Town contribution cost is \$829,771 for the plan year (January - December 2016).

The estimated annual combined cost for group dental based on Delta Dental's proposal is \$99,825 (+27% increase over current). The estimated annual total Town contribution cost is \$48,909 for the plan year (January - December 2016). In addition, Delta Dental has agreed to extend the annual rates for two years (through December 2017).

Attached Documents:

1. Medical and Dental Contributions for 2016
2. BCBS Benefit Program Application and Name Change Form
3. Delta Dental Renewal Letter

Town Staff Recommendation:

Staff recommends that the Town Council authorize the Town Manager to execute a Benefit Program Application with Blue Cross Blue Shield for group medical insurance, effective January 1, 2016; and, a renewal letter acceptance with Delta Dental for group dental insurance, effective January 1, 2016.

Proposed Motion:

I move to authorize the Town Manager to execute a Benefit Program Application with Blue Cross Blue Shield for group medical insurance, effective January 1, 2016; and, a renewal letter acceptance with Delta Dental for group dental insurance, effective January 1, 2016.

Town of Prosper Proposed Dental Contribution - Scenario 2

2014-2015 Delta Dental Current

Base Plan	EE's	Current Rates	Employer Contribution \$	2015 Employee Contribution \$	ER%
EE	39	\$25.55	\$25.55	\$0.00	100.00%
ES	12	\$54.15	\$25.55	\$28.60	47.18%
EC	15	\$61.52	\$25.55	\$35.97	41.53%
EF	15	\$93.15	\$25.55	\$67.60	27.43%
Mo. Cost	81	\$3,966	\$2,070	\$1,897	
Ann. Cost		\$47,596	\$24,835	\$22,761	
<i>Composite Rate</i>		<i>\$48.97</i>	<i>\$25.55</i>	<i>\$23.42</i>	<i>52.18%</i>

Buy Up Plan	EE's	Current Rates	Employer Contribution \$	2015 Employee Contribution \$	ER%
EE	18	\$30.73	\$25.55	\$5.18	83.14%
ES	4	\$72.09	\$25.55	\$46.54	35.44%
EC	5	\$89.07	\$25.55	\$63.52	28.69%
EF	10	\$129.70	\$25.55	\$104.15	19.70%
Mo. Cost	37	\$2,584	\$945	\$1,639	
Ann. Cost		\$31,006	\$11,344	\$19,662	
<i>Composite Rate</i>		<i>\$69.83</i>	<i>\$25.55</i>	<i>\$44.28</i>	<i>36.59%</i>

Est. Total Mo. Cost **\$6,550** **\$3,015** **\$3,535**
 Est. Total Ann Cost **\$78,602** **\$36,179** **\$42,423**

ER/EE Percentage **46.0%** **54.0%**

Note: Calculations based on 24 pay periods.

2016 Delta Dental Renewal - Town will absorb the increase between renewal and MAC plan

Base Plan	EE's	Renewal Rates	Employer Contribution \$	2016 Employee Contribution \$	EE Bi-weekly Contribution \$	ER%	\$ Increase to EE
EE	39	\$32.45	\$32.45	\$0.00	\$0.00	100.00%	\$0.00
ES	12	\$68.77	\$34.44	\$34.33	\$17.17	50.08%	\$5.73
EC	15	\$78.13	\$34.96	\$43.17	\$21.59	44.75%	\$7.20
EF	15	\$118.30	\$37.17	\$81.13	\$40.57	31.42%	\$13.53
Mo. Cost	81	\$5,037	\$2,761	\$2,276	\$1,138		\$380
Ann. Cost		\$60,447	\$33,129	\$27,318	\$13,659		\$4,557
<i>Composite Rate</i>		<i>\$62.19</i>	<i>\$34.08</i>	<i>\$28.10</i>	<i>\$14.05</i>	<i>54.81%</i>	<i>\$4.69</i>

Buy Up Plan	EE's	Renewal Rates	Employer Contribution \$	2016 Employee Contribution \$	EE Bi-weekly Contribution \$	ER%	\$ Increase to EE
EE	18	\$39.03	\$32.81	\$6.22	\$3.11	84.06%	\$1.04
ES	4	\$91.55	\$35.69	\$55.86	\$27.93	38.98%	\$9.32
EC	5	\$113.12	\$36.88	\$76.24	\$38.12	32.60%	\$12.72
EF	10	\$164.72	\$39.72	\$125.00	\$62.50	24.11%	\$20.85
Mo. Cost	37	\$3,282	\$1,315	\$1,967	\$983		\$328
Ann. Cost		\$39,378	\$15,779	\$23,599	\$11,800		\$3,937
<i>Composite Rate</i>		<i>\$88.69</i>	<i>\$35.54</i>	<i>\$53.15</i>	<i>\$26.58</i>	<i>40.07%</i>	<i>\$8.87</i>

Est. Total Mo. Cost **\$8,319** **\$4,076** **\$4,243** **\$2,122**
 Est. Total Ann Cost **\$99,825** **\$48,908.64** **\$50,917** **\$25,458**

+/- from Current **\$21,224** **\$12,730** **\$8,494**
 % +/- from Current **27.00%** **35.19%** **20.02%**
 ER/EE Percentage **49.0%** **51.0%**





**BENEFIT PROGRAM APPLICATION ("BPA")
Blue Cross and Blue Shield of Texas (herein called BCBSTX/HMO)
STANDARDIZED MID-MARKET GROUP PLANS***

Account Status: New Existing with Changes

Off Cycle Change: Yes No Former BCBSTX ASO converting to fully insured

Account Number (6-digits): 149617 Group Number(s): _____ Section Number(s): _____

Contract Effective Date: 01/01/2016 Contract Anniversary Date: 01/01

Legal Account Name: TOWN OF PROSPER EMPLOYEE BENEFIT TRUST
(Specify the employer or the employee trust applying for coverage. An employee benefit plan may not be named)

<input checked="" type="checkbox"/> NO CHANGES	GROUP INFORMATION
---	--------------------------

Employer Identification Number ("EIN"): _____ SIC: _____ Nature of Business: _____

Primary (Mailing) Address: _____

City: _____ State: _____ Zip: _____

Administrative Contact: _____ Title: _____

Phone: _____ Fax: _____ Email: _____

Blue Access for Employers (BAE) Contact: _____
The BAE Contact is an employee of the account who is authorized by the employer to access and maintain the account in BAE.
Title: _____ Phone: _____ Fax: _____ Email: _____

Physical Address (if different from Primary - required): _____
City: _____ State: _____ Zip: _____ Contact: _____

Billing Address (if different from Primary): _____
City: _____ State: _____ Zip: _____ Billing Contact: _____
Title: _____ Phone: _____ Fax: _____ Email: _____

Do you cover any wholly-owned subsidiary or affiliated companies? Yes No If yes, please list below:

Subsidiary Companies: _____ Subsidiary Address: _____
City: _____ State: _____ Zip: _____ Contact: _____
Title: _____ Phone: _____ Fax: _____ Email: _____

Affiliated Companies: _____ Locations: _____

*Mid-Market Group Plans receive the same benefits as those required for large employer plans

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ERISA Regulated Group Health* Plan: Yes No

If Yes, is your ERISA Plan Year* a period of 12 months beginning on the Anniversary Date specified above? Yes No
If no, please specify your ERISA Plan Year: Beginning Date ___/___/___ End Date ___/___/___ (month/day/year)

ERISA Plan Administrator*: _____ Plan Administrator's Address: _____

If you maintain that ERISA is not applicable to your group health plan, please give legal reason for exemption:

- Federal Governmental plan (e.g., the government of the United States or agency of the United States)
- Non-Federal Governmental plan (e.g., the government of the State, an agency of the state, or the government of a political subdivision, such as a county or agency of the State)
- Church plan (complete and attach a Medical Loss Ratio Assurance form)
- Other; please specify: _____

Is your Non-ERISA Plan Year a period of 12 months beginning on the Anniversary Date specified above? Yes No
If no, please specify your Non-ERISA Plan Year: Beginning Date ___/___/___ End Date ___/___/___ (month/day/year)

For more information regarding ERISA, contact your Legal Advisor.

*All as defined by ERISA and/or other applicable law/regulations
*Mid-Market Group Plans receive the same benefits as those required for large employers

NO CHANGES **PRODUCER OF RECORD INFORMATION**

1. *Producer/Agency** name to whom commissions are to be paid: _____
 Producer Number of Producer or Agency: _____
 Street Address: _____ City: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Is Producer/Agency appointed with BCBSTX/HMO? Yes No Affiliated with General Agent? Yes No

2. *Producer/Agency** name to whom commissions are to be paid: _____
 Producer Number of Producer or Agency: _____
 Street Address: _____ City: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Is Producer/Agency appointed with BCBSTX/HMO? Yes No Affiliated with General Agent? Yes No
 If commission split, designate percentage for each Producer/Agency 1: _____% Producer/Agency 2: _____%
Note: total commissions paid must equal 100%

3. Writing Producer's Name (please print): _____
 Producer Number: _____ Phone: _____ Email: _____
 Writing Producer's Signature: _____ Date: _____

* The producer or agency name(s) above to whom commissions are to be paid must exactly match the name(s) on the appointment application(s).
** If commissions are split, please provide the information requested above on both producers/agencies. BOTH must be appointed to do business with BCBSTX/HMO.

4. General Agent (GA) Override? Yes No General Agent Name: _____
 Tax ID: _____ Agency #: _____ Email: _____
 Address: _____ City: _____ Zip: _____
 Health Override Amount (if applicable): _____ Dental Override Amount (if applicable): _____

If applicable, effective _____, the named producer(s) or agency(ies) is/are recognized as Employer's Producer of Record (POR), to act as representative in negotiations with and to receive commissions from Blue Cross and Blue Shield of Texas, a division of Health Care Service Corporation (HCSC), a Mutual Legal Reserve Company, and HCSC subsidiaries for employer's employee benefit programs. This statement rescinds any and all previous POR appointments for employer. The POR is authorized to perform membership transactions on behalf of employer. This appointment will remain in effect until withdrawn or superseded in writing by employer.

General Agent's Signature: _____ Date: _____

NO CHANGES**SCHEDULE OF ELIGIBILITY****1. Standard Eligibility Provisions:**

Eligible Employee/Subscriber means an employee who works on a full-time basis, who usually works at least 30 hours a week, and who otherwise meets the Participation Criteria established by an employer. The term includes a sole proprietor, a partner, and an independent contractor, if the individual is included as an employee under a Health Benefit Plan of a large employer regardless of the number of hours the sole proprietor, partner, or independent contractor works weekly, but only if the plan includes at least two other eligible employees who work on a full-time basis and who usually work at least 30 hours a week. Participation Criteria means any criteria or rules established by a large employer to determine the employees who are eligible for enrollment or continued enrollment under the terms of a Health Benefit Plan. The Participation Criteria may not be based on Health Status Related Factors.

(HMO only) The Eligible Subscriber must reside, live or work in the Service Area.

2. Other Eligibility Provisions (check all that apply):

Retiree of the employer

Other: _____

Are any classes of employees to be excluded from coverage? Yes No

If yes, please identify the classes and describe the exclusion: _____

Domestic Partners covered: Yes No

A Domestic Partner means a person with whom the employee has entered into a domestic partnership in accordance with the employer's plan guidelines. The employer is responsible for providing notice of possible tax implications to those covered employees with Domestic Partners.

Are Domestic Partners eligible for continued coverage equivalent to COBRA continuation? Yes No

- 3.** All current and new Employees must satisfy the substantive eligibility criteria and required waiting period in order for coverage to become effective. Covered Dependents do not have to satisfy a waiting period to become effective, but in no instance shall a Dependent be covered prior to the Employee's effective date.

What is the effective date for a newly eligible person who becomes effective after the employer's initial enrollment?

The _____ day (standard is 1st or 15th) of the month following the date of employment.

The _____ day (standard is 1st or 15th) of the month following _____ days (select 0, 30 or 60 days) of employment.

The _____ day (standard is 1st or 15th) of the month following _____ month(s) (select 1 or 2 months) of employment.

Substantive Eligibility Criteria:

Provide a representation below regarding the terms of any eligibility conditions (other than any applicable waiting period already reflected above) imposed before an individual is eligible to become covered under the terms of the plan. If any of these eligibility conditions change, you are required to submit a new BPA to reflect that new information.

Check all that apply:

An Orientation Period that:

- 1) Does not exceed one month (calculated by adding one calendar month and subtracting one calendar day from an employee's start date); and
- 2) If used in conjunction with a waiting period the waiting period begins on the first day after the orientation period.

A Cumulative hours of service requirement that does not exceed 1200 hours

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- An hours of service per period (or full-time status) requirement for which a Measurement period is used to determine the status of variable-hour employees, where the measurement period:
 - 1) Starts between the employee's date of hire and the first day of the following month;
 - 2) Does not exceed 12 months; and
 - 3) Taken together with other eligibility conditions does not result in coverage becoming effective later than 13 months from the employee's start date plus the number of days between a start date and the first day of the next calendar month (if start day is not the first day of the month).

Other substantive eligibility criteria not described above; please describe:

(HMO only) What is the effective date of coverage for a Newly Eligible Employee who becomes effective after the Employer's initial enrollment date?

- The 1st day of the month following the date of employment (date of hire).
- The 1st day of the month following _____ days (select 0, 30 or 60 days) of employment.
- The 1st day of the month following _____ month(s) (select 1 or 2 months) of employment.

4. Are there multiple new hire waiting periods? Yes No

If yes, attach eligibility and contribution details for each section.

Is the waiting period requirement to be waived on initial group enrollment?

Health Yes No N/A Dental Yes No N/A

5. **The minimum standard limiting age for covered Dependent children is twenty-six (26) years.** Hereafter, a Dependent child, child or children means a natural child, a stepchild, a medical support order child, an eligible foster child, an adopted child (including a child for whom the employee or their spouse is a party in a suit in which the adoption of the child is sought) regardless of presence or absence of a child's financial dependency, residency, student status, employment status, marital status, eligibility for other coverage or any combination of those factors. To be eligible for coverage, a child of an employee's child must also be dependent upon employee for federal income tax purposes at the time application for coverage is made.

NO CHANGES **CURRENT ELIGIBILITY INFORMATION**

Total number of Employees/Subscribers:

1. on payroll _____
2. on COBRA continuation coverage _____
3. with retiree coverage (if applicable) _____
4. who work part-time _____
5. serving the new hire waiting period _____
6. declining because of valid waivers including, but not limited to, other individual or group coverage, Medicare, Medicaid, TRICARE/Champus, Tribal, Risk Pool: _____

NO CHANGES**(HMO only) LEGISLATIVE ELECTIONS**

The following mandated benefit offers are made by HMO in compliance with Texas regulations. Please mark your acceptance or declination. Acceptance may result in a rate adjustment.

In Vitro Fertilization Services Authorized Company Official's Initials: _____

Accept – If accepted, benefits for In Vitro Fertilization Services will be provided to the same extent as benefits provided for other pregnancy related procedures.

Decline – If declined, no benefits are available

Speech and Hearing Services Authorized Company Official's Initials: _____

Accept – Benefits are paid same as any other illness

Decline – If declined, medically necessary speech therapy is covered on an outpatient basis only. Hearing aids are covered under Durable Medical Equipment Additional Benefit Option only.

Development Delay – Certain therapies for children with developmental delays are already included in the HMO plans.

 NO CHANGES**(Non-HMO only) LEGISLATIVE ELECTIONS**

The following mandated benefit offers are made in compliance with Texas regulations. The standardized Mid-Market PPO group insurance plans offered assume all benefit offers will be declined. Acceptance of either or both offers in this section will result in a rate adjustment, and will require that the employer apply for coverage as a large group plan.

In Vitro Fertilization Services: Benefits for Medical-Surgical Expense incurred for in vitro fertilization procedures will be the same as for maternity care, provided specific requirements are met.

Accept – If accepted, benefits for In Vitro Fertilization Services will be provided to the same extent as benefits provided for other pregnancy related procedures.

Decline – If declined, no benefits are available for these services.

Speech and Hearing Services: Benefits are available for the services of a physician or other provider to restore loss of or correct an impaired speech or hearing function. This benefit includes coverage for hearing aids.

Accept – If accepted, benefits are available for medically necessary services to restore loss of or correct an impaired speech or hearing function, with no benefit maximum on hearing aids.

Decline – If declined, benefits are available for medically necessary services to restore loss of or correct an impaired speech or hearing function; however, benefits for hearing aids are limited to a 1 hearing aid per ear every 36 months.

Development Delay – Certain therapies for children with developmental delays are already included in the Non-HMO plans.

NO CHANGES

LINES OF BUSINESS
(Check all applicable products)

Managed Health Care Coverage: Single Option:

Plan _____

HMO*

 Plan _____ Dual Option:

Plan 1 _____ Select Product

Plan 2 _____ Select Product

Additional Benefit Options:

 Inpatient Mental Health (IPMH): IM4 Durable Medical Equipment (DME): Select DME Triple Option:

Select three plans. All three may be HSA or HCA plans.
Only one HMO plan may be selected.

Plan 1 _____ Select Product

Plan 2 _____ Select Product

Plan 3 _____ Select Product

See HMO Legislative Elections for In-Vitro Fertilization and
Speech and Hearing Services options.

100% of eligible employees must reside, live or work in the
service area. The HMO service area includes all counties in
Texas.

If BlueEdge HCA Plans are selected, the appropriate HCA
BPA with HCA Administrative Services Agreement must be
completed, signed and submitted.

***If only HMO health plan selected, please complete the
HMO Non-Network Plan Certification (item 2) in the
OTHER PROVISIONS section of this BPA.**

If a BlueEdge HSA Plan is selected, provide name of HSA
administrator or trustee: _____

 BlueEdge FSA Vendor ConnectYourCare **Blue Directions** (Private Exchange)

If Blue Directions is selected, the Blue Directions Addendum is
attached and made part of the Policy.

 Multiple Option Product (MOP)

Select one PPO, HCA or HSA, and one HMO plan.

Plan 1 _____ Select Product

Plan 2 _____ Select Product

DENTAL BENEFIT PLANS:**Employer-Paid Dental** Plan _____ Dual Option: Plan 1 _____ Plan 2 _____**Voluntary Group Dental**

Plan _____

 Life & Disability (if checked, attach separate FDL application)

COMMENTS: Group is changing name to "TOWN OF PROSPER EMPLOYEE BENEFIT TRUST".

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NO CHANGES **ACCOUNT EXPERIENCE – NEW GROUPS ONLY**

Questions 1 & 2: use \$10,000 for 51-100 employees or \$20,000 for 100 or more employees.

- 1. Has any Participant received more than \$_____ in medical benefits during the last 12 months? Yes No
- 2. Is any Participant expected to have claims in excess of \$_____ during the next 12 months? Yes No
- 3. Is any Participant mentally or physically handicapped or disabled or not actively at work? Yes No
- 4. Has any Participant been diagnosed as having a high risk condition? Yes No

If any question is answered "yes," details must be provided below:

Participant Age	Diagnosis or Nature of the Disorder	Dates of Treatment	\$ Amount of Claims	Prognosis/Current Treatment

RATES

For the current year's premium and rate information, refer to the accepted finalized new group rates letter ("Letter") or the renewal exhibit ("Exhibit") for complete details. The Letter, or Exhibit, shall be incorporated by reference and made part of the BPA and Group Administration Document.

NO CHANGES **CONTRIBUTION**

STANDARD PREMIUM INFORMATION

- 1. Premium Period:
 - The first day of each calendar month through the last day of each calendar month.
 - The 15th day of each calendar month through the 14th day of the next calendar month.
- 2. The contribution of premium to be paid by the employer is:

PRODUCT	Employee Only	Employee/Child(ren)	Employee/Spouse	Employee/Family
HEALTH				
Plan 1	% or \$	% or \$	% or \$	% or \$
Plan 2	% or \$	% or \$	% or \$	% or \$
Plan 3	% or \$	% or \$	% or \$	% or \$
DENTAL	% or \$	% or \$	% or \$	% or \$
Plan 1	% or \$	% or \$	% or \$	% or \$
Plan 2	% or \$	% or \$	% or \$	% or \$

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- 3. Grace Period (**HMO only**): thirty (30) days – standard.
- 4. Prior written notification by BCBSTX/HMO to employer for change of premium rates is 60 days
- 5. Additional Information/Comments: _____

NO CHANGES **BILLING SPECIFICATIONS**

Employees Listed: alphabetically by location
 If by location, list locations including location numbers if applicable: _____

Sort by: Unique Identification Number (standard) Social Security Number

Billing format:
 (complete only if special billing requirements are needed.)

- Benefit Agreement
- Also Page Break
- Categories
- Multiple Billing Profiles

Explanation: _____

NO CHANGES **ID CARD DELIVERY**

Mail ID Cards to:
 Account
 Member's homes (standard)

NO CHANGES **OTHER PROVISIONS**

1. Electronic Issuance: The Employer consents to receive, via an electronic file or access to an electronic file, any Certificate Booklet provided by BCBSTX/HMO to the Employer for delivery to each Employee. The Employer further agrees that it is solely responsible for providing each Employee access to the most current version of any E-file Certificate Booklet, amendment, or other revised form provided by BCBSTX/HMO, or to provide a paper copy of the same to an Employee upon request or to an HMO subscriber who has not agreed to accept the certificate of coverage electronically. The Employer is solely responsible and holds BCBSTX/HMO harmless from any misuse of the E-file provided by BCBSTX/HMO.

- Accept – Employer consents to receive electronic versions of certificate-booklets for covered Employees.
- Decline – Employer does not consent to receive electronic versions of certificate-booklets for covered Employees or the Contract and desires BCBSTX/HMO to print and distribute hard copy versions.

Authorized Company Official's Initials: _____ Date: _____

2. (**HMO only**) HMO Non-Network Plan Certification:

The Texas Insurance Code mandates HMOs whose network based delivery system of coverage is the only health benefit coverage being offered under an employer's health benefit plan must offer all Eligible Subscribers the opportunity to obtain other health coverage through a non-network plan at the time of enrollment and at least annually.

The non-network coverage required by law may be provided through a point-of-service contract, a preferred provider benefit plan, or any coverage arrangement that allows an employee to access services outside the HMO's or limited provider network's delivery network. New and renewing groups who refuse to offer or certify that they offered a non-network plan concurrent with the HMO-only will not be allowed to purchase or renew coverage through BCBSTX/HMO. To comply with the provisions of this mandate, BCBSTX/HMO requests employer groups certify a non-network plan will be offered to Eligible Subscribers.

Describe Non-Network Product Offered: _____

Authorized Company Official's Initials: _____

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 an Independent Licensee of the Blue Cross and Blue Shield Association

3. This BPA is incorporated into and made a part of the Contract entered into and agreed upon by BCBSTX/HMO and the account.
4. Changes in state or federal law or regulations or interpretations thereof may change the terms and conditions of coverage.

ADDITIONAL PROVISIONS:

- A. Grandfathered Health Plans: Employer shall provide BCBSTX with written notice prior to renewal (and during the plan year, at least 60 days advance written notice) of any changes in its Contribution Rate Based on Cost of Coverage or Contribution Rate Based on a Formula towards the cost of any tier of coverage for any class of Similarly Situated Individuals as such terms are described in applicable regulations.** Any such changes (or failure to provide timely notice thereof) can result in retroactive and/or prospective changes by BCBSTX to the terms and conditions of coverage. In no event shall BCBSTX be responsible for any legal, tax or other ramifications related to any benefit package of any group health insurance coverage (each hereafter a “plan”) qualifying as a “grandfathered health plan” under the Affordable Care Act and applicable regulations or any representation regarding any plan’s past, present and future grandfathered status. The grandfathered health plan form (“Form”), if any, shall be incorporated by reference and part of the BPA and Group Policy, and Employer represents and warrants that such Form is true, complete and accurate. If Employer fails to timely provide BCBSTX with any requested grandfathered health plan information, BCBSTX may make retroactive and/or prospective changes to the terms and conditions of coverage, including changes for compliance with state or federal laws or regulations or interpretations thereof.
- B. Retiree Only Plans and/or Excepted Benefits:** If the BPA includes any retiree only plans and/or excepted benefits, then Employer represents and warrants that one or more such plans is not subject to some or all of the provisions of Part A (Individual and Group Market Reforms) of Title XXVII of the Public Health Service Act (and/or related provisions in the Internal Revenue Code and Employee Retirement Income Security Act) (an “exempt plan status”). Any determination that a plan does not have exempt plan status can result in retroactive and/or prospective changes by BCBSTX to the terms and conditions of coverage. In no event shall BCBSTX be responsible for any legal, tax or other ramifications related to any plan’s exempt plan status or any representation regarding any plan’s past, present and future exempt plan status.
- C.** Employer shall indemnify and hold harmless BCBSTX and its directors, officers and employees against any and all loss, liability, damages, fines, penalties, taxes, expenses (including attorneys’ fees and costs) or other costs or obligations resulting from or arising out of any claims, lawsuits, demands, governmental inquiries or actions, settlements or judgments brought or asserted against BCBSTX in connection with (a) any plan’s grandfathered health plan status, (b) any plan’s exempt plan status, (c) any directions, actions and interpretations of the Employer, and/or (d) any provision of inaccurate information. Changes in state or federal law or regulations or interpretations thereof may change the terms and conditions of coverage.

The provisions of paragraphs A-C (directly above) shall be in addition to (and do not take the place of) the other terms and conditions of coverage and/or administrative services between the parties.

ACA FEE NOTICE: ACA established a number of taxes and fees that will affect our customers and their benefit plans. Two of those fees are: (1) the Annual Fee on Health Insurers or “Health Insurer Fee”; and (2) the Transitional Reinsurance Program Contribution Fee or “Reinsurance Fee”. Both the Reinsurance Fee and Health Insurer Fee go into effect in 2014.

Section 9010(a) of ACA requires that “covered entities” providing health insurance (“health insurers”) pay an annual fee to the federal government, commonly referred to as the Health Insurer Fee. The amount of this fee for a given calendar year will be determined by the federal government and involves a formula based in part on a health insurer’s net premiums written with respect to health insurance on certain health risk during the preceding calendar year. This fee will go to help fund premium tax credits and cost-sharing subsidies offered to certain individuals who purchase coverage on health insurance exchanges.

In addition, ACA Section 1341 provides for the establishment of a temporary reinsurance program(s) (for a three (3) year period (2014-2016)) which will be funded by Reinsurance Fees collected from health insurance issuers and self-funded group health plans. Federal and state governments will provide information as to how these fees are calculated. Federal regulations establish a flat per member per month fee. The temporary reinsurance programs funded by these Reinsurance Fees will help stabilize premiums in the individual market

Your premium, which already accounts for current applicable federal and state taxes, includes the effects of the Health Insurer Fees and Reinsurance Fees. These rates may be adjusted on an annual basis for any incremental changes in Health Insurer Fees and Reinsurance Fees.

Notwithstanding anything in the Policy or Renewal(s) to the contrary, BCBSTX reserves the right to revise our charge for the cost of coverage (premium or other amounts) at any time if any local, state or federal legislation, regulation, rule or guidance (or amendment or clarification thereto) is enacted or becomes effective/implemented, which would require BCBSTX to pay, submit or forward, on its own behalf or on the Policyholder’s behalf, any additional tax, surcharge, fee, or other amount (all of which may be estimated, allocated or pro-rated amounts)..

Renewals Only: (For the purposes of this Contract, the term “existing BPA” includes, if applicable, the initial Schedule of Specifications and/or Group Agreement signed by the Employer, and any subsequent Schedules of Specifications and/or Group Agreements and amendments thereto.) If this BPA is blank, it is intentional and this BPA is an addendum to the existing BPA. In such case, all terms of the existing BPA as amended from time to time shall remain in force and effect. However, beginning with the Employer’s first renewal date on or after September 23, 2010, the provisions of paragraphs A-C (above) shall be part of (and be in addition to) the terms of the existing BPA as amended from time to time.

I UNDERSTAND AND AGREE THAT:

1. BCBSTX reserves the right to take any or all of the following actions:
 - a) Initial rates for new groups will be finalized for the effective date of the policy based on the enrolled participation and employer contribution levels; b) after the policy effective date the group will be required to maintain a minimum employer contribution of 50%, and at least a 75% participation of eligible employees. In the event the group is unable to maintain the contribution and participation requirements, then the rates will be adjusted accordingly; and/or c) non-renew or discontinue coverage if the 50% minimum employer contribution is not met and/or less than 75% of eligible employees are enrolled for coverage for six consecutive months.

BCBSTX reserves the right to change premium rates when a substantial change occurs in the number or composition of subscribers covered. A substantial change will be deemed to have occurred when the number of Employees/Subscribers covered changes by ten percent (10%) or more over a thirty (30) day period or twenty five percent (25%) or more over a ninety (90) day period.

Employer will promptly notify BCBSTX of any change in participation and Employer contribution.
2. Producer Statement (if applicable): I certify that I have reviewed all enrollment materials. I have also advised the employer that I have no authority to bind these coverages, to alter the terms of the Contract(s), this BPA or enrollment material in any manner or to adjust any claims for benefits under the Contract(s).
3. BCBSTX/HMO will report the value of all remuneration by BCBSTX/HMO to ERISA plans with 100 or more participants for use in preparation of ERISA Form 5500 schedules. Reporting will also be provided upon request to non-ERISA plans or plans with fewer than 100 participants. Reporting will include base commissions, bonuses, incentives, or other forms of remuneration for which your agent/consultant is eligible for the sale or renewal of self-funded and/or insured products.
4. The undersigned person represents that he/she is authorized and responsible for purchasing coverage on behalf of the employer. It is understood that the actual terms and conditions of coverage are those contained in the Contract into which this BPA shall be incorporated at the time of acceptance by BCBSTX/HMO. Upon acceptance, BCBSTX/HMO shall issue a Contract to the employer and the employer shall be referred to as the "Employer or Contractholder" (Non-HMO) and "Group" (HMO) in the Contract.
5. The Employer's Benefit Program Application must pre-date the requested effective date and be received at BCBSTX at its Home Office no less than thirty (30) days prior to the requested effective date.

Trina Marshall

 Authorized BCBSTX/HMO Representative

Account Executive

 Title

10/21/15

Date

 Signature of Authorized Purchaser

 Title

 Date

 Agent Representative (if applicable)

Division of Health Care Service Corporation, a Mutual Legal Reserve Company,
 an Independent Licensee of the Blue Cross and Blue Shield Association

PROXY

The undersigned hereby appoints the Board of Directors of Health Care Service Corporation, a Mutual Legal Reserve Company, or any successor thereof ("HCSC"), with full power of substitution, and such persons as the Board of Directors may designate by resolution, as the undersigned's proxy to act on behalf of the undersigned at all meetings of members of HCSC (and at all meetings of members of any successor of HCSC) and any adjournments thereof, with full power to vote on behalf of the undersigned on all matters that may come before any such meeting and any adjournment thereof. The annual meeting of members shall be held each year in the corporate headquarters on the last Tuesday of October at 12:30 p.m. Special meetings of members may be called pursuant to notice mailed to the member not less than 30 nor more than 60 days prior to such meetings. This proxy shall remain in effect until revoked in writing by the undersigned at least 20 days prior to any meeting of members or by attending and voting in person at any annual or special meeting of members.

Group No.: _____ **By:** _____

Print Signer's Name Here



Signature and Title

Group Name: _____

Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Dated this _____ day of _____
Month Year

Division of Health Care Service Corporation, a Mutual Legal Reserve Company,
an Independent Licensee of the Blue Cross and Blue Shield Association



BlueCross BlueShield of Texas

TEXAS DEPARTMENT OF INSURANCE REQUIRED DISCLOSURE NOTICE FOR ALL LARGE GROUP HMO CONSUMER CHOICE BENEFIT PLANS ISSUED IN TEXAS

As required by 28 TAC §21.3530, I have been informed that the Consumer Choice Health Benefit Plan that I am purchasing does not include all state mandated health insurance benefits. I understand that the following benefits are provided at a reduced level from what is mandated, or excluded completely from the plan.

Mandated Benefit Description	Benefit Reduced	Benefit Excluded
<p>Copayments Section 11.506(2)(A), Subchapter F, Title 28 Texas Insurance Code: A reasonable copayment option may not exceed 50 percent of the total cost of services provided. A basic service HMO may not impose copayment charges on any enrollee in any calendar year, when the copayments made by the enrolled in that calendar year total two hundred percent of the total annual premium cost which is required to be paid by or on behalf of that enrollee.</p>	<p>For some services and supplies, this plan may include cost-sharing that exceeds the limits imposed by the mandated.</p>	
<p>Deductibles Section 11.506(2)(B), Subchapter F, Title 28 Texas Insurance Code: A deductible shall be for specific dollar amount of the cost of the basic, limited or single health care service. An HMO shall charge a deductible only for services performed out of the HMO's service area or for services performed by a physician or provider who is not in the HMO's delivery network.</p>	<p>Deductibles may apply to some services provided by HMO Participating Providers in the HMO service area.</p> <p>Deductibles may apply to Professional Services, Inpatient Hospital Services, Outpatient Facility Services, Outpatient Lab and X-Ray Services, Rehabilitation Services, Maternity Care and Family Planning, Behavioral Health Services, Emergency and Ambulance Services, Extended Care Services, some Preventive Care Services, Dental Surgical Procedures, Cosmetic, Reconstructive or Plastic Surgery, Allergy Care, Diabetes Care, Prosthetic Appliances, Orthotic Devices, Durable Medical Equipment, Hearing Aids and Prescription Drugs.</p>	

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BlueCross BlueShield of Texas

This HMO Consumer Choice Health Benefit Plan may include requirements and/or restrictions on deductibles, coinsurance, copayments or annual or lifetime benefit amounts that differ from other HMO plans. I understand that I may obtain addition information on Consumer Choice Health Benefit Plans, either by visiting the TDI website at www.tdi.texas.gov/consumer/index.html, or by calling 1-800-252-3439.

Signature of Applicant

Name of Applicant (print name)

Name of Business (if applicable)

Address

City

State

Zip

Date

Note: This form must be retained by the carrier issuing the policy and must be provided to the Commissioner of Insurance upon request. **You have the right to a copy of this written disclosure free of charge.** A new form must be completed upon each subsequent renewal of this policy.

A Division of Health Care Service Corporation, a Mutual Legal Reserve Company,
an Independent Licensee of the Blue Cross and Blue Shield Association



October 22, 2015

Ms. Baby Raley
Town of Prosper
P. O. Box 307
Prosper, TX 75078

RE: Contract renewal for Town of Prosper
Group Number 44-17180

Dear Baby:

We appreciate your business and thank you for choosing Delta Dental Insurance Company (Delta Dental). Your employees are among the millions nationwide who trust their smiles to Delta Dental.

We are pleased to present you with your dental plan contract renewal information. We are committed to providing you with quality plan designs combined with excellent customer service.

When reviewing your dental plan, we considered cost factors related to your group’s dental service utilization and claims experience. Because of increases in one or both of these factors, we have determined that an increase in your current rate is necessary. We have made every attempt to keep this increase as low as possible.

We have calculated your rates based on the employer/employee contribution levels in your contract remaining the same. If the contribution levels and/or enrollment guidelines have changed or will change, please notify us immediately, as such a change may affect your renewal rate.

The rates for the renewal contract period are:

Basic Plan

Effective date	January 1, 2016	
Contract term	January 1, 2016 – December 31, 2017	
	Current rates	Renewal rates
Employee	\$25.55	\$ 32.45
Employee & Spouse	\$54.15	\$ 68.77
Employee & Child(ren)	\$61.52	\$ 78.13
Employee & Family	\$93.15	\$118.30

October 22, 2015
Group Number 44-17180

Buy Up Plan

Effective date	January 1, 2016	
Contract term	January 1, 2016 – December 31, 2017	
	Current rates	Renewal rates
Employee	\$ 30.73	\$ 39.03
Employee & Spouse	\$ 72.09	\$ 91.55
Employee & Child(ren)	\$ 89.07	\$113.12
Employee & Family	\$ 129.70	\$164.72

Please keep this renewal letter with your contract documents. It serves as an amendment to your Delta Dental contracts for the rates and contract term.

To renew your dental plan contract, please follow these steps:

- 1) Review this letter for changes to your dental plan for 2016.
- 2) Begin paying the rates outlined in this letter with your new contract term.

If you choose not to renew your contract, please notify Tammy Adams at 800-775-0523 ext. 3043 and advise us in writing.

If you have any questions about your renewal, your account manager will be happy to help. We appreciate your continued confidence in Delta Dental. We are proud of our association with you and look forward to a long and mutually successful relationship.

Sincerely,

Delta Dental Insurance Company



Melissa Fullerton
Vice President, Western Region

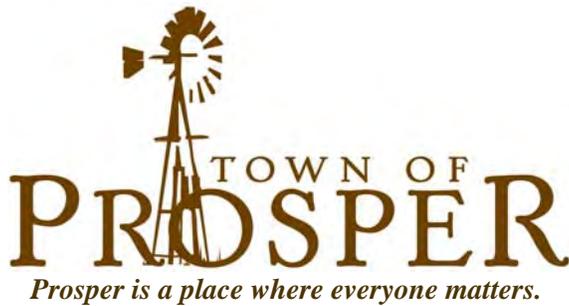


Tammy Adams
Account Manager

c: Cristina Palacios

Accepted and agreed to on this 27th day of October 2015.

Town Manager



ENGINEERING

To: Mayor and Town Council

From: Matt Richardson, P. E., Senior Engineer

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon awarding Bid No. 2015-40-B to Tiseo Paving Co. related to construction services for the Coleman Street Improvements (Victory Way to SH 289) project; and authorizing the Town Manager to execute a construction agreement for same.

Description of Agenda Item:

On May 14, 2015, at 2:00 PM, five bids were opened for the Coleman Street Improvements (Victory Way to SH 289) project. The verified base bid totals from the bidders ranged between \$1,182,935.45 and \$1,493,224.00 with Tiseo Paving Co. being the lowest bidder. Tiseo has recently completed the Coleman Street (Prosper Trail to Talon Lane) project.

This contract will construct a new two-lane urban concrete roadway consisting of the two northern lanes of an ultimate four-lane minor arterial, plus the construction of the southern lanes and a left turn lane at the intersection with Preston Road, and a southbound right turn lane on Preston Road. Construction of box culverts and other drainage improvements are also included within this project.

The contract specifies a substantial completion time of 90 calendar days, or three months. Staff anticipates issuing a notice to proceed on this contract effective early January, which would result in a substantial completion date in early April. Once complete, staff will coordinate with Prosper ISD regarding opening of the roadway since it will provide a new access point to Prosper High School. A school zone flasher and related equipment for this new roadway has already been installed east of Prosper High School in anticipation of this project.

An analysis of the franchised utilities within the project limits, especially at the intersection with Preston Road, has determined that no utilities are in conflict with the proposed roadway improvements. The Town has filed a petition for eminent domain of one right-of-way parcel and two drainage easement parcels associated with this project. Possession of these parcels is expected to occur no later than mid-December. It is anticipated that the contractor will not begin construction until after the new year because of upcoming holidays.

Budget Impact:

The 2015-2016 Capital Improvement Program includes \$4,400,000 in funding for Coleman Street between Prosper Trail and Preston Road. This amount includes all engineering, land acquisition, and construction services for both phases of the project (Prosper Trail to Talon Lane and Victory Way to Preston Road). The funding sources include drainage bonds, roadway and water impact fees, developer escrows, and Collin County bond funding.

Legal Obligations and Review:

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

Attached Documents:

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

Town Staff Recommendation:

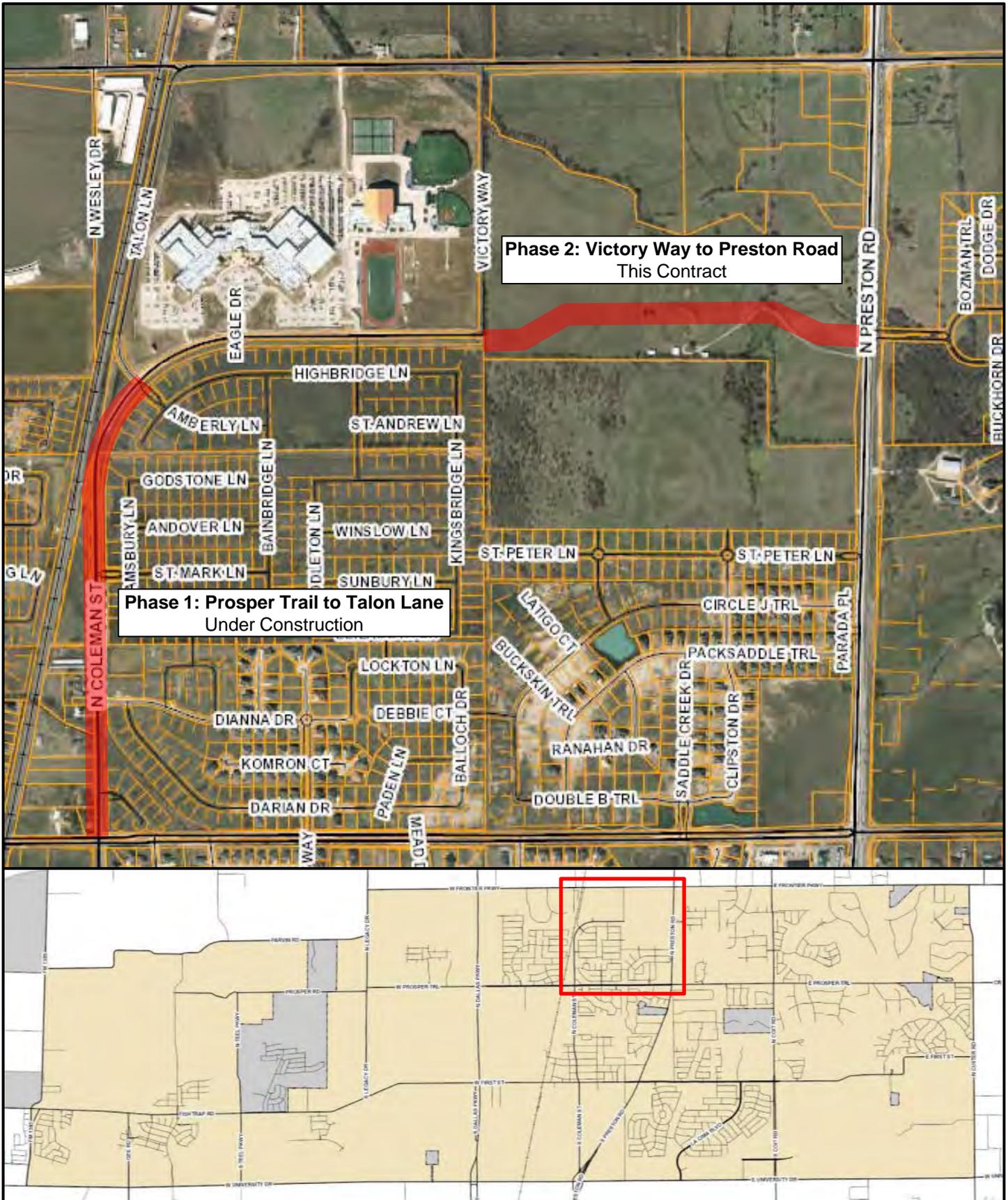
Town staff recommends that the Town Council award Bid No. 2015-40-B to Tiseo Paving Co. related to construction services for the Coleman Street Improvements (Victory Way to SH 289) project; and authorize the Town Manager to execute a construction agreement for same.

Proposed Motion:

I move to award Bid No. 2015-40-B to Tiseo Paving Co. related to construction services for the Coleman Street Improvements (Victory Way to SH 289) project; and authorize the Town Manager to execute a construction agreement for same.



Coleman Street Improvements (Prosper Trail to Preston Road)





Town of Prosper Bid Tabulation

Bid No:	2015-40-B Coleman Street Improvements - Victory Lane to SH 289	
Bid Opening:	5/14/15 at 2:00 PM	
		Base Bid
Tiseo Paving Company	\$	1,182,935.45
Mario Sinacola & Sons Excavating, Inc.	\$	1,226,115.27
McMahon Contracting, LP	\$	1,328,924.46
Pavecon Public Works LP	\$	1,452,359.30
Felix Associates of Florida, Inc., dba Lone Star Civil Construction, Inc.	\$	1,493,224.00
<p>**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.</p>		
Certified By:	January M. Cook, CPPO, CPPB Purchasing Agent Town of Prosper, Texas	Date: 5/14/2015

CONTRACT DOCUMENTS AND SPECIFICATIONS
FOR
COLEMAN STREET IMPROVEMENTS
VICTORY WAY TO SH 289
TOWN BID NO. 2015-40-B



TOWN OF PROSPER
COLLIN COUNTY, TEXAS

TOWN OFFICIALS

Ray Smith, Mayor
Meigs Miller, Mayor Pro-Tem
Kenneth Dugger, Deputy Mayor Pro-Tem
Michael Korbuly, Place 1
Curry Vogelsang Jr., Place 3
Mike Davis, Place 5
Jason Dixon, Place 6

Harlan Jefferson, Town Manager

ENGINEER

Kimley»Horn

L. Nathan Ante, P.E.
2201 W. Royal Lane, Suite 275
Irving, TX 75063
Phone: (214) 420-5603
State of Texas Registration No. F-928



TABLE OF CONTENTS

TABLE OF CONTENTS	1
LEGAL NOTICE	2
INSTRUCTIONS TO BIDDERS	3
BID PROPOSAL FORM	4
BID BOND	15
OUT-OF-STATE CONTRACTOR COMPLIANCE TO STATE LAW	17
CONSTRUCTION AGREEMENT	18
PERFORMANCE BOND	31
PAYMENT BOND	34
MAINTENANCE BOND	37
GENERAL CONDITIONS	40
SPECIAL CONDITIONS	57
APPENDIX	66
A1 - GEOTECHNICAL REPORT	
A2 - PROJECT INFORMATION SIGN	

LEGAL NOTICE

The Town of Prosper is accepting sealed bids for **Coleman Street Improvements, Town Bid No. 2015-40-B**. Bids will be accepted until **2:00 p.m. on Thursday, May 14, 2015** at the Town Hall Annex, 151 S. Main St., Prosper, Texas 75078. Any bids received after this time will not be accepted, and will be returned unopened. Bids will be publicly opened and read aloud at the Town Hall Annex, 151 S. Main St., Prosper, Texas 75078 immediately following this time.

The Project consists of furnishing all labor, equipment and materials (except as otherwise specified), and performing all work necessary for the construction of approximately 2,700-lf of 2-lane concrete curb and gutter roadway with internal storm drain (including culvert crossings and headwalls). The project also includes a southbound right-turn lane on SH 289.

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

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

Copies of Plans, Specifications, and Contract Documents may be examined at the Town of Prosper Engineering Department, 407 E. First Street, Prosper, Texas, (972) 569-1097 without charge. These documents may be acquired from Kimley-Horn and Associates, Inc., 2201 W. Royal Lane, Suite 275, Irving, TX 75063 for the non-refundable purchase price of \$100.00 per set, payable to Kimley-Horn and Associates, Inc. Copies of Plans, Specifications, and Contract Documents may also be downloaded free of charge from Current Bidding Opportunities, at the following link: <http://www.prospertx.gov/Purchasing.aspx>.

Questions and requests for clarifications in regards to this bid should be emailed directly to January Cook, CPPO, CPPB, Purchasing Agent, at january_cook@prospertx.gov. May 7, 2015, at 12:00 p.m. will be the deadline for receipt of questions and requests for clarifications. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.

INSTRUCTIONS TO BIDDERS

1. **Submittal Deadline:** Bids will be accepted until 2:00 PM on Thursday, May 14, 2015.
2. **Submittal Location:** Bids will be accepted at the Town Hall Annex, 151 S. Main St., Prosper, Texas 75078.
3. **Submittal Requirements:** Each Bidder shall submit two (2) copies of their bid, along with their bid security and Out of State Contractor Compliance (if necessary), in a sealed envelope clearly marked with their name and **Town Bid No. 2015-40-B, Coleman Street Improvements – Victory Way to SH 289.**
4. **Bid Opening:** Bids will be publicly opened and read aloud at the Town Hall Annex, 151 S. Main St., Prosper, Texas 75078 immediately following the bid deadline.
5. **Bidding Documents:** Copies of Plans, Specifications, and Contract Documents may be examined without charge or obtained for the non-refundable purchase price of \$100 per set at the following location:

Kimley-Horn and Associates, Inc.
Attn: L. Nathan Ante, P.E., Project Engineer
2201 West Royal Lane, Suite 275
Irving, TX 75063
Phone: (214) 420-5603
nathan.ante@kimley-horn.com

or

Download free of charge from Current Bidding Opportunities, at the following link:
<http://www.prospertx.gov/Purchasing.aspx>

6. **Requests for Clarification:** All formal inquiries and requests for clarification should be made to the Town of Prosper Purchasing Agent no later than May 7, 2015, at 12:00 p.m.

Town of Prosper Purchasing Department
Attn: January Cook, CPPO, CPPB, Purchasing Agent
Town Hall Annex
151 S. Main St.
Prosper, Texas 75078
Phone: 972.569.1018
january_cook@prospertx.gov

7. **Addenda:** If it becomes necessary to provide additional information to potential Bidders, the Town of Prosper will issue an addendum containing the necessary information. It is the intent of the Town that any addenda will be issued by 2:00 p.m. on May 12, 2015.
8. **Pre-Bid Meeting:** A pre-bid meeting **will not** be held for this project.

BID PROPOSAL FORM

**Coleman Street Improvements
Town Bid No. 2015-40-B**

BIDDER: _____

ADDRESS: _____

PHONE: _____

PRIMARY CONTACT: _____

PLEASE SUBMIT THREE (3) COPIES OF YOUR BID. ANY BID RECEIVED WITHOUT THE THREE (3) COPIES WILL BE CONSIDERED NONRESPONSIVE.

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those terms and conditions dealing with the disposition of Bid guaranty. This Bid will remain subject to acceptance for 90 calendar days after the day of opening Bids. Bidder will sign and submit the Agreement with the Bonds and other documents required by the Contract Documents within ten (10) calendar days after the date of Owner's Notice of Award.
3. The right is reserved, as the interest of the Owner may require, to reject any and all Bids and to waive any informality in the Bids received.
4. In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:
5. Bidder has examined copies of all the Contract Documents and of the following Addenda (receipt of which is hereby acknowledged):

Number	Dated	Received
No. 1	_____	_____
No. 2	_____	_____
No. 3	_____	_____
No. 4	_____	_____

6. Bidder has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

7. Bidder has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies that pertain to the subsurface or physical conditions at the site or which otherwise may affect the cost, progress, performance or furnishing of the Work as Bidder considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by Bidder for such purposes.
8. Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said Underground Facilities are or will be required by the Bidder in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
9. Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
10. Bidder has given Engineer written notice of all conflicts, errors or discrepancies that it has discovered, if any, in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder.
11. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from submitting a Bid; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.
12. Bidder shall substantially complete the Work for the price(s) shown in the following schedule of bid items within **90** calendar days and shall address all outstanding issues and be ready for final payment within 30 additional calendar days of substantial completion.

NOTE: Bidder may substitute a computer printout for this bid schedule provided the computer printout contains identical item numbers, quantities, and descriptions to those provided in this bid schedule. In case of ambiguity or lack of clearness in stating prices in this Bid, the Owner reserves the right to accept the most advantageous construction thereof to the Owner or to reject the bid.

BID FORM

Item No.	Spec. Item	Name of Pay Item with Unit Price in Words	Bid Quantity	Unit	Unit Bid Price	Amount Bid
BASE BID						
1		MOBILIZATION	1	LS		
	SC.05	Complete in Place, for the Sum of				
		_____ Dollars and				
		_____ Cents per unit			\$	\$
2		GENERAL SITE PREPARATION (ALL REMOVALS)	1	LS		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	203.3	_____ Dollars and				
		_____ Cents per unit			\$	\$
3		BARRICADES, SIGNS, AND TRAFFIC HANDLING (WITH CLOSURES)	1	LS		
	SC.05	Complete in Place, for the Sum of				
		_____ Dollars and				
		_____ Cents per unit			\$	\$
4		STORM WATER POLLUTION PREVENTION PLAN	1	LS		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	201	_____ Dollars and				
		_____ Cents per unit			\$	\$
5		SILT FENCE (INSTALL/MAINTAIN/REMOVE)	3,470	LF		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	201.5	_____ Dollars and				
		_____ Cents per unit			\$	\$
6		INLET PROTECTION	15	EA		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	201.14	_____ Dollars and				
		_____ Cents per unit			\$	\$
7		ROCK CHECK DAM	2	EA		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	201.9	_____ Dollars and				
		_____ Cents per unit			\$	\$
8		UNCLASSIFIED STREET EXCAVATION	10,932	CY		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	203.4	_____ Dollars and				
		_____ Cents per unit			\$	\$
9		BORROW/EMBANKMENT	11,052	CY		
	SC.05	Complete in Place, for the Sum of				
	NCTCOG					
	203.7	_____ Dollars and				
		_____ Cents per unit			\$	\$
10		8" LIME STABILIZED SUBGRADE @ 8%, APPROX 48#/SY	10,040	SY		
	NCTCOG	Complete in Place, for the Sum of				
	301	_____ Dollars and				
		_____ Cents per unit			\$	\$
11		HYDRATED LIME	241	TON		
	NCTCOG	Complete in Place, for the Sum of				
	301.2	_____ Dollars and				
		_____ Cents per unit			\$	\$

BID FORM

Item No.	Spec. Item	Name of Pay Item with Unit Price in Words	Bid Quantity	Unit	Unit Bid Price	Amount Bid
BASE BID						
12		8" REINF CONC PVMT W/ 6" MONO CURB (4,000 PSI)	8,614	SY		
	NCTCOG 303	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
13		8" REINF CONC PVMT W/ TXDOT TY II CURB (4,000 PSI) (TxDOT)	660	SY		
	TxDOT 360	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
14		REINFORCED CONCRETE STREET HEADER	50	LF		
	NCTCOG 305.4	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
15		6" HMAC (TY B) (TRANSITION)	62	TON		
	NCTCOG 302.9	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
16		2" HMAC (TY D) (TRANSITION)	21	TON		
	NCTCOG 302.9	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
17		4" HMAC (TY B) (TxDOT)	162	TON		
	TxDOT 316	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
18		CONDUIT (PVC) (SCHD 40) (4") FOR FUTURE SIGNAL	90	LF		
	TxDOT 618	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
19		PROJECT SIGN	2	EA		
	SC.05	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
20		REFLECTIVE PAVEMENT MARKINGS, TYPE I (WHITE), 4" SOLID	730	LF		
	SC.05 TxDOT 666	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
21		REFLECTIVE PAVEMENT MARKINGS, TYPE I (WHITE), 8" SOLID	575	LF		
	SC.05 TxDOT 666	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
22		REFLECTIVE PAVEMENT MARKINGS, TYPE I (WHITE), 24" SOLID	36	LF		
	SC.05 TxDOT 666	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$

BID FORM

Item No.	Spec. Item	Name of Pay Item with Unit Price in Words	Bid Quantity	Unit	Unit Bid Price	Amount Bid
BASE BID						
23		REFLECTIVE PAVEMENT MARKINGS, TYPE I (WHITE) ARROW	7	EA		
	SC.05 TxDOT 666	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
24		REFLECTIVE PAVEMENT MARKINGS, TYPE I (WHITE) WORD	2	EA		
	SC.05 TxDOT 666	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
25		REFLECTIVE PAVEMENT MARKINGS, TYPE I (YELLOW), 4" SOLID	5,000	LF		
	SC.05 TxDOT 666	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
26		REFLECTIVE PAVEMENT MARKINGS, TYPE I (YELLOW), 12" SOLID	94	LF		
	SC.05 TxDOT 666	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
27		TYPE II-A-A 4" RAISED REFLECTORIZED PAVEMENT MARKER	115	EA		
	SC.05 TxDOT 666	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
28		TYPE II-C-R 4" RAISED REFLECTORIZED PAVEMENT MARKER	2	EA		
	SC.05 TxDOT 672	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
29		FURNISH AND INSTALL NEW SIGN AND SIGN POST ASSEMBLY	8	EA		
	SC.05	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
30		METAL W-BEAM GUARD FENCE GF(31)-14 (TxDOT)	60	LF		
	SC.05 TxDOT 540	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
31		GUARDRAIL END TREATMENT SGT(7)31-11 (TxDOT)	2	EA		
	SC.05 TxDOT 544	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
32		BARBED WIRE FENCE W/STEEL POSTS	330	LF		
	TxDOT 552	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				
33		TY III BARRICADE	1	EA		
	PLANS	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit				

BID FORM

Item 10

Item No.	Spec. Item	Name of Pay Item with Unit Price in Words	Bid Quantity	Unit	Unit Bid Price	Amount Bid
BASE BID						
34		SOD (BERMUDA) WITH 4" TOPSOIL	1,219	SY		
	SC.05 NCTCOG 202	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
35		BROADCAST SEEDING WITH 4" TOPSOIL	1,393	SY		
	SC.05 NCTCOG 202	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
36		18" RCP CLASS III	890	LF		
	NCTCOG 508	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
37		24" RCP CLASS III	626	LF		
	NCTCOG 508	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
38		30" RCP CLASS III	84	LF		
	NCTCOG 508	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
39		7'X3' RCB	119	LF		
	TxDOT 462	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
40		8'X7' RCB	32	LF		
	TxDOT 462	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
41		HEADWALL FW-0	1	EA		
	TxDOT 466	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
42		HEADWALL WITH FORMLINER (AT POND)	1	EA		
	SC.05 TxDOT 466	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
43		HEADWALL WITH FORMLINER (AT CULVERT EXTENSION)	1	EA		
	SC.05 TxDOT 466	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$
44		COMBINATION RAIL WITH FORMLINER	81	LF		
	SC.05 TxDOT 450	Complete in Place, for the Sum of _____ Dollars and _____ Cents per unit			\$	\$

BID FORM

Item 10

Item No.	Spec. Item	Name of Pay Item with Unit Price in Words	Bid Quantity	Unit	Unit Bid Price	Amount Bid
BASE BID						
45		10' RECESSED CURB INLET	1	EA		
	NCTCOG 702	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
46		15' RECESSED CURB INLET	4	EA		
	NCTCOG 702	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
47		20' RECESSED CURB INLET	1	EA		
	NCTCOG 702	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
48		10' CURB INLET - TXDOT TYPE CI(1)-02 (DAL)	3	EA		
	TxDOT 465	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
49		2' X 2' DROP INLET WITH 4' CONCRETE APRON	2	EA		
	NCTCOG 702	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
50		8' X 8' JUNCTION BOX W/MH RISER	1	EA		
	TxDOT 465	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
51		4' X 4' STORM WATER MANHOLE	1	EA		
	NCTCOG 702	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
52		CONVERT EXISTING DROP INLET TO JUNCTION BOX	1	EA		
	SC.05 TxDOT 465	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
53		CONVERT EXISTING CURB INLET TO JUNCTION BOX	3	EA		
	SC.05 TxDOT 465	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
54		RIPRAP (6" CONC)	52	CY		
	NCTCOG 803	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
55		RIPRAP TYPE R (DRY) (TXDOT)	45	CY		
	TxDOT 432	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$

BID FORM

Item 10

Item No.	Spec. Item	Name of Pay Item with Unit Price in Words	Bid Quantity	Unit	Unit Bid Price	Amount Bid
BASE BID						
56		TRENCH SAFETY - STORM	1,751	LF		
	NCTCOG 107.19.3	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$
57		ADJUST SSMH TO PROP GRADE	1	EA		
	NCTCOG 502.1	Complete in Place, for the Sum of				
		Dollars and				
		Cents per unit			\$	\$

TOTAL BASE BID

_____ (Total Base Bid, Numerical Value)

_____ Dollars
 and _____ Cents
 _____ (Total Base Bid, in Words)

***The Owner reserves the right to delete any bid items or portions thereof. If the Owner elects to delete any portions of the PROJECT from the contract, then the contract can be awarded on that basis.**

13. Bidder hereby agrees to commence work within ten (10) days after the date written Notice to Proceed shall have been given to him, and to substantially complete the work on which he has bid within 90 calendar days as part of this Proposal and shall address all outstanding issues and be ready for final payment within 30 additional calendar days of substantial completion. All such time restrictions are subject to such extensions of time as are provided by the General Provisions and Special Conditions.
14. Bidder agrees that the implementation of the Owner's right to delete any portion of the improvements shall not be considered as waiving or invalidating any conditions or provisions of the contract or bonds. Bidder shall perform the Work as altered and no allowances shall be made for anticipated profits.
15. Since the Work on this Project is being performed for a governmental body and function, the Owner will issue to the Contractor a certificate of exemption for payment for the State Sales TAX on materials incorporated into this Project if requested.
16. Each bidder shall include the following information in this Bid:

	<u>Cost of Materials</u>	<u>Cost of Labor, Profit, etc.</u>	<u>Total Amount Of Bid</u>
Base Bid	\$ _____	\$ _____	\$ _____
Additive Bid	\$ _____	\$ _____	\$ _____

17. Each Bidder shall include a list of proposed subcontractors, the type of work to be completed by each such subcontractor and the approximate percentage of contract labor to be completed by each subcontractor. If additional space is necessary to provide a complete listing, please attach such additional pages as may be required. Owner reserves the right to accept or reject any subcontracts and/or amount subcontracted that it deems to be objectionable.

	<u>Subcontractor's Name</u>	<u>Type of Work</u>	<u>% of Work</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____

Total % of Work Subcontracted: _____

18. Each Bidder shall include a list of proposed suppliers of major materials and equipment to be furnished and installed in connection with this Bid. If additional space is necessary to provide a complete listing, please attach such additional pages as may be required.

<u>Supplier's Name</u>	<u>Type of Material / Equipment</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

19. In the event of the award of a contract to the undersigned, the undersigned will furnish Performance and Payment Bonds for the full amount of the contract, to secure proper compliance with the terms and provisions of the contract with sureties offered by _____ to insure and guarantee the work until final completion and acceptance, and to guarantee payment of all lawful claims for labor performed and materials furnished in the fulfillment of the contract. In addition, the undersigned will furnish a Maintenance Bond in the amount of 10% of the contract sum covering defects of material and workmanship for two calendar years following the Owner's approval and acceptance of the construction.

20. The work, proposed to be done, shall be accepted when fully completed in accordance with the plans and specifications, to the satisfaction of the Engineer and the Owner.

21. The undersigned certifies that the bid prices contained in this Bid have been carefully checked and are submitted as correct and final.

This is a Bid of _____, a corporation organized and existing under the laws of the State of _____, or a limited partnership organized and existing under the laws of the State of _____, or a partnership, consisting of _____ or an Individual doing business as _____.

Seal and Authorization
(If a Corporation)

(Signed)

(Title)

(Street Address)

(Town and State)

(Telephone Number)

(Date)

BID BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____, 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 referred to as "Owner," in the penal sum of \$_____ as the proper measure of liquidated damages arising out of or connected with the submission of a Bid Proposal for the construction of a public work project, in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. The condition of the above obligation is such that whereas the Principal has submitted to Owner a certain Bid Proposal, attached hereto and hereby made a part hereof, to enter into a contract in writing, for the construction of:

**COLEMAN STREET IMPROVEMENTS
TOWN BID NO. 2015-40-B**

NOW, THEREFORE, if the Principal's Proposal shall be rejected or, in the alternative, if the Principal's Proposal shall be accepted and the Principal shall execute and deliver a contract in the form of the Contract attached hereto (properly completed in accordance with said Proposal) and shall furnish performance, payment and maintenance bonds required by the Contract Documents for the Project and provide proof of all required insurance coverages for the Project and shall in all other respects perform the agreement created by the acceptance of said Proposal, then this obligation shall be void, otherwise the same shall remain in force and affect; it being expressly understood and agreed that the liability of the Surety for any breach of condition hereunder shall be in the face amount of this bond and forfeited as a proper measure of liquidated damages.

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

AND PROVIDED FURTHER, the Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Proposal; and said Surety does hereby waive notice of any such extension.

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

IN WITNESS WHEREOF, this instrument is executed in _____ copies, each one of which shall be deemed an original, this, the _____ day of _____, 20____.

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

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: If Resident Agent is not a corporation, give a person's name.

OUT-OF-STATE CONTRACTOR COMPLIANCE TO STATE LAW

Texas Government Code §2252.002 provides that, in order to be awarded a contract as low bidder, a non-resident bidder (out-of-state contractor whose corporate office or principal place of business is outside the State of Texas) bid projects in Texas at an amount lower than the lowest Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a non-resident bidder in order to obtain a comparable contract in the state in which the non-resident's principal place of business is located. The appropriate blanks in the following statement must be filled out by all out-of-state or non-resident bidders in order for those bids to meet specifications. (This information may be obtained from the Texas Register.) The failure of out-of-state or non-resident contractors to do so will automatically disqualify that bidder.

Non-resident contractor in _____ (give state), our principal place of business, is required to be _____ percent lower than resident bidders by State Law. The exact language of the statute is set out below.

Non-resident contractor in _____ (give state), our principal place of business, is not required to underbid resident bidders.

BIDDER

Company

By _____
(Please Print)

Address

Signature

City State Zip

Title (Please Print)

“Tex. Gov’t Code Sec. 2252.002. AWARD OF CONTRACT TO NONRESIDENT BIDDER. A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.”

CONSTRUCTION AGREEMENT

THE STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS:

This Construction Agreement (the "Agreement") is made by and between _____, a _____, (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:

**COLEMAN STREET IMPROVEMENTS
TOWN BID NO. 2015-40-B**

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 Bid Proposal;
10. any listed and numbered addenda;
11. the Performance, Payment, and Maintenance Bonds; and,
12. any other bid materials distributed by the Owner that relate to the Project.

These Contract Documents are incorporated by reference into this Construction Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided, however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the project.

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed _____ **Dollars and _____ Cents (\$X)**. 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 **90** calendar days after the date of the Notice to Proceed for the base bid and shall address all outstanding issues and be ready for final payment within 30 additional calendar days of substantial completion.

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

1. Before commencing work, the Contractor shall, at its own expense, procure, pay for and maintain the following insurance coverage written by companies approved by the State of Texas and acceptable to the Town of Prosper. The Contractor shall furnish to the Town of Prosper Purchasing Agent certificates of insurance executed by the insurer or its authorized agent stating the type of coverages, limits of each such coverage, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

Coleman Street Improvements
Victory Way to SH 289
Town Bid No. 2015-40-B
Town of Prosper
Attn: Purchasing Agent
121 W. Broadway
Prosper, Texas 75078

- (a) Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$2,000,000 general aggregate. If high risk or dangerous activities are included in the Work, explosion, collapse and underground (XCU) coverage is also required. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
 - (b) Workers’ Compensation insurance with statutory limits; and Employers’ Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
 - (c) Umbrella or Excess Liability insurance with minimum limits of \$2,000,000 each occurrence and annual aggregate for bodily injury and property damage, that follows form and applies in excess of the above indicated primary coverage in subparagraphs a and b. The total limits required may be satisfied by any combination of primary, excess or umbrella liability insurance provided all policies comply with all requirements. The Contractor may maintain reasonable deductibles, subject to approval by the Owner.
2. With reference to the foregoing required insurance, the Contractor shall endorse applicable insurance policies as follows:

- (a) A waiver of subrogation in favor of Town of Prosper, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
 - (b) The Town of Prosper, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader. (Please note that this "additional insured" coverage requirement 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.)
 - (c) All insurance policies shall be endorsed to the effect that Town of Prosper will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or material change of the policies.
3. All insurance shall be purchased from an insurance company that meets a financial rating of "A" or better as assigned by the A.M. BEST Company or equivalent.
 4. With respect to Workers' Compensation insurance, the Contractor agrees to comply with all applicable provisions of 28 Tex. Admin Code § 110.110, "Reporting Requirements for Building or Construction Projects for Governmental Entities," as such provision may be amended, and as set forth in Paragraph F following.

F. Workers' Compensation Insurance Coverage

1. Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

2. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
3. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
4. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
5. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (a) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (b) no later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
6. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
7. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
8. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
9. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (b) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided

for all employees of the person providing services on the project, for the duration of the project;

- (c) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (d) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (1) a certificate of coverage, prior to the other person beginning work on the project; and
 - (2) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (e) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (f) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (g) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
10. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
11. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

G. Performance, Payment and Maintenance Bonds

The Contractor shall procure and pay for performance and payment bonds applicable to the work in the amount of the total bid price. The Contractor shall also procure and pay for a maintenance bond applicable to the work in the amount of ten percent (10%) of the total bid price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in this Construction Agreement. The performance, payment and maintenance bonds shall be issued in the form attached to this Construction Agreement as Exhibits B, C and D. Other performance, payment and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

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

H. Progress Payments and Retainage

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

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

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

4. any other documents required under the Contract Documents.

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

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

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

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

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

I. 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.

J. 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.

K. 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.

L. 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.

M. 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.

N. 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.

O. Other Items

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

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

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

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

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

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

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

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

TOWN OF PROSPER, TEXAS

CONTRACTOR

By: _____

Title: _____

Date: _____

Address: _____

Phone: _____

Fax: _____

By: HARLAN JEFFERSON

Title: Town Manager

Date: _____

Address: 121 W. Broadway
Prosper, Texas 75078

Phone: (972) 346 - 2640

Fax: (972) 569 - 9335

ATTEST:

ROBYN BATTLE
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 _____ (\$X) 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 _____ day of _____, A.D. 20____, 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:

**COLEMAN STREET IMPROVEMENTS
 TOWN BID NO. 2015-40-B**

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 six copies, each one of which shall be deemed an original, this, the _____ day of _____, 20____.

ATTEST:

PRINCIPAL:

By: _____
Signature

By: _____
Signature

Typed/Printed Name

Typed/Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

[Signatures continued on following page.]

ATTEST:

SURETY:

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

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 _____ (~~\$X~~) 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 _____ day of _____, A.D. 20____, 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:

**COLEMAN STREET IMPROVEMENTS
TOWN BID NO. 2015-40-B**

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 six copies, each one of which shall be deemed an original, this, the _____ day of _____, 20__.

ATTEST:

PRINCIPAL:

By: _____
Signature

By: _____
Signature

Typed/Printed Name

Typed/Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

[Signatures continued on following page.]

ATTEST:

SURETY:

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

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 Payment Bond must be **same date as Contract**. Date on **Page 2** of Payment 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 _____ (\$X) (ten percent (10%) 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 _____ day of _____, 20____, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

**COLEMAN STREET IMPROVEMENTS
TOWN BID NO. 2015-40-B**

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 six copies, each one of which shall be deemed an original, on this the _____ day of _____, 20_____.

ATTEST:

PRINCIPAL:

By: _____
Signature

By: _____
Signature

Typed/Printed Name

Typed/Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

[Signatures continued on following page.]

ATTEST:

By: _____
Signature

Printed Name

Title

Address

City State Zip

Phone Fax

SURETY:

By: _____
Signature

Printed Name

Title

Address

City State Zip

Phone Fax

GENERAL CONDITIONS

GC.01 **PURPOSE:** The General Conditions contained herein set forth conditions or requirements common to this Contract and all other construction contracts issued by the Town of Prosper.

GC.02 **DEFINITIONS:** The following words and expressions, or pronouns used in their place, shall wherever they appear in this Contract, be construed as follows, unless a different meaning is clear from the context:

CALENDAR DAY: Any days of the week or month, no days being excepted.

CONTRACT DOCUMENTS: All of the written, printed, typed, and drawn instruments that comprise and govern the performance of the contract as defined by the Construction Agreement.

ENGINEER: The ENGINEER of the OWNER or his designee.

EXTRA WORK: Work required by the OWNER other than that which is expressly or impliedly required by the Contract Documents at the time of execution of the Contract.

HOLIDAYS: The ten official holidays observed are New Year's Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving Day, Christmas Eve, and Christmas Day. If a holiday falls on a Saturday, it shall be observed on the preceding Friday. If a holiday falls on a Sunday, it shall be observed on the following Monday.

OWNER: The Town of Prosper, Texas, acting through the Town Manager under authority granted by the Town Council.

OWNER'S REPRESENTATIVE: The Executive Director of Development and Community Services of the Town of Prosper or his designee.

SUB-CONTRACTOR: Any persons, firm or corporation, other than employees of the CONTRACTOR, who or which contracts with the CONTRACTOR to furnish, or who actually furnishes, labor and/or materials and equipment at or about the site.

SUBSTANTIALLY COMPLETE: The condition upon which the Work has been made suitable for use and may serve its intended purpose but may still require minor miscellaneous work and adjustment.

WORK: All work to be performed by the CONTRACTOR under the terms of the Contract, including the furnishing of all materials, supplies, machinery, equipment, tools, superintendence, labor, submittals, services, insurance, permits, certificates, licenses, and all water, light, power, fuel, transportation, facilities, and other incidentals.

WRITTEN NOTICE: Notice required by the Contract shall be served concurrently to the OWNER'S REPRESENTATIVE, ENGINEER, and/or CONTRACTOR.

Notice delivered by mail shall be effective on the postmark date, notice delivered by hand shall be effective the date of delivery, and notice delivered by facsimile or e-mail shall be effective the date of transmission, provided that any notice served after 5 PM or on a weekend or holiday shall be effective the following business day.

GC.03 GENERAL RESPONSIBILITIES AND UNDERSTANDINGS:

- (a) Intent of Contract Documents: The intent of the Contract Documents is to prescribe a complete work or improvement, which the CONTRACTOR undertakes to do in full compliance with the plans, specifications, special provisions, proposal and contract. The CONTRACTOR shall do all work as provided in the plans, specifications, special provisions, proposal and contract, and shall do such additional extra work as may be considered necessary to complete the work in satisfactory and acceptable manner. The CONTRACTOR shall furnish all labor, tools, materials, machinery, equipment and incidentals necessary to the satisfactory prosecution and completion of the work.
- (b) No Waiver of Legal Right: Inspection by the OWNER or ENGINEER, any order, measurement, or certificate by OWNER or ENGINEER, any order by the OWNER for payment of money, any payment for or acceptance of any work, or any extension of time, or any possession taken by the OWNER, shall not operate as a waiver of any provisions of the Contract Documents or any power therein reserved to the OWNER of any rights or damages therein provided. Any waiver of any breach of contract shall not be held to be a waiver of any other subsequent breach. The OWNER deserves the right to correct any error that may be discovered in any estimate that may have been paid and to adjust the same to meet the requirements of the contract and specifications. The OWNER reserves the right to claim and recover by process of law sums as may be sufficient to correct any error or make good any deficiency in the work resulting from such error, dishonesty or collusion, upon the conclusive proof of collusion or dishonesty by the CONTRACTOR or his agents and the ENGINEER or his assistants, discovered in the work after the final payment has been made.
- (c) Changes and Alterations: The CONTRACTOR further agrees that the OWNER or ENGINEER may make such changes and alterations as the OWNER may see fit, in the line, grade, form, dimensions, plans or materials for the work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of this contract and the accompany Performance and Payment Bonds.

If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for a claim for damages for anticipated profits on the work that may be dispensed with. If the amount of work is increased, such additional work shall be paid for as provided under Extra Work. In case the OWNER shall make such changes or alterations as shall make useless any work already done or material already furnished or used in said work, then the OWNER shall recompense the CONTRACTOR for any material or labor so used, and for any actual loss occasioned by such change, due to actual expenses incurred in preparation for the work as originally planned.

- (d) Discrepancies and Omissions: It is further agreed that it is the intent of this contract that all work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the separate contract documents, the priority of interpretation defined by the Construction Agreement shall govern. In the event that there is still any doubt as to the meaning and intent of any portion of the contract, specifications or drawings, the ENGINEER shall define which is intended to apply to the work.
- (e) Plans and Specifications: The OWNER shall furnish the CONTRACTOR with an adequate and reasonable number of copies of all plans and specifications without expense to him, and the CONTRACTOR shall keep one copy of the same constantly accessible on the work, with the latest revisions noted thereon.
- (f) Ownership of Drawings: All drawings, specifications and copies thereof furnished by the OWNER shall not be reused on other work, and, with the exception of the signed contract sets, are to be returned to him on request, at the completion of the work. All models are the property of the OWNER.
- (g) Adequacy of Design: It is understood that the OWNER believes it has employed competent engineers and designers. It is, therefore, agreed that, as to the CONTRACTOR only, the OWNER shall be responsible for the adequacy of the design, sufficiency of the Contract Documents, and the practicability of the operations of the completed project; provided the CONTRACTOR has complied with the requirements of the said Contract Documents, all approved modifications thereof, and additions and alterations thereto approved in writing by the OWNER. The burden of proof of such compliance shall be upon the CONTRACTOR to show that he has complied with the said requirements of the Contract Documents, approved modifications thereof and all approved additions and alterations thereto.
- (h) Line and Grade: The ENGINEER will furnish control benchmarks for the construction of the Work. The CONTRACTOR shall use the control benchmarks and data shown on the drawings. No construction staking will be provided by the ENGINEER or owner for this project. Any restaking, and all construction staking, required shall be at the sole cost of the CONTRACTOR.
- (i) Right of Way and Easements: The OWNER will obtain all necessary right of ways and easements required for the completion of the Work. No work shall be undertaken on nor shall men, tools, equipment, or other supplies occupy any ground outside right of ways and easements. If Contractor wants to work outside right of ways and easements and is able to make an agreement with the Property Owner, then the agreement should be documented and signed by the Property Owner and CONTRACTOR with a copy submitted to the OWNER before work off the easement commences.

The OWNER will obtain permits and/or license agreements necessary for work to be performed on right of ways or easements owned by other agencies including, but not limited to, the Texas Departments of Transportation, North Texas Tollway Authority, BNSF Railway, and utility companies. The CONTRACTOR shall comply with the conditions of these permits and/or license agreements as if they were a part of the Contract Documents.

- (j) Existing Utilities and Structures: The location of existing utilities shown on the plans are based on the interpretation of the best available information and are not warranted by the OWNER or ENGINEER. It shall be the responsibility of the CONTRACTOR to verify and/or locate the various locations of pertinent utilities prior to or during construction. If any utility or irrigation system is broken by the Contractor, it shall be the responsibility of the CONTRACTOR to repair, at his own expense, the damaged line and restore it to its functional use.
- (k) Right of Entry: The OWNER reserves the right to enter the property or location on which the works herein contracted for are to be constructed or installed, by such agent or agents as he may elect, for the purpose of inspecting the work, or for the purpose of constructing or installing such collateral work as said OWNER may desire. The CONTRACTOR shall conduct his work so as not to impede unnecessarily any work being done by others on or adjacent to the site.
- (l) Collateral Contracts: The OWNER agrees to provide by separate contract or otherwise, all labor and material essential to the completion of the work specifically excluded from this contract, in such manner as not to delay the progress of the work or damage said CONTRACTOR, except where such delays are specifically mentioned elsewhere in the Contract Documents.
- (m) Objections and Determinations: The ENGINEER shall determine all claims disputes and other matters in question between the CONTRACTOR and the OWNER relating to the execution or progress of the work or the interpretation of the Contract Documents. The ENGINEER'S decision shall be rendered in writing within a reasonable time and shall be binding.
- (n) Owner-Engineer Relationship: The duties, responsibilities and limitations of authority of the ENGINEER during construction are as set forth in the Contract Documents and shall not be extended or limited without written consent of the OWNER and ENGINEER. The ENGINEER will advise and consult with the OWNER, and OWNER'S instructions to the CONTRACTOR may be issued through the ENGINEER as if they were issued by the OWNER directly.

GC.04 CONTRACTOR RESPONSIBILITIES:

- (a) Contractor Independence: The CONTRACTOR is and at all times shall remain an independent contractor, solely responsible for the manner and method of completing his work under this contract, with full power and authority to select the means, method and manner of performing such work, so long as such methods do not adversely affect the completed improvements, the OWNER and ENGINEER being interested only in the result obtained and conformity of such completed improvements to the Contract Documents.
- (b) Assignment and Subletting: The CONTRACTOR agrees that he will retain personal control and will give his personal attention to the fulfillment of this contract and that he will not assign by Power of Attorney, or otherwise, or sublet said contract without the written consent of the OWNER or ENGINEER, and that no part or feature of the work will be sublet to anyone objectionable to the ENGINEER or the OWNER. The CONTRACTOR further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this

contract, shall not relieve the CONTRACTOR from his full obligations to the OWNER, as provided by this Agreement.

- (c) Contractor's Understanding: It is understood and agreed that the CONTRACTOR has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent or employee of the OWNER or ENGINEER, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained.
- (d) Duty of Contractor: The CONTRACTOR shall be solely responsible for the safety of himself, his employees and other persons, as well as for the protection of the safety of the improvements being erected and the property of himself or any other person, as a result of his operations hereunder. CONTRACTOR shall be fully and completely liable, at his own expense, for design, construction, installation and use, or non-use, of all items and methods incident to performance of the contract, and for all loss, damage or injury incident thereto, either to person or property, including, without limitation, the adequacy of all temporary supports, shoring, bracing, scaffolding, machinery or equipment, safety precautions or devices, and similar items or devices used by him during construction
- (e) Supervision by Contractor: The CONTRACTOR shall give adequate attention to the faithful prosecution and completion of this contract and shall keep on the work, during its progress, a competent superintendent and any necessary assistants. The superintendent shall represent the CONTRACTOR in his absence and all directions given to him shall be as binding as if given to the CONTRACTOR.
- (f) Character of Workmen: The CONTRACTOR agrees to employ only orderly and competent men, skillful in the performance of the type of work required under this contract, to do the work; and agrees that whenever the OWNER or ENGINEER shall inform him in writing that any man or men on the work are, in his opinion, incompetent, unfaithful or disorderly, such man or men shall be discharged from the work and shall not again be employed on the work without the OWNER'S or ENGINEER'S written consent.
- (g) Contractor's Buildings: The building of structures or the erection of tents or other forms of protection will be permitted only for use as temporary office space or for storage of materials, equipment, and supplies and only at such places as the OWNER or ENGINEER shall direct, and the sanitary conditions of the grounds in or about such structures shall at all times be maintained in a manner satisfactory to the OWNER or ENGINEER. At no time shall employees or agents of the CONTRACTOR occupy such facilities except in conjunction with performance of the Work.
- (h) Protection of Site: The Contractor shall protect all structures, walks, pipe lines, trees, shrubbery, lawns and other improvements during the progress of his work and shall remove from the site all debris and unused materials.

- (i) Sanitation: Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the CONTRACTOR in such manner and at such points as shall be approved by the OWNER or ENGINEER, and their use shall be strictly enforced.
- (j) Equipment, Materials, and Construction Plant: The CONTRACTOR shall be responsible for the care, preservation, conservation, protection and replacement of all materials, supplies, machinery, equipment, tools, apparatus, accessories, facilities, all means of construction, and any and all parts of the work, whether the CONTRACTOR has been paid, partially paid, or not paid for such work, or whether OWNER has taken possession of completed portions of such work, until the entire work is completed and accepted.
- (k) Losses from Natural Causes: Unless otherwise specified, all loss or damage to the CONTRACTOR arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the CONTRACTOR at his own cost and expense.

GC.05 PROTECTION OF PERSONS AND PROPERTY:

- (a) Protection Against Claims: If any person files a claim against the OWNER, OWNER's Agent or CONTRACTOR for personal injury or property damage resulting from, arising out of, or caused by, the operations of the CONTRACTOR, or any Work within the limits of the Project, the CONTRACTOR must either submit to the OWNER a duly executed full release within thirty (30) calendar days from the date of written claim, or immediately report the claim to his liability insurance carrier for their action in adjusting the claim. If the CONTRACTOR fails to comply with this provision within the stipulated time limit, it will be automatically deemed that the CONTRACTOR has appointed the OWNER as its irrevocable Attorney In Fact authorizing the OWNER to report the claim directly with the CONTRACTOR's liability insurance carrier. This provision is in and of itself a Power of Attorney from the CONTRACTOR to the OWNER, which authorizes the OWNER to take said action on behalf of the CONTRACTOR without the necessity of the execution of any other document. If the CONTRACTOR fails to comply with the provisions of this item, the OWNER, at its own discretion, may terminate this contract or take any other actions it deems appropriate. Any payment or portion thereof due the CONTRACTOR, whether it is a final payment, progress payment, payment out of retainage or refund payment may be withheld by the OWNER. Bankruptcy, insolvency or denial of liability by the CONTRACTOR's insurance carrier shall not exonerate the CONTRACTOR from liability.

As a result of the additional work created to OWNER due to non-response of claims for damages by CONTRACTOR to third parties, CONTRACTOR shall incur penalties for failure to abide by this Special Condition.

The CONTRACTOR shall respond to the claimant in writing regarding the status of the claim, including whether CONTRACTOR disputes the claim, wishes to settle, or will notify its liability insurance carrier regarding the claim. CONTRACTOR will be assessed a penalty by OWNER of \$75.00 per claim, for its failure to respond to

the claimant as described above within thirty (30) calendar days of its written notice of claim by the City.

To ensure CONTRACTOR compliance, the OWNER shall be notified, by copied correspondence of responses or settlement by CONTRACTOR.

- (b) Protection Against Accidents to Employees and the Public: The CONTRACTOR shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of the Associated General contractors of America except where incompatible with Federal, State, or Municipal laws or regulations. The CONTRACTOR shall provide such machinery guards, safe walkways, ladders, bridges, gangplanks, and other safety devices. The safety precautions actually taken and their adequacy shall be the sole responsibility of the CONTRACTOR, acting at his discretion as an independent contractor.
- (c) Protection of Adjoining Property: The CONTRACTOR shall take proper means to communicate with the adjacent or adjoining property owners and protect the adjacent or adjoining property or properties in any way encountered, which might be injured or seriously affected by any process of construction to be undertaken under this Agreement, from any damage or injury by reason of said process of construction; and he shall be liable for any and all claims for such damage on account of his failure to fully protect all adjoining property.
- (d) Protection Against Royalties or Patented Invention: The CONTRACTOR shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with the patentee or owner.
- (e) Threats to Persons or Property: The CONTRACTOR shall respond promptly to any imminent threat to persons or property arising from or in relation to performance of the Work. Failure to promptly correct any threat to persons or property may result in a temporary suspension of work until such time as the threat is resolved.

GC.06 PROSECUTION AND PROGRESS:

- (a) Time and Order of Completion: It is the meaning and intent of this contract, unless otherwise herein specifically provided, that the CONTRACTOR shall be allowed to prosecute his work in such manner as shall be most conducive to economy of construction; provided however, that the order and the time of prosecution shall be such that the work shall be Substantially Completed as a whole and in part in accordance with this contract, the plans and specifications, and within the time of completion designated in the Proposal; provided, also, that when the OWNER is having other work done, either by contract or by his own force, the ENGINEER may direct the time and manner of constructing the work done under this contract, so that conflict will be avoided and the construction of the various works being done for the OWNER shall be harmonized.

The CONTRACTOR shall submit prior to beginning work, with each pay estimate, and at other such times as may reasonably be requested by the OWNER or ENGINEER, schedules which shall show the order in which the CONTRACTOR proposes to carry on the work, with dates at which the CONTRACTOR will start the several parts of the work, and estimated dates of completion of the several parts.

- (b) Working Hours: Permissible working hours are 7:00 AM to 7:00 PM Monday through Saturday, excluding holidays. Working hours are enforced by the Town of Prosper Police Department. Any variance to these working hours must be requested by the CONTRACTOR in writing at least two weeks in advance and will require approval from the OWNER upon positive recommendation of the ENGINEER.
- (c) Extension of Time: Should the CONTRACTOR be delayed in the completion of the work by any act or neglect of the OWNER or ENGINEER, or of any employee of either, or by other contractors employed by the OWNER, or by changes ordered in the work, or by strikes, lockouts, fires, and unusual delays by common carriers, or uncontrollable cause or causes beyond the CONTRACTOR'S control, and the OWNER and ENGINEER decides such cause justifies the delay, then an extension of time sufficient to compensate for the delay as determined by the OWNER or ENGINEER shall be allowed for completing the work; provided, however, that the CONTRACTOR shall give the OWNER or ENGINEER prompt notice in writing of the cause of such delay.
- (d) Hindrances and Delays: No claims shall be made by the CONTRACTOR for damages resulting from hindrances or delays from any cause (except where the work is stopped by order of the OWNER) during the progress of any portion of the work embraced in this contract. In case said work shall be stopped by the act of the OWNER, then such expense as in the judgment of the ENGINEER is caused by such stoppage of said work shall be paid by the OWNER to the CONTRACTOR.
- (e) Liquidated Damages: The time of completion is of the essence for this Contract. For each day that any work shall remain uncompleted after the time specified in the Contract or in an executed Change Order, including milestone completion dates, substantial completion, and final completion, the OWNER may deduct the following sum from monies due to the CONTRACTOR for each day the work remains uncompleted:

GC.07

Amount of Contract	Amount of Liquidated Damages
Less than \$50,000	\$100 per day
\$50,000 to \$100,000	\$150 per day
\$100,000 to \$500,000	\$200 per day
\$500,000 to \$1,000,000	\$250 per day
\$1,000,000 to \$5,000,000	\$500 per day
Greater than \$5,000,000	\$750 per day

GC.08 CONTROL OF WORK AND MATERIAL:

- (a) Shop Drawings and Submittals: The CONTRACTOR shall submit to the OWNER or ENGINEER, with such promptness as to cause no delay in his own work or in that of any other contractor, four (4) checked copies, unless otherwise specified, of all shop and/or setting drawings and schedules required for the work of the various trades, and the OWNER or ENGINEER shall pass upon them with reasonable promptness, noting desired corrections. The CONTRACTOR shall make any corrections required by the OWNER or ENGINEER, file with him two corrected copies and furnish such other copies as may be needed. The OWNER'S or ENGINEER'S approval of such drawings or schedules shall not relieve the CONTRACTOR from responsibility for deviations from drawings or specifications, unless he has in writing called the OWNER'S or ENGINEER'S attention to such deviations at the time of submission, nor shall it relieve him from responsibility for errors of any sort in shop drawings or schedules. It shall be the CONTRACTOR'S responsibility to fully and completely review all shop drawings to ascertain their effect on his ability to perform the required contract work in accordance with the plans and specifications and within the contract time.

Such review by the OWNER or ENGINEER shall be for the sole purpose of determining the sufficiency of said drawings or schedules to result in finished improvements in conformity with the plans and specifications, and shall not relieve the CONTRACTOR of his duty as an independent contractor as previously set forth, it being expressly understood and agreed that the OWNER or ENGINEER does not assume any duty to pass upon the propriety or adequacy of such drawings or schedules, or any means or methods reflected thereby, in relation to the safety of either person or property during CONTRACTOR'S performance hereunder.

- (b) Temporary Traffic Control: Where the Work is carried on, in or adjacent to any road, alley, sidewalk, trail, or other public space, the CONTRACTOR shall at his own cost and expense furnish, erect and maintain temporary traffic control devices and shall take such other precautionary measures for the protection of persons or property and of the Work as are necessary. A sufficient number and arrangement of temporary traffic control devices shall be erected to keep vehicles and persons from entering on or into any work under construction. The CONTRACTOR's responsibility for the maintenance of barricades, signs and lights, and for providing watchmen, shall not cease until the project has been accepted by the Owner.

All temporary traffic control devices shall be clearly visible at all times of day and night. Signs and barricades shall be constructed of retro-reflective sheeting, and cones and other channelizing devices shall have retro-reflective banding. All temporary traffic control devices shall comply with and have the meanings prescribed by the Texas Manual of Uniform Traffic Control Devices.

The Contractor shall at all times coordinate the closing of any section of road, alley, sidewalk, trail, or other public space with the OWNER or ENGINEER. When such a closing is anticipated to have a duration longer than one (1) hour, the CONTRACTOR shall submit a traffic control plan at least 72 hours in advance to the OWNER or ENGINEER for review and approval.

The CONTRACTOR shall be held responsible for all damage to the Work due to failure of barricades, signs, to protect it, and whenever evidence is found of such damage, the OWNER or ENGINEER may order the damaged portion immediately removed and replaced by the CONTRACTOR at his cost and expense.

- (c) Public Convenience: Materials stored about the Work shall be so placed, and the Work shall at all times to be so conducted, as to cause no greater obstruction to the traveling public than is considered necessary by the OWNER. The CONTRACTOR shall make provisions at all roads, alleys, sidewalks, trails, and private driveways for the free passage of pedestrians and vehicles provided that where free passage is impractical or unnecessary in the opinion of the OWNER, the CONTRACTOR may make arrangements satisfactory to the OWNER for the diversion of traffic and shall, at his own expense, provide all material and perform all work necessary for the construction and maintenance of such diversions. The materials excavated, and the construction materials or plant used in the construction of the Work, shall be placed so as not to endanger the Work or prevent free access to all public and private utilities and related appurtenances.

The OWNER reserves the right to remedy any neglect on the part of the CONTRACTOR as regards to the public convenience and safety which may come to its attention after twenty-four (24) hours notice in writing the CONTRACTOR, save in cases of emergency, when it shall have the right to remedy any neglect without notice; and in either case, the cost of such work done by the OWNER shall be deducted from monies due or to become due to the Contractor.

- (d) Testing of Materials: Testing and inspection of materials required by the specifications shall be performed by a commercial testing laboratory selected by the CONTRACTOR and approved by the OWNER. Except as otherwise noted, the costs of laboratory tests will be paid by the CONTRACTOR, including any materials or specimens for testing. Any testing of material or workmanship required due to failure will be paid for by the CONTRACTOR. This payment will be made direct to the testing laboratory by the CONTRACTOR.

The CONTRACTOR shall furnish at his own expense, suitable evidence that the materials he proposes to incorporate into the work are in accordance with the specifications. Mill tests for reinforcing steel and cement will be acceptable if it is definite that the test sheets apply to the material being furnished. Manufacturer's or supplier's test results will be acceptable for such items as pipe, valves, hydrants when it is definite that the material being furnished is in accordance with the

manufacturer's or supplier's specifications to which the test results apply. Supplier's evidence of quality and gradation of asphaltic material will be acceptable as long as the material is secured from the sources to which the evidence applies.

Should the CONTRACTOR fail to provide the above information, or should the validity of the above information be called into question, the OWNER shall have the right to require tests to be made by the OWNER's laboratory to obtain this information and the cost therefore shall be borne by the CONTRACTOR or deducted from monies owed by the OWNER to the CONTRACTOR.

- (e) Trench Excavation Protection: It is the sole duty, responsibility, and prerogative of the CONTRACTOR, not the OWNER or ENGINEER, to determine the specific applicability of a trench safety system to each field condition encountered on the project as required by Part 1926, Sub-part P-Excavations, Trenching, and Shoring of the Occupational Safety and Health Administration's Standards and Interpretations. It will be the Contractor's responsibility to identify the soil type and to accurately adjust his trench safety methods according to the OSHA requirements.
- (f) Explosives: The use of explosives shall not be permitted.

GC.09 INSPECTION AND ACCEPTANCE:

- (a) Inspection of Work: Inspection will be performed by representatives of the OWNER, ENGINEER, other reviewing agencies, and their designees. It is the intent of the OWNER to inspect all work on this project. The CONTRACTOR is responsible for verifying with the OWNER, ENGINEER, or other reviewing agencies when an inspector is and is not required. The CONTRACTOR shall furnish the OWNER, ENGINEER, other reviewing agencies, and their designees reasonable access and facilities for inspecting the Work and determining whether or not the Work is in accordance with the Contract Documents

The CONTRACTOR shall be responsible for all costs associated with verifying the acceptability of work completed without proper inspection, as directed by the OWNER, ENGINEER, or other reviewing agency. If deemed to be unacceptable, the work may be ordered removed at the CONTRACTOR's expense.

- (b) Inspection Overtime: The OWNER and ENGINEER will provide inspection staff on weekdays between 8:00 AM and 5:00 PM. Inspection performed outside these hours or on weekends or holidays may be subject to an inspection overtime fee determined by the OWNER and ENGINEER. The CONTRACTOR is responsible for determining inspection overtime rules of other reviewing agencies.
- (c) Use of Completed Portions: The OWNER shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired. Such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents, nor shall the risk of loss change from CONTRACTOR to OWNER. If such prior use increases the cost of or delays the work, the CONTRACTOR shall

be entitled to such extra compensation, or extension of time, or both, as the OWNER or ENGINEER may determine.

- (d) Defects and their Remedies: If the Work or any portion thereof, or any material brought on the site of the Work for use in the Work or selected for the same, shall be deemed by the OWNER or ENGINEER as unsuitable or not in conformity with the specifications, the CONTRACTOR shall, after receipt of written notice thereof from the OWNER or ENGINEER, forthwith remove such material and rebuild or otherwise remedy such work so that it shall be in full accordance with this contract.
- (e) Preliminary Final Inspection: Upon substantial completion of the Work, the CONTRACTOR shall request a preliminary final inspection of the Work by representatives of the OWNER, ENGINEER, and other reviewing agencies. The OWNER or ENGINEER will provide written notice of any defects to the CONTRACTOR and the CONTRACTOR shall promptly remedy such defects in accordance with the Contract Documents.
- (f) Final Inspection: Upon completion of all items identified on the punch list, the CONTRACTOR shall request a final inspection of the Work by representatives of the OWNER, ENGINEER, and other reviewing agencies. If additional defects are noted, the CONTRACTOR shall promptly remedy such defects and repeat this process. If the Work is found to be acceptable, the OWNER or ENGINEER will provide written notice of Completion of the Work to the CONTRACTOR.
- (g) Acceptance: Upon Completion, the CONTRACTOR shall submit to the OWNER or ENGINEER such documentation as is necessary to insure that the work has been completed, subcontractors and suppliers have been paid, any claims received have been settled, and other documentation as required by the OWNER or ENGINEER. If the documentation is found to be acceptable, the OWNER or ENGINEER will issue a written notice of Acceptance of the Work to the CONTRACTOR.

GC.10 MEASUREMENT AND PAYMENT:

- (a) Estimated Quantities: The quantities of each item on the bid proposal blank represent the approximate amount of work to be done. Final quantities actually built will be determined and paid for by actual measurements on the ground of the final work completed. Bidders are especially notified that no incidental items of work will be paid for unless there appears an item in the proposal blank for such work. It must be strictly understood that the prices bid are for complete and acceptable work.
- (b) Measurement: Quantities of individual items of work shall be based on the final, in-place quantity of the item of work, measured or computed using the units specified in the Proposal. Where a discrepancy in measured or computed quantities occurs among the OWNER, ENGINEER, and CONTRACTOR, the parties attempt to reconcile the discrepancy. If no reconciliation is possible, the determination of the ENGINEER shall be used.
- (c) Progress Payments: As close as practical to the end of each month in which work has been performed, the CONTRACTOR shall prepare and submit to the OWNER

an application for payment showing as completely as practicable the total value of the work done by the CONTRACTOR up to and including the last day immediately preceding the date of such application and the value of all sound materials delivered on the site of the work that are to be fabricated into the work.

The OWNER'S REPRESENTATIVE and/or ENGINEER shall promptly review CONTRACTOR'S application for payment, shall either approve or modify the total value of the work done by CONTRACTOR and the value of materials delivered on the site, and shall submit to OWNER such application for payment as approved or modified with OWNER'S REPRESENTATIVE'S and/or ENGINEER'S recommendation affixed thereto within ten (10) business days following the receipt of the application from CONTRACTOR.

The OWNER shall pay the CONTRACTOR within thirty (30) days following receipt of the application from CONTRACTOR, less any amount held for retainage or outstanding claims or defective work.

- (d) Payment Withheld: The OWNER may withhold any payment otherwise due to the CONTRACTOR. The amount of any withheld payment shall be as necessary to protect the OWNER's interest in the following circumstances:
- (i) unsatisfactory progress of the Work within the CONTRACTOR's control;
 - (ii) reasonable doubt that the Work can be completed for the unpaid balance;
 - (iii) failure of the CONTRACTOR to carry out orders of the OWNER;
 - (iv) defective work not remedied;
 - (v) the filing of a claim against the CONTRACTOR or reasonable evidence that a claim will be filed against the CONTRACTOR;
 - (vi) failure of the CONTRACTOR to make payment to subcontractors or suppliers for material and labor used in performance of the Work;
 - (vii) unsafe working conditions or threats to persons or property allowed to persist by the CONTRACTOR;
 - (viii) failure of the CONTRACTOR to provide work schedules, invoices, or other records requested by the OWNER;
 - (ix) use of subcontractors without the consent of the ENGINEER or OWNER;
 - (x) or, failure of the CONTRACTOR to keep current redline as-built drawings at the job site or to turn redline as-built drawings over to the OWNER.

GC.11 EXTRA WORK AND CLAIMS:

- (a) Change Orders: Without invalidating this Agreement, the OWNER may, at any time or from time to time, order additions, deletions or revisions to the work; such changes will be authorized by written Change Order prepared by the OWNER for execution by the CONTRACTOR. The Change Order shall set forth the basis for any change in contract price, as hereinafter set forth for Extra Work, and any change in contract time which may result from the change. In the event the CONTRACTOR shall refuse to execute a Change Order which has been prepared by the OWNER, the OWNER may in writing instruct the CONTRACTOR to proceed with the work as set forth in the Change Order and the CONTRACTOR may make claim against the OWNER for Extra Work involved therein, as hereinafter provided.

- (b) Minor Changes: The OWNER or ENGINEER may authorize minor changes in the work not inconsistent with the overall intent of the Contract Documents and not involving an increase in Contract Price. If the CONTRACTOR believes that any minor change or alteration authorized by the OWNER or ENGINEER involves Extra Work and entitles him to an increase in the Contract Price, the CONTRACTOR shall make written request to the OWNER or ENGINEER for a written Field Order.

Any request by the CONTRACTOR for a change in Contract Price shall be made in writing in accordance with the provisions of this section prior to beginning the work covered by the proposed change.

- (c) Extra Work: It is agreed that the basis of compensation to the CONTRACTOR for work either added or deleted by a Change Order or for which a claim for Extra Work is made shall be determined by one or more of the following methods:

- Method (A) - By agreed unit prices; or
- Method (B) - By agreed lump sum; or
- Method (C) - If neither Method (A) nor Method (B) be agreed upon before the Extra Work is commenced, then the CONTRACTOR shall be paid the "actual field cost" of the work, plus fifteen (15) percent.

In the event said Extra Work be performed and paid for under Method (C), then the provisions of this paragraph shall apply and the "actual field cost" is hereby defined to include the cost to the CONTRACTOR of all workmen, such as foreman, timekeepers, mechanics and laborers, and materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used on such Extra Work, plus actual transportation charges necessarily incurred, together with all power, fuel, lubricants, water and similar operating expenses, also all necessary incidental expenses incurred directly on account of such Extra Work, including Social Security Old Age Benefits and other payroll taxes, and, a rateable proportion of premiums on Performance and Payment Bonds and Maintenance Bonds, Public Liability and Property Damage and Workmen's Compensation, and all other insurance as may be required by any law or ordinance, or directed by the OWNER, or by them agreed to. The OWNER or ENGINEER may direct the form in which accounts of the "actual field cost" shall be kept and the records of these accounts shall be made available to the OWNER or ENGINEER. The OWNER or ENGINEER may also specify in writing, before the work commences, the method of doing the work and the type and kind of machinery and equipment to be used; otherwise these matters shall be determined by the CONTRACTOR. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using 100 percent, unless otherwise specified, of the latest schedule of Equipment Ownership Expense adopted by the Associated General Contractors of America. Where practicable the terms and prices for the use of machinery and equipment shall be incorporated in the written Change Order. The fifteen percent (15%) of the "actual field cost" to be paid the CONTRACTOR shall cover and compensate him for his profit, overhead, general superintendence and field office expense, and all other elements of cost and expense not embraced within the "actual field cost" as herein defined; save that where the CONTRACTOR'S Camp or Field Office must be maintained primarily on account

of such Extra Work, then the cost to maintain and operate the same shall be included in the "actual field cost."

No claim for Extra Work of any kind will be allowed unless ordered in writing by the OWNER or ENGINEER. In case any orders or instructions, either oral or written, appear to the CONTRACTOR to involve Extra Work for which he should receive compensation or an adjustment in the construction time, he shall make written request to the OWNER or ENGINEER for written order authorizing such Extra Work. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefore, and the OWNER or ENGINEER insists upon its performance, the CONTRACTOR shall proceed with the work after making written request for written order and shall keep an accurate account of the "actual field cost" thereof, as provided under Method (C). The CONTRACTOR will thereby preserve the right to submit the matter of payment to a court of general jurisdiction to decide the matter, otherwise the CONTRACTOR shall waive all claims for payment for Extra Work.

GC.12 CONTRACT TERMINATION

- (a) Abandonment by CONTRACTOR: In case the CONTRACTOR should abandon and fail or refuse to resume work within ten (10) days after written notification from the OWNER or ENGINEER, or if the CONTRACTOR fails to comply with the orders of the OWNER or ENGINEER, when such orders are consistent with the Contract Documents, then, and in that case, where performance and payment bonds exist, the Sureties on these bonds shall be notified in writing and directed to complete the work, and a copy of said notice shall be delivered to the CONTRACTOR.

After receiving said notice of abandonment, the CONTRACTOR shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the OWNER or the Surety on the performance bond, or another contractor in completion of the work; and the CONTRACTOR shall not receive any rental or credit therefore (except when used in connection with Extra Work, where credit shall be allowed as provided for under Section 6, Extra Work and Claims), it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement.

In case the Surety should fail to commence compliance with the notice for completion hereinbefore provided for, within ten (10) days after service of such notice, then the OWNER may provide for completion of the work in either of the following elective manners:

The OWNER may employ such force of men and use such machinery, equipment, tools, materials and supplies as said OWNER may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials and supplies to said CONTRACTOR, and expense so charged shall be deducted and paid by the OWNER out of such moneys as may be due, or that may thereafter at any time become due to the CONTRACTOR under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this contract, if the same had been completed by the

CONTRACTOR, then said CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract, if the same had been completed by said CONTRACTOR, then the CONTRACTOR and/or his Surety shall pay the amount of such excess to the OWNER; or

The OWNER under sealed bids, after five (5) days notice published one or more times in a newspaper having general circulation in the county of the location of the work, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this contract. In the case of any increase in cost to the OWNER under the new contract as compared to what would have been the cost under this contract, such increase shall be charged to the CONTRACTOR and the Surety shall be and remain bound therefore. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this contract, the CONTRACTOR and/his Surety shall be credited therewith.

When the work shall have been substantially completed the CONTRACTOR and his Surety shall be so notified and Certificates of Completion and Acceptance shall be issued. A complete itemized statement of the contract accounts, certified to by the OWNER or ENGINEER as being correct, shall then be prepared and delivered to the CONTRACTOR and his Surety, whereupon the CONTRACTOR and/or his Surety, or the OWNER as the case may be, shall pay the balance due as reflected by said statement, within fifteen (15) days after the date of such Certificate of Completion.

After final completion of the work and in the event the statement of accounts shows that the cost to complete the work is less than that which would have been the cost to the OWNER had the work been completed by the CONTRACTOR under the terms of this contract; or when the CONTRACTOR and/or his Surety shall pay the balance shown to be due by them to the OWNER, then all machinery, equipment, tools, materials or supplies left on the site of the work shall be turned over the CONTRACTOR and/or his Surety. Should the cost to complete the work exceed the contract price, and the CONTRACTOR and/or his Surety fail to pay the amount due the OWNER within the time designated hereinabove, and there remains any machinery, equipment, tools, materials or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the CONTRACTOR and his Surety at the respective addresses designated in this contract; provided, however, that actual written notice given in any manner will satisfy this condition. After mailing, or other giving of such notice, such property shall be held at the risk of the CONTRACTOR and his Surety subject only to the duty of the OWNER to exercise ordinary care to protect such property. After fifteen (15) days from the date of said notice the OWNER may sell such machinery, equipment, tools, materials or supplies and apply the net sum derived from such sale to the credit of the CONTRACTOR and his Surety. Such sale may be made at either public or private sale, with or without notice, as the OWNER may elect. The OWNER shall release any machinery, equipment, tools, materials, or supplies, which remain on the work, and belong to persons other than the CONTRACTOR or his Surety, to their proper owners.

- (b) Abandonment by OWNER: In case the OWNER shall fail to comply with the terms of this contract within ten (10) days after written notification by the CONTRACTOR, then the CONTRACTOR may suspend or wholly abandon the work, and may remove therefrom all machinery, tools and equipment, and all materials on the site of work that have not been included in payments to the CONTRACTOR and have not been wrought into the work. Thereupon the ENGINEER shall make an estimate of the total amount earned by the CONTRACTOR, which estimate shall include the value of all work actually completed by said CONTRACTOR, the value of all partially completed work at a fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the items of this contract, and a reasonable sum to cover the cost of any provisions made by the CONTRACTOR to carry the whole work to completion and which cannot be utilized. The ENGINEER shall then make a final statement of the balance due the CONTRACTOR by deducting from the above estimate all previous payments by the OWNER and all other sums that may be retained by the OWNER under the terms of this Agreement and shall certify same to the OWNER who shall pay to the CONTRACTOR on or before thirty (30) days after the date of delivery to OWNER of such certified final statement.
- (c) Termination of Contract in Case of National Emergency: Whenever, because of a national emergency, so declared by the President of the United States or other lawful authority, it becomes impossible for the Contractor to obtain all of the necessary labor, material and equipment for the prosecution of the work with reasonable continuity for a period of two (2) months, the Contractor shall within seven (7) days notify the Owner in writing, giving a detailed statement of the efforts which have been made and listing all necessary items of labor, material and equipment not obtainable. If, after investigation, the Owner finds that such conditions exist and that the inability of the Contractor to proceed is not attributable in whole or in part to the fault or neglect of the Contractor, then if the Owner cannot after reasonable effort assist the Contractor in procuring and making available the necessary labor, materials, and equipment within thirty (30) days, the Contractor may request the Owner to terminate the contract and the Owner shall within thirty (30) days comply with the request, and the termination shall be based on a final settlement, which shall include, but not be limited to, the payment for all work executed.

SPECIAL CONDITIONS

- SC.01 PURPOSE: The Special Conditions contained herein set forth conditions or requirements particular to this Contract:

COLEMAN STREET IMPROVEMENTS TOWN BID NO. 2015-40-B

The Special Conditions supplement the General Conditions and the Standard Specifications and take precedence over any conditions or requirements of the General Conditions and the Standard Specifications with which they are in conflict.

- SC.02 DEFINITIONS: The following words and expressions, or pronouns used in their place, shall wherever they appear in this Contract, be construed as follows, unless a different meaning is clear from the context:

ENGINEER: The Engineer of Record as shown on the Construction Drawings:

L. Nathan Ante, P.E
2201 W. Royal Lane, Suite 275
Irving, TX 75063
Phone: (214) 420-5603

or his designee.

- SC.03 LIQUIDATED DAMAGES: General Condition GC.06, e and GC.07 are deleted and replaced with the following:

The time of completion is of the essence for this Contract. For each day that any work shall remain uncompleted after the date specified in the Contract or in an executed Charge Order, including milestone completion dates, substantial completion, and final completion, the OWNER may deduct the following sum from monies due to the CONTRACTOR for each day the work remains uncompleted: **\$1,000 per day.**

- SC.04 INCREASED OR DEREASED QUANTITIES OF WORK:

The Town reserves the right to make changes in the quantities of the Work, as may be considered necessary or desirable, and such changes shall not be considered as waiving or invalidating any conditions or provisions of the Contract or bonds. The Contractor shall perform the Work as altered, whether increased or decreased, and no allowances shall be made for anticipated profits.

The Town reserves the right to decrease the Work under this Contract. Payment to the Contractor for the Contract items shall be made for the actual quantities of Work performed and material furnished at the unit prices set forth in the Contract, except as provided below.

When the quantity of Work to be done or of materials to be furnished under any major item of the Contract is more than 125 percent of the Bid Quantity, then either party to the Contract, upon demand, shall be entitled to negotiate for revised consideration on the portion of Work above 125 percent of the quantity stated in the Contract.

When the quantity of Work to be done or of materials to be furnished under any major item of the Contract is less than 75 percent of Bid Quantity, then either party to the Contract, upon demand, shall be entitled to negotiate for revised consideration on the Work performed. The Contractor will not be entitled to any potential restocking fees or charges.

SC.05 DESCRIPTION OF CERTAIN PAY ITEMS:

Any and all Work specifically called for in the Contract Documents or which is required for the proper construction of items called for in the Contract Documents is to be performed by Contractor unless specifically indicated otherwise. **The cost of all work for which there is no separate pay item in the proposal shall be included in the price for a related pay item such that work called for or required by the Contract Documents will be constructed for the Contract Price.**

The following descriptions of certain pay items are intended to clarify the nature of the work required for this project. The provisions of the standard specifications shall apply, except as otherwise noted herein.

Each pay item includes all labor, materials, equipment and incidentals necessary to construct that item. The contract shall be awarded based on the "TOTAL BID" for the funding that the Town has budgeted.

Pay Item 1 – Mobilization

The work under this item shall include the establishment of offices and other facilities on the project site and the movement of personnel, construction equipment and supplies to the project site or to the vicinity of the project site in order to enable the Contractor to begin work on the contract. The cost of all bonds and insurance for the project will also be considered part of this specification.

Mobilization will be measured as a lump sum item as the work progresses. Partial payments for mobilization shall be paid for at the Total Unit Price as shown in the bid proposal with the regular monthly estimates as follows. The adjusted contract amount for construction items as used below is defined as the total contract amount less the lump sum bid for Mobilization.

- a. When 1% and less than 5% of the adjusted contract amount for construction items is completed, 50% of the mobilization lump sum bid will be paid.
- b. When 5% and less than 10% of the adjusted contract amount for construction items is completed, 75% of the mobilization lump sum bid will be paid. Previous payments under this section will be deducted from this amount.
- c. When 10% or more of the adjusted contract amount for construction items is completed, 95% of the mobilization lump sum bid will be paid. Previous payments under this section will be deducted from this amount.
- d. Payment for the remainder of the lump sum bid for "Mobilization" will be made on the final estimate.

Mobilization shall encompass cost for the entire project. The Contractor will be expected to work continuously. If the Contractor stops work for any reason and remobilizes, the cost of remobilization will be at the Contractor's expense.

Pay Item 2 – General Site Preparation (All Removals)

This pay item governs the preparation of right-of-way and those areas adjacent to or offsite as may be designated on the plans for construction operations. All work shall be performed per NCTCOG Item 203.3 "General Site Preparation". This work will include the removal of all obstructions not designated to remain in place. This shall include, but not limited to, all sprinkler systems, landscaping, planter boxes, trees, stamped concrete, pavers, fences, mailboxes, sidewalks, utilities, pavement, driveways, pavers, utilities, structures, traffic rail, screening walls, fences, columns, signage, retaining walls, MBGF, and any and all drainage structures (including headwalls), etc. Measurement and payment shall be on the basis of price bid per lump sum and shall be full compensation for all labor, materials, and equipment necessary to complete this pay item. If Contractor damages any item not designated to be removed within the limits of construction, it must be restored to equal or better condition at the Contractor's cost. Abandonment and removal of existing water lines, and all appurtenances are subsidiary.

This item also includes tree protection in accordance with Town requirements.

Pay Item 3 – Barricades, Signs, and Traffic Handling

This item shall consist of all the work, labor, equipment, materials, and superintendence necessary to furnish, install, operate, maintain, erect, remove traffic control devices including, but not limited to: signage, delineators, lights, barricades, temporary asphalt pavement, detours, pavement markings, etc. All temporary asphalt pavement for temporary pavement repairs and temporary driveway connections shall be considered subsidiary.

Contractor will be required to submit a detailed traffic control plan prior at the Pre-Construction meeting, and update it with every deviation. Traffic control plan and detour plan must be prepared by an engineer or individual certified in proper temporary traffic control (TTC) practices. Town may request verification of such certification. No separate pay for preparation of the traffic control plan.

If, at any time during construction, the Contractor's proposed plan of operation for handling traffic does not provide for safe, comfortable movement, the Contractor shall immediately change its operations to correct the unsatisfactory condition at their cost.

Barricades and signs shall be placed in such a manner as to not interfere with the sight distance of drivers entering the highway from driveways or side streets. To facilitate shifting, barricades and signs used in lane closures or traffic staging may be erected and mounted on portable supports. The designs of these supports shall be in compliance with current TxDOT and Texas MUTCD standards and are subject to the approval of the Town.

This item shall be measured on a lump sum basis.

Pay Item 4 – Storm Water Pollution Prevention Plan

This pay item shall consist of all work associated with providing Temporary Erosion, Sedimentation and Water Pollution Prevention and Control for the project and shall be performed in accordance with NCTCOG Item 201 “Temporary Erosion, Sedimentation and Water Pollution Prevention and Control” for the entire duration of the project. This pay item includes all work associated with the preparation and implementation of an SWPPP.

It shall be the full responsibility of the CONTRACTOR to acquire and comply with any and all permits as may be required to avoid delay of the Project. No separate payment will be made for this item and it will be considered subsidiary to the other items bid.

Every soil disturbing activity shall have at minimum an accompanying Erosion Control Plan (“ECP”). Those activities disturbing one or more acres shall require preparation of a Storm Water Pollution Prevention Plan (“SWP3”).

As necessary, the CONTRACTOR shall prepare and provide a SWP3 prior to construction. The cost to the CONTRACTOR for the preparation of the SWP3 shall be included in the unit price bid for Temporary Erosion, Sediment and Water Pollution Control and SWP3. The SWP3 shall be prepared in accordance with the Texas Commission on Environmental Quality (“TCEQ”) Construction General Permit TXR150000 and shall also comply with Federal storm water management regulations. The plan shall employ measures to prevent erosion and siltation caused by, or arising out of the construction disturbance from reaching streambeds, channels, storm water structures, ponds, etc. The plan shall follow the Town’s requirements and employ recommendations of the “iSWM™ Design Manual for Construction” published by NCTCOG. In the event of a conflict between these requirements and Federal and State pollution control laws, rules, and regulations or other Federal, State or Local agency laws, rules, and regulations, the more restrictive shall apply. The release of the plan for construction by the Town in no way relieves the CONTRACTOR of any responsibility and liability for the pollution control.

Erosion control measures to be incorporated in the ECP and/or SWP3 are detailed in the construction Plans and are included in this Contract as separate pay items. The bid items for the temporary erosion control items include the installation, maintenance (throughout the Project duration) and removal of these items.

For activities disturbing one or more acres, the appropriate Construction Site Notice (“CSN”) shall be completed and posted prior to commencement of activities. For activities disturbing five or more acres, it is required that a Notice of Intent (“NOI”) be prepared and submitted to TCEQ prior to commencement of activities. A copy of the NOI and/or appropriate CSN shall be provided to the Town prior to issuance of a grading permit.

The appropriate CSN shall be posted in a location viewable to the public. If the activity requires NOI submittal, the Letter of Acknowledgement (upon receipt) shall be posted with the CSN. These shall remain posted until construction is complete and Notice of Termination (“NOT”) submitted. The SWP3 shall be readily available for review by Federal, State, or local officials.

No soil disturbing activities will occur until the following have been implemented:

- (a) SWP3 (if appropriate) is signed by both the CONTRACTOR and OWNER
- (b) OWNER submits NOI to the State (if appropriate)
- (c) CONTRACTOR submits NOI to the State (if appropriate)
- (d) CSN/Letter of Acknowledgement (as appropriate) posted on site and viewable to the public
- (e) SWP3, ECP, and associated Best Management Practices (“BMPs”) being fully implemented and inspected by the Town

The CONTRACTOR shall comply with Town Ordinance’s and NCTCOG’s iSWM™ Design Manual for Construction, the TPDES General Construction Permit TXR150000 and any other State and/or Local regulations.

The site shall be reviewed by the CONTRACTOR or his representative weekly, and after any major storm. Adjustments/repairs to the erosion control measures will then be made as needed and inspected and approved by the OWNER. Any changes to the ECP must be incorporated into the SWP3 as appropriate. Changes to the SWP3 shall include date of change and reason for modification.

Final acceptance of a site shall be contingent upon vegetation being established per the TPDES General Construction Permit TXR150000, and a proper NOT submitted to the State. A copy of the NOT shall be provided to the TOWN. Until such final acceptance of the erosion control has been determined, the TOWN shall withhold half of the retainage as described in the Progress Payments and Retainage section of the Contract Documents.

Pay Item 8 – Unclassified Street Excavation

This pay item shall consist of all work associated with providing unclassified street excavation for the project and shall be performed in accordance with NCTCOG Item 203.4 “Unclassified Street Excavation”. Final ditch and swale grading and final parkway grading are subsidiary and will not be measured or paid for separately.

The bid total was determined through calculations and will be used for determining final quantity for payment purposes. Contract adjustment may be made if the actual measured quantity varies by more than 10% of the total estimated bid quantity amount. Either the Town or the Contractor may initiate the adjustment. If the adjustment is requested by the Contractor, the Contractor must obtain field measurements and calculations justifying the actual quantity. If the adjustment is made by the Town, the revised quantity will constitute the final quantity which payment will be made. Measurement and payment shall be for the unit price bid per cubic yard of embankment for all labor and incidentals necessary to perform the work.

Pay Item 9 – Borrow/Embankment

This pay item shall consist of all work associated with providing borrow/embankment for the project and shall be performed in accordance with NCTCOG Item 203.6 “Borrow” and 203.7 “Embankment”. Final ditch and swale grading and final parkway grading are subsidiary and will not be measured or paid for separately.

The bid total was determined through calculations and will be used for determining final quantity for payment purposes and includes the total borrow required for the project (not net). Contract adjustment may be made if the actual measured quantity varies by more than 10% of the total estimated bid quantity amount. Either the Town or the Contractor may initiate the adjustment. If the adjustment is requested by the Contractor, the Contractor must obtain field measurements and calculations justifying the actual quantity. If the adjustment is made by the Town, the revised quantity will constitute the final quantity which payment will be made. Measurement and payment shall be for the unit price bid per cubic yard of embankment for all labor and incidentals necessary to perform the work.

Pay Item 14 – Reinforced Concrete Street Header

This pay item shall include all labor, materials, tools, and incidentals necessary to reinforced concrete street headers for both at existing pavement and for future pavement in accordance with the details and NCTCOG Item 305.4.

Pay Item 19 – Project Sign

This item shall consist of all necessary labor, materials, and equipment necessary for furnishing and installing a project sign in accordance with Town requirements and standards. The layout of the sign shall be submitted to the Town for review and approval prior to ordering.

Measurement and payment shall be on the basis of the unit price bid for each project sign and shall be full compensation for all labor, materials, and incidentals necessary to complete the work.

Pay Items 20 to 26 – Reflective Pavement Markings

The work under this pay item shall include but not be limited to all labor and materials necessary to furnish and install thermoplastic striping as indicated on the plans. All labor, materials, and incidentals related to surface preparation shall be considered subsidiary to these items. No separate pay item shall be included for surface preparation for sealer, where required. Removal of all existing pavement markings as shown on the plans shall be considered subsidiary to all other pavement marking pay items. No separate pay item shall be included for removal of existing pavement markings. All pavement markings shall be installed per the plans and shall be in accordance with TxDOT Item 666 “Reflectorized Pavement Markings”, Type I.

Measurement and payment shall be on the basis of the unit price bid per linear foot of furnishing and installing thermoplastic striping and per each for thermoplastic words and arrows and shall be full compensation for all labor, equipment, materials, tools, and incidentals necessary to perform the work.

Pay Item 27, 28 – Raised Reflectorized Pavement Markers

The work under this pay item shall include but not be limited to all labor and materials necessary to furnish and install raised pavement markers as indicated on the plans. All labor, materials, and incidentals related to surface preparation shall be considered subsidiary to these items. No separate pay item shall be included for surface preparation. Removal of all existing pavement markings shall be considered subsidiary to all other pavement marking pay items. No separate pay item shall be included for removal of existing pavement markings. All raised pavement markers shall be installed per the plans and shall be in accordance with TxDOT Items 666 and 672 “Raised Pavement Markers”. All Temporary Pavement Markings shall be considered subsidiary to the Traffic Control item.

Measurement and payment shall be on the basis of the unit price bid per furnishing and installing each raised pavement marker and shall be full compensation for all labor, equipment, materials, tools, and incidentals necessary to perform the work.

Pay Item 29 – Furnish and Install New Sign and Sign Post Assembly

The work under this item shall be performed in accordance with TxDOT and MUTCD standards and the details included in the plans. This work shall include all necessary labor and materials to furnish and install all new standard signs, supports, foundations, and assemblies at the locations deemed necessary by the Town. All additional signage required during traffic control shall be considered subsidiary to the pay item for the temporary signal installation. New Street Name blades shall also be furnished and installed if they are within the limits of construction and require relocation.

Prior to installation of new signage, Contractor shall stake locations for Town approval.

Existing signage to be removed shall be salvaged and returned to the Town. (no separate pay).

Measurement and payment shall be on a per each basis and shall be full compensation for all labor, materials, and incidentals necessary to complete the work.

Pay Items 30, 31 – Metal W-Beam Guard Fence and Guardrail End Treatment

This pay item shall include all necessary labor, material, and equipment necessary to install a MBGF and Guardrail End Treatment at the location shown on the plans. The Contractor may elect to salvage the existing MBGF and Guardrail End Treatment located at the southern crossing along Coleman, but must be installed in accordance with the TxDOT Items 540 and 544. Any new material requirement for the installation is considered subsidiary.

Pay Item 34 – Bermuda with 4” Topsoil

Contractor shall sod (Bermuda) areas as shown in the plans (and provide staples to secure the sod in areas where sod is placed in the swales/berms). If the Contractor disturbs areas outside the areas shown on the plans, they shall also be seeded or sodded at the discretion of the Town at Contractor cost. All areas that are sodded must

also receive 4" of offsite clean topsoil meeting NCTCOG Item 202, and will NOT be measured and paid for separately. The topsoil is subsidiary.

Measurement and payment shall be on the basis of the price bid per square yard of sod with 4" topsoil and shall be full compensation for all labor, materials, and incidentals necessary to complete the work. No separate pay for topsoil.

Pay Item 35 – Broadcast Seeding with 4" Topsoil

Contractor shall broadcast seed areas as shown in the plans in accordance with NCTCOG Item 202.6. If the Contractor disturbs areas outside the areas shown on the plans, they shall also be seeded or sodded at the discretion of the Town at Contractor cost. All areas that are seeded must also receive 4" of offsite clean topsoil meeting NCTCOG Item 202, and will NOT be measured and paid for separately. The topsoil is subsidiary.

Measurement and payment shall be on the basis of the price bid per square yard of broadcast seed with 4" topsoil and shall be full compensation for all labor, materials, and incidentals necessary to complete the work. No separate pay for topsoil.

Pay Item 42 – Headwall with Formliner (At Pond)

This pay item shall include all necessary labor, material, and equipment necessary to install the headwall (Headwall with Formliner at pond) in accordance with TxDOT specifications and details. An ashlar formliner shall be used on all exposed face and painted to replicate the native stone in the vicinity. Contractor shall provide a 4'x4' mock-up for Town approval (no separate pay).

Toe of headwall shall be placed at a depth below the water surface elevation of the pond that is in accordance with the recommendations in the geotechnical report number 103-15-194 dated February 2015 by CMJ Engineering, Inc. (no separate pay).

Contractor shall submit Shop Drawings for review.

Pay Item 43 – Headwall with Formliner (At Culvert Extension)

This pay item shall include all necessary labor, material, and equipment necessary to install the headwall (Headwall with Formliner at Culvert Extension) in accordance with TxDOT specifications and details. An ashlar formliner shall be used on all exposed face and painted to replicate the native stone in the vicinity. Contractor shall provide a 4'x4' mock-up for Town approval (no separate pay).

Contractor shall submit Shop Drawings for review.

Pay Item 44 – Combination Rail with Formliner

This pay item shall include all necessary labor, material, and equipment necessary to install the rail in accordance with TxDOT Item 450. An ashlar formliner shall be used on all exposed face and painted to replicate the native stone in the vicinity. Contractor shall provide a 4'x4' mock-up for Town approval (no separate pay).

Pay Item 52 – Convert Existing Drop Inlet to Junction Box

This pay item shall include all necessary labor, material, and equipment necessary to convert existing drop inlets to junction boxes. Top of drop inlets shall be removed and reconstructed per TxDOT details TYPE PB and PSL. Rim of junction box shall be set to proposed grade.

Measurement and payment shall be on the basis of unit price bid per each junction box.

Pay Item 53 – Convert Existing Curb Inlet to Junction Box

This pay item shall include all necessary labor, material, and equipment necessary to convert existing curb inlets to junction boxes. Top of curb inlets shall be removed and reconstructed per TxDOT details TYPE PB and PSL. Rim of junction box shall be set to proposed grade.

Measurement and payment shall be on the basis of unit price bid per each junction box.

APPENDIX

APPENDIX A1 - GEOTECHNICAL REPORT

**GEOTECHNICAL ENGINEERING STUDY
COLEMAN STREET IMPROVEMENTS
VICTORY LANE TO SH 289
PROSPER, TEXAS**

Presented To:
Kimley-Horn and Associates, Inc.

February 2015

PROJECT NO. 103-15-194



7636 Pebble Drive
Fort Worth, Texas 76118
www.cmjengr.com

February 25, 2015
Report No. 103-15-194

Kimley-Horn and Associates, Inc.
2201 West Royal Lane, Suite 275
Irving, Texas 75063

Attn: Mr. L. Nathan Ante, P.E.

**GEOTECHNICAL ENGINEERING STUDY
COLEMAN STREET IMPROVEMENTS
VICTORY LANE TO SH 289
PROSPER, TEXAS**

Dear Mr. Ante:

Submitted here are the results of a geotechnical engineering study for the referenced project. This study was performed in general accordance with CMJ Proposal 15-5484 dated January 28, 2015. The geotechnical services were authorized on January 30, 2015 via Kimley-Horn and Associates, Inc. Individual Project Order (IPO) Number 064472800.

Engineering analyses and recommendations are contained in the text section of the report. Results of our field and laboratory services are included in the appendix of the report. We would appreciate the opportunity to be considered for providing the materials engineering and geotechnical observation services during the construction phase of this project.

We appreciate the opportunity to be of service to Kimley-Horn and Associates, Inc. Please contact us if you have any questions or if we may be of further service at this time.

Respectfully submitted,
CMJ ENGINEERING, INC.
TEXAS FIRM REGISTRATION NO. F-9177

A handwritten signature in black ink, appearing to read "James P. Sappington, IV", is written over a horizontal line.

James P. Sappington, IV, P.E.
Senior Engineer
Texas No. 97402



copies submitted: (2) Mr. L. Nathan Ante, P.E.; Kimley-Horn and Associates, Inc. (email & mail)

TABLE OF CONTENTS

	<u>Page</u>
1.0 INTRODUCTION-----	1
2.0 FIELD EXPLORATION AND LABORATORY TESTING-----	2
3.0 SUBSURFACE CONDITIONS-----	3
4.0 EXISTING FILLS-----	4
5.0 RETAINING WALL RECOMMENDATIONS-----	5
6.0 PAVEMENTS-----	10
7.0 EARTHWORK-----	15
8.0 CONSTRUCTION OBSERVATIONS-----	18
9.0 REPORT CLOSURE-----	19

APPENDIX A

	<u>Plate</u>
Plan of Borings-----	A.1
Unified Soil Classification System-----	A.2
Key to Classification and Symbols-----	A.3
Logs of Borings-----	A.4 – A.5
Free Swell Test Results-----	A.6
Soluble Sulfate Test Results-----	A.7
Lime Series Test Results-----	A.8

1.0 INTRODUCTION

1.1 General

The project, as currently planned, will consist of the proposed Coleman Street between Victory Lane and SH 289 (Preston Road) in Prosper, Texas. The thoroughfare will consist of a concrete-paved four-lane divided facility with curb and gutter. A retaining wall is also planned near Station 89+00. Plate A.1, Plan of Borings, depicts the project vicinity and locations of the exploration borings.

1.2 Purpose and Scope

The purpose of this geotechnical engineering study has been to determine the general subsurface conditions, evaluate the engineering characteristics of the subsurface materials encountered, develop recommendations for the type or types of foundations suitable for the project, provide pavement subgrade and earthwork recommendations, and provide pavement design guidelines.

To accomplish its intended purposes, the study has been conducted in the following phases: (1) drilling sample borings to determine the general subsurface conditions and to obtain samples for testing; (2) performing laboratory tests on appropriate samples to determine pertinent engineering properties of the subsurface materials; and (3) performing engineering analyses, using the field and laboratory data to develop geotechnical recommendations for the proposed construction.

The design is currently in progress and the locations and/or elevations of the roadway could change. Once the final design is near completion (80-percent to 90-percent stage), it is recommended that CMJ Engineering, Inc. be retained to review those portions of the construction documents pertaining to the geotechnical recommendations, as a means to determine that our recommendations have been interpreted as intended.

1.3 Report Format

The text of the report is contained in Sections 1 through 9. All plates and large tables are contained in Appendix A. The alpha-numeric plate and table numbers identify the appendix in which they appear. Small tables of less than one page in length may appear in the body of the text and are numbered according to the section in which they occur.

Units used in the report are based on the English system and may include tons per square foot (tsf), kips (1 kip = 1,000 pounds), kips per square foot (ksf), pounds per square foot (psf), pounds per cubic foot (pcf), and pounds per square inch (psi).

2.0 FIELD EXPLORATION AND LABORATORY TESTING

2.1 Field Exploration

Subsurface materials at the project site were explored by two (2) vertical soil borings drilled to depths of 15 to 20 feet. The borings were drilled using continuous flight augers at the approximate location shown on the Plan of Borings, Plate A.1. The boring logs are included on Plates A.4 and A.5 and keys to classifications and symbols used on the logs are provided on Plates A.2 and A.3.

Undisturbed samples of cohesive soils were obtained with nominal 3-inch diameter thin-walled (Shelby) tube samplers at the locations shown on the logs of borings. The Shelby tube sampler consists of a thin-walled steel tube with a sharp cutting edge connected to a head equipped with a ball valve threaded for rod connection. The tube is pushed into the soil by the hydraulic pulldown of the drilling rig. The soil specimens were extruded from the tube in the field, logged, tested for consistency with a hand penetrometer, sealed, and packaged to limit loss of moisture.

The consistency of cohesive soil samples was evaluated in the field using a calibrated hand penetrometer. In this test a 0.25-inch diameter piston is pushed into the relatively undisturbed sample at a constant rate to a depth of 0.25 inch. The results of these tests, in tsf, are tabulated at respective sample depths on the log. When the capacity of the penetrometer is exceeded, the value is tabulated as 4.5+.

Ground-water observations during and after completion of the borings are shown on the upper right of the boring logs. Upon completion of the borings, the bore holes were backfilled with soil cuttings and plugged at the surface by hand tamping.

2.2 Laboratory Testing

Laboratory soil tests were performed on selected representative samples recovered from the borings. In addition to the classification tests (liquid limits and plastic limits), moisture content, unconfined compressive strength, and unit weight tests were performed. Results of the laboratory

classification tests, moisture content, unconfined compressive strength, and unit weight tests conducted for this project are included on the boring logs.

A swell test was performed on a specimen from a selected sample of the clays. This test was performed to help in evaluating the swell potential of soils in the area of the proposed retaining wall. The results of the swell test are presented on Plate A.6. Soluble sulfate testing was accomplished to check on the potential of lime-induced heaving. Plate A.7 presents the soluble sulfate test results.

An Eades and Grim Lime Series test was performed on a selected sample to identify the appropriate concentration of lime to add to soils for stabilization purposes. The results of the lime series test are presented on Plate A.8.

The above laboratory tests were performed in general accordance with applicable ASTM procedures, or generally accepted practice.

3.0 SUBSURFACE CONDITIONS

3.1 Soil Conditions

Specific types and depths of subsurface stratigraphy encountered at the boring locations are shown on the boring logs in Appendix A. The generalized subsurface stratigraphy encountered in the borings are discussed below. Note that depths on the borings refer to the depth from the existing grade or ground surface present at the time of the investigation, and the boundaries between the various soil types are approximate.

Fills material consisting of gray, brown, dark brown, and light brown clays are present to a depth of 8 feet in Boring B-2. Natural soils encountered consist of dark brown clays overlying light brown, brown, and gray shaly clays.

The various clay soils encountered in the borings had Liquid Limits (LL) of 55 to 69 with Plasticity Indices (PI) of 38 to 45 and are classified as CH by the USCS. The various clayey soils are generally firm to hard (soil basis) in consistency with pocket penetrometer readings of 1.0 to over 4.5 tsf. Soft soils are noted from 1 to 2 feet in Boring B-1, with a pocket penetrometer reading of

0.5 tsf. Tested unit weight values varied from 92 to 99 pcf and unconfined compressive strengths ranged from 1,100 to 2,130 psf.

The Atterberg Limits tests indicate the various clays encountered at this site are generally highly active with respect to moisture induced volume changes. Active clays can experience volume changes (expansion or contraction) with fluctuations in their moisture content.

3.2 Ground Water Observations

The borings were drilled using continuous flight augers in order to observe ground-water seepage during drilling. Ground-water seepage was not encountered during drilling and the borings were dry at completion.

While it is not possible to accurately predict the magnitude of subsurface water fluctuation that might occur based upon these short-term observations, it should be recognized that ground-water conditions will vary with fluctuations in rainfall.

Fluctuations of the ground-water level can occur due to seasonal variations in the amount of rainfall; site topography and runoff; hydraulic conductivity of soil strata; and other factors not evident at the time the borings were performed. During wet periods of the year, seepage can occur in joints in the clays or via more permeable strata. The possibility of ground-water level fluctuations should be considered when developing the design and construction plans for the project.

4.0 EXISTING FILLS

Fills were encountered to a depth of 8 feet in Boring B-2. Fill soils in Boring B-2 do not reflect soft or significantly compressible soil; however, the fill may not be uniform. Soft fill soils could exist to prevent adequate support of the roadway. Particular attention and inspection is recommended in this area. It may be necessary to import higher quality materials for general backfill, or for use below the new pavement to replace other subgrade support alternatives.

Removal and replacement of all the fill following the recommendations in subsequent sections of this report is the only method eliminating the risk of unusual settlement.

Methods less extreme than complete removal are discussed below. These methods are intended to represent a reasonable approach for construction of paving; however, they will not eliminate the risk of unexpected movements in some areas.

5.0 RETAINING WALL RECOMMENDATIONS

5.1 General Retaining Wall Considerations

Five geotechnical design criteria must be satisfied in the selection of the type and configuration of the retaining wall. These criteria are; the wall must have an acceptable factor of safety with respect to (1) overturning failure, (2) a sliding (translation) failure, (3) a bearing capacity failure, and (4) a global (deep-seated) slope failure. In addition, (5) the deformation of the wall caused by deflection from earth pressure, and from settlement or heave of the foundation soils or backfill soils, must be within tolerable limits during the functional life of the structure. If potential differential movements can be tolerated, consideration can be given to a shallow spread or continuous footing.

5.2 Potential Vertical Movements

Structures placed near existing grade will be subject to movement as a result of moisture induced volume changes in the highly active clays. The clays expand (heave) with increases in moisture and contract (shrink) with decreases in moisture. The movement typically occurs as post construction heave. The potential magnitude of the moisture induced movements is rather indeterminate. It is influenced by the soil properties, overburden pressures, and to a great extent by soil moisture levels at the time of construction. The greatest potential for post-construction movement occurs when the soils are in a dry condition at the time of construction. Based on the conditions encountered in the borings, potential moisture induced movements are estimated to be on the order of 4½ to 5 inches for soils in a dry condition. Soil movements, significantly larger than estimated, could occur due to inadequate site grading, poor drainage, ponding of rainfall, and/or leaking pipelines.

5.3 Foundation

5.3.1 Shallow Foundation System

Based on the logs and field observations, the majority of the retaining wall footing excavation will be through clays with relatively high moisture contents. Care should be taken to dewater these areas, as required, to cause as minimal disturbance as possible to the soils. The retaining wall

foundations may be founded atop firm to stiff clay soils or founded upon a minimum 1½-foot crushed stone pad with a geotextile "separator" fabric below the stone pad. The retaining wall foundations may be designed for an allowable bearing pressure of 1.2 ksf for walls founded atop clay soils or for an allowable bearing pressure of 2.0 ksf for walls founded atop the above referenced 1½-foot crushed stone pad. A minimum footing dimension of 2 feet is recommended. In addition, the footing should be placed a minimum of 2 feet below lowest adjacent grade. These bearing values assume that the excavation base is dry and little to no disturbance of the soils is allowed. Soils existing in a soft to firm state should be evaluated on a case-by-case basis. Close inspection of soils strength should be conducted by a geotechnical engineer to allow designation and removal of soft soils not meeting the bearing capacity stated above.

It should be noted that retaining wall foundations are typically subjected to non-uniform pressure across the foundation, and possibly negative pressure (separation of foundation from soil) under a portion of the foundation, due to the overturning moment induced by the lateral earth pressures. The allowable foundation pressures given above are for the maximum pressure induced by the foundation loads, and not the average pressure under the foundation base.

The horizontal bases of the footing will develop resistance to sliding by means of a combination of friction and adhesion (for cohesive foundation materials). Given the nature of the foundation materials, an adhesion of 500 psf may be used for earth formed footings. An ultimate friction factor of 0.3 may be used to calculate sliding resistance of the footings bearing on site soils.

Foundations designed in accordance with these recommendations will have a minimum factor of safety of 3 with respect to a bearing capacity failure, and should experience a total settlement of 1 inch or less and a differential settlement of ½ inch or less, after construction, providing all fill has been properly placed and compacted as described in the Earthwork section.

It should be anticipated that the retaining wall will experience differential movements as a result of moisture induced volume changes in the underlying clays as previously discussed.

5.3.1.1 Shallow Footing Construction

Footing construction should be monitored by a representative of the geotechnical engineer to observe, among other things, the following items:

- Identification of bearing material
- The base and sides of the footing excavation are clean of loose cuttings
- If seepage is encountered, whether it is of sufficient amount to require the use of excavation dewatering methods

Precautions should be taken during the placement of reinforcing steel and concrete to prevent loose, excavated soil from falling into the excavation. Concrete should be placed as soon as practical after completion of the excavation, cleaning, reinforcing steel placement and observation. Excavation for a spread foundation should be filled with concrete before the end of the workday, or sooner if required, to prevent deterioration of the bearing material. Prolonged exposure or inundation of the bearing surface with water will result in changes in strength and compressibility characteristics. If delays occur, the excavation should be deepened as necessary and cleaned, in order to provide a fresh bearing surface. If more than 48 hours of exposure of the bearing surface is anticipated in the excavations, a "mud slab" should be used to protect the bearing surfaces. If a mud slab is used, the foundation excavations should initially be over-excavated by approximately 4 inches and a lean concrete mud slab of approximately 4 inches in thickness should be placed in the bottom of the excavations immediately following exposure of the bearing surface by excavation. The mud slab will protect the bearing surface, maintain more uniform moisture in the subgrade, facilitate dewatering of excavations if required, and provide a working surface for the placement of formwork and reinforcing steel.

If footing excavations are left unprotected and exposed to precipitation and/or other water sources which result in ponding in footing excavations, additional excavation to firm, undisturbed material will be required. Footing concrete should be placed directly against the wall of footing excavations.

5.4 Lateral Earth Pressures

5.4.1 General

The retaining walls must be designed for lateral pressures including, but not necessarily limited to, earth, water, surcharge, swelling, and vibration. In addition, the lateral pressures will be influenced by whether the backfill is drained or undrained, and above or below the ground-water table.

5.4.2 Equivalent Fluid Pressures

Lateral earth pressures on retaining walls will depend on a variety of factors, including the type of soils behind the wall, the condition of the soils, and the drainage conditions behind the wall.

Recommended lateral earth pressures expressed as equivalent fluid pressures, per foot of wall height, are presented in Table 5.4.2-1 for a wall with a level backfill behind the top of the wall. The equivalent fluid pressure for an undrained condition should be used if a drainage system is not present to remove water trapped in the backfill and behind the wall. Pressures are provided for at-rest and active earth pressure conditions. In order to allow for an active condition the top of the wall(s) must deflect on the order of 0.4 percent.

For the select fill or free draining granular backfill these values assume that a "full" wedge of the material is present behind the wall. The wedge is defined where the wall backfill limits extend outward at least 2 feet from the base of the wall and then upward on a 1H:2V slope. For narrower backfill widths of granular or select fill soils, the equivalent fluid pressures for the on-site soils should be used.

Backfill Material	At-Rest Equivalent Fluid Pressure (pcf)		Active Equivalent Fluid Pressure (pcf)	
	Drained	Undrained	Drained	Undrained
Excavated on-site clay or clay fill material	100	110	85	100
Select fill or on-site soils meeting material specifications	65	90	50	85
Free draining granular backfill material	50	90	35	80

5.4.3 Additional Lateral Pressures

The location and magnitude of permanent surcharge loads (if present) should be determined, and the additional pressure generated by these loads such as the weight of construction equipment and vehicular loads that are used at the time the structures are being built must also be considered in the design. The effect of this or any other surcharge loading may be accounted for by adding an additional uniform load to the full depth of the side walls equivalent to one-half of the expected vertical surcharge intensity for select backfill materials, or equal to the full vertical surcharge intensity for clay backfill. The equivalent fluid pressures, given here, do not include a safety factor. Analysis of surcharge loads (if any) should be performed on a case-by-case basis. This is not included in the scope of this study. These services can be provided as additional services upon request.

5.5 Wall Backfill Material Requirements

Excavated On-Site Soils: For wall backfill areas with site-excavated materials or similar imported materials, all oversized fragments larger than four inches in maximum dimension should be removed from the backfill materials prior to placement. The backfill should be free of all organic and deleterious materials, and should be placed in maximum 8-inch compacted lifts at a minimum of 95 percent of Standard Proctor density (ASTM D 698) within a moisture range of plus to minus 3 percentage points of optimum moisture. Compaction within five feet of the walls should be accomplished using hand compaction equipment, and should be between 90 and 95 percent of the Standard Proctor density.

Select Fill: All wall select backfill should consist of clayey sand and/or sandy clay material with a plasticity index of 16 or less, with a Liquid Limit not exceeding 35. The select fill should be placed in maximum 8-inch lifts and compacted to between 95 and 100 percent of the Standard Proctor density (ASTM D 698) within a moisture range of plus to minus 3 percentage points of the optimum moisture. Compaction within five feet of the walls should be accomplished using hand compaction equipment and should be compacted between 90 and 95 percent of the Standard Proctor density.

Free-Draining Granular Backfill: All free draining granular wall backfill material should be a crushed stone, sand/gravel mixture, or sand/crushed stone mixture. The material should have less than 3 percent passing the No. 200 sieve and less than 30 percent passing the No. 40 sieve. The minus No. 40 sieve material should be non-plastic. Granular wall backfill should not be water jetted during installation.

5.6 Wall Drainage Requirements

The design recommendations presented above assume hydrostatic pressure will not develop behind the retaining wall. In order to achieve the "drained" condition for lateral earth pressure for low-permeability walls (concrete, masonry, etc.), a vertical drainage blanket or geocomposite drainage member must be installed adjacent to the wall on the backfill side. The drainage must be connected to an outlet drain at the base of the wall, or to the sump/pump system. Drainage could be provided using a collector pipe or weep holes near the base of the retaining wall. Drains should be properly filtered to minimize the potential for erosion through these drains, and /or the plugging of drain lines. Design or specific recommendations for drainage members is beyond the scope for this study. These services can be provided as an additional service upon request. In order to

achieve the "drained" condition, the entire backfill material must be free draining, or the backfill-wall geometry must be such that the backfill will not become saturated from rainfall, ground water, adjacent water courses, or other sources.

6.0 PAVEMENTS

6.1 Pavement Subgrade Considerations

6.1.1 *General*

Pavement performance is impacted by many factors far beyond what is normally included in engineering design. Wherein pavement analyses should include establishing an appropriate thickness of concrete and appropriate subgrade remediation/ stabilization, other factors such as undesirable fill soils, location of trees adjacent to the paving, and water conditions in grassed areas adjacent to curbing impact the performance of the pavement. In addition, the activity of the soil below the pavement can cause differential expansive soil conditions under the pavement.

Pavement performance also depends upon several factors including: the characteristics of the supporting soil; the magnitude and frequency of wheel load applications; the quality of construction materials; the contractor's placement and workmanship abilities; and the desired period of design life. The success of the pavement subgrade is subgrade soil strength and control of water. Adequate subgrade performance can be achieved by modifying or stabilizing the existing soils used to construct the pavement subgrade.

Pavement sections are susceptible to edge distress as edge support deteriorates over time. Therefore, care must be taken to provide and maintain proper edge support. In conjunction with a stabilized subgrade underlying the pavement, it is recommended that the stabilized subgrade extend a minimum of 12 inches beyond the riding surface on each side of the proposed pavement. Maintenance should be provided when edge support deteriorates.

6.1.2 *Subgrade Preparation*

Anticipated subgrade materials generally consist clays of high plasticity. These higher plasticity clays are subject to loss in support value with the moisture increases which occur beneath pavement sections. They react with hydrated lime, which serves to improve and maintain their support value.

Treatment of these soils with hydrated lime will improve their subgrade characteristics to support area paving.

6.2 Potential Vertical Movements

Estimates of expansive movement potential have been estimated using TxDOT Test Method Tex 124-E. Potential vertical movements ranging from on the order of 4½ to 5 inches are estimated. Movements in excess of the estimated value can occur if poor drainage, excessive water collection, leaking pipelines, etc. occur. Any such excessive water conditions should be rectified as soon as possible. In order to minimize rainwater infiltration through the pavement surface, and thereby minimizing future upward movement of the pavement slabs, all cracks and joints in the pavement should be sealed on a routine basis after construction.

6.3 Sulfate-Induced Heaving

The site is located within the Eagle Ford formation. The Eagle Ford formation is known to experience lime-induced heaving in selected zones. Therefore, soluble sulfate tests were conducted to check for lime-induced heaving potential. Lime-induced heaving is caused when hydrated lime is added to a soil with a high sulfate concentration. The lime reacts with the sulfates to cause potentially large volumetric changes in the soil.

Soluble sulfate levels in soils on the order of 2,000 parts-per-million (ppm) or less are usually of low concern and warrant only observation of the subgrade during the stabilization process. Soluble sulfate levels on the order of 2,000 to 6,000 ppm usually warrant a double lime process, with the first treatment of lime consisting of ½ the recommended concentration and a second lime treatment consisting of the full recommended concentration. Sulfate levels on the order of 6,000+ ppm may require a double-lime process, with the two full concentration lime treatments.

Soluble sulfates were detected at this site, with test values of 787 to greater than 4,000 ppm. In areas where the samples tested were below 2,000 ppm, a single-lime process may be used. The single-lime treatment is described in Section 6.4. However, in areas of high soluble sulfate concentration, a double lime process may be required. As an alternative, the onsite construction testing group can offer options, such as pre-moistened soils, close observation of limed soils, extended curing of soil/lime mixtures, or other alternatives (see Report Section 6.4). Once the subgrade is established, the actual subgrade should be retested to verify sulfate concentration and any special measures identified on a case-by-case basis. In addition, it is recommended that

during the curing period of the lime treatment, the subgrade be supplied with ample moisture and it should be checked for any volumetric changes that may indicate a lime-induced heaving condition.

6.4 Pavement Subgrade Preparation

6.4.1 Lime Stabilization

Lime stabilization is recommended for all subgrade areas with plastic clays. Prior to lime addition, the subgrade should be proofrolled with heavy pneumatic equipment weighing a minimum 15 tons. Any soft or pumping areas should be undercut to a firm subgrade and properly backfilled as described Section 7.0.

In lieu of a lime stabilized subgrade for this project, a flexible base meeting TxDOT Item 247, Type A, Grades 1 or 2 may be utilized on an equal basis. The option of using a flexible base in lieu of lime stabilizing the subgrade presents a relatively quick, straight forward solution to preparing the materials prior to pavement placement and relieves soluble sulfate heave concerns. In addition, an alternative for concrete pavements consists of increasing the recommended concrete thicknesses presented in Section 6.5 by 2 inches and placement atop a properly compacted subgrade.

Prior to lime stabilization or compaction, the subgrade should be further tested for soluble sulfates. Any locations with soluble sulfates greater than 2,000 ppm should use alternative methods of subgrade preparation (i.e., use of flex base or increasing pavement thickness atop unstabilized subgrade). With any method, the subgrade should be proofrolled with heavy pneumatic equipment. Any soft or pumping areas should be undercut to a firm subgrade and properly backfilled as described in the Earthwork section. The stabilized subgrade should be scarified to a minimum depth of 6 (or 8) inches and uniformly compacted to a minimum of 95 percent of ASTM D 698, near minus 2 to plus 4 percentage points of the optimum moisture content determined by that test. It should then be protected and maintained in a moist condition until the pavement is placed.

For areas with relatively low soluble sulfates (i.e., sulfates less than 2,000 ppm), we recommend a minimum of 8 percent hydrated lime be used to modify the clay subgrade soils. The estimated amount of hydrated lime required to stabilize the subgrade should be on the order of 36 pounds per square yard for a 6-inch depth or 48 pounds per square yard for an 8-inch depth, based on a soil dry unit weight of 100 pcf. The hydrated lime should be thoroughly mixed and blended with the upper 6 (or 8) inches of the clay subgrade (TxDOT Item 260). The hydrated lime should meet the requirements of Item 260 (Type A) in the Texas Department of Transportation (TxDOT) Standard

Specifications for Construction of Highways, Streets and Bridges, 2004 Edition. Calcareous nodules and asphalt fragments in the surficial clays can complicate mixing of the soil and lime.

6.4.2 Subgrade Preparation Considerations

It is recommended that subgrade stabilization extend to at least one foot beyond pavement edges to aid in reducing pavement movements and cracking along the curb line due to seasonal moisture variations after construction. Each construction area should be shaped to allow drainage of surface water during earthwork operations, and surface water should be pumped immediately from each construction area after each rain and a firm subgrade condition maintained. Water should not be allowed to pond in order to prevent percolation and subgrade softening, and subgrade treatments should be added to the subgrade after removal of all surface vegetation and debris. Sand should be specifically prohibited beneath pavement areas, since these more porous soils can allow water inflow, resulting in heave and strength loss of subgrade soils (lime stabilized soil will be allowed for fine grading). After fine grading each area in preparation for paving, the subgrade surface should be lightly moistened, as needed, and recompact to obtain a tight non-yielding subgrade.

Surface drainage is critical to the performance of this pavement. Water should be allowed to exit the pavement surface quickly. All pavement construction should be performed in accordance with the procedures provided in Section 6.6.

6.5 Pavement Sections

At the time of this investigation, site paving plans or vehicle traffic studies were not available. Pavement analyses were performed using methods outlined in the AASHTO Guide for Design of Pavement Structures, 1993 Edition, published by the American Association of State Highway and Transportation Officials. The design equations were solved using AASHTO Pavement Analysis Software. In the AASHTO method, traffic loads are expressed in Equivalent 18-kip Single Axle Loads (ESAL) over the design life of the pavement structure.

Based on the results of the field and laboratory investigation, and on soil plasticity properties, the following design parameters were used in our thickness design calculations (soil parameters were conservatively established for the soils that are expected to exhibit lower bearing strengths):

Subgrade Soils.....	Clay
Design California Bearing Ratio	3
Initial Serviceability.....	4.5
Terminal Serviceability	2.25
Reliability.....	90%
Overall Deviation	0.45
Load Transfer Coefficient	3.2
Drainage Coefficient.....	1.0
Assumed CBR value of subgrade soil	3
Assumed CBR value the lime treated soil	20
Concrete Modulus of Rupture.....	600 psi

The following alternative pavement sections are provided for a range of traffic volumes. The traffic loadings are based on the daily frequency of fully loaded, 80 kip, five-axle tractor semi-trailers over the 20-year or 30-year service period. These sections are suitable for the previously mentioned assumptions. Any deviation from these assumptions should be brought to our attention immediately in order to assess their impact on our recommendations.

Pavement Section	Design ESAL	Allowable Daily Truck Repetitions (20-Year Life)	Allowable Daily Truck Repetitions (30-Year Life)
6" PCC over 6" lime stabilized subgrade	380,100	21	14
7" PCC over 6" lime stabilized subgrade	849,200	48	32
8" PCC over 8" lime stabilized subgrade	1,847,900	105	70

Proper surface drainage in the shoulders is also critical to long term performance of the pavement. Water allowed to pond adjacent to the pavement will be detrimental resulting in loss of edge and subgrade support and an increase in post construction heave of the pavement.

6.6 Pavement Material Requirements

Material and process specifications developed by the Texas Department of Transportation (TxDOT) have been utilized. These specifications are outlined in the TxDOT Standard Specifications for Construction of Highways, Streets and Bridges, 2004 Edition. Specific construction recommendations for pavements are given below.

Reinforced Portland Cement Concrete: Reinforced Portland cement concrete pavement should consist of Portland cement concrete having a 28-day compressive strength of at least 3,500 psi. The mix should be designed in accordance with the ACI Code 318 using 3 to 6 percent air

entrainment. The pavement should be adequately reinforced with temperature steel and all construction joints or expansion/contraction joints should be provided with load transfer dowels. The spacing of the joints will depend primarily on the type of steel used in the pavement. We recommend using No. 3 steel rebar spaced at 18 inches on center in both the longitudinal and transverse direction. Control joints formed by sawing are recommended every 12 to 15 feet in both the longitudinal and transverse direction. The cutting of the joints should be performed as soon as the concrete has "set-up" enough to allow for sawing operations.

Lime Stabilized Subgrade: Lime treatment for base course (road mix) - Item 260, Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, 2004 Edition.

Flexible Base: Crushed Stone Flexible Base – Item 247, Type A, Grades 1 or 2, Texas Department of Transportation Standard Specifications for Construction of Maintenance of Highways, Streets, and Bridges, 2004 Edition.

6.7 General Pavement Construction and Considerations

The design of the pavement drainage and grading should consider the potential for differential ground movement due to future soil swelling of up to 4½ to 5 inches. In order to minimize rainwater infiltration through the pavement surface, and thereby minimizing future upward movement of the pavement slabs, all cracks and joints in the pavement should be sealed on a routine basis after construction.

7.0 EARTHWORK

7.1 Site Preparation

The subgrade should be firm and able to support the construction equipment without displacement. Soft or yielding subgrade should be corrected and made stable before construction proceeds. The subgrade should be proof rolled to detect soft spots, which if exist, should be reworked to provide a firm and otherwise suitable subgrade. Proof rolling should be performed using a heavy pneumatic tired roller, loaded dump truck, or similar piece of equipment with a minimum weight of 15 tons. The proof rolling operations should be observed by the project geotechnical engineer or his/her representative.

7.2 Placement and Compaction

Fill material should be placed in loose lifts not exceeding 8 inches in uncompacted thickness. The uncompacted lift thickness should be reduced to 4 inches for structure backfill zones requiring hand-operated power compactors or small self-propelled compactors. The fill material should be uniform with respect to material type and moisture content. Clods and chunks of material should be broken down and the fill material mixed by disking, blading, or plowing, as necessary, so that a material of uniform moisture and density is obtained for each lift. Water required for sprinkling to bring the fill material to the proper moisture content should be applied evenly through each layer.

The on-site soils are suitable for use in general site grading. Imported fill material should be clean soil with a Liquid Limit less than 60 and no rock greater than 4 inches in maximum dimension. The fill materials should be free of vegetation and debris.

General fill material should be compacted to a minimum of 95 percent of the maximum dry density determined by the Standard Proctor test, ASTM D 698. In conjunction with the compacting operation, the fill material should be brought to the proper moisture content. The moisture content for general earth fill should range from 2 percentage points below optimum to 5 percentage points above optimum (-2 to +5). These ranges of moisture contents are given as maximum recommended ranges. For some soils and under some conditions, the contractor may have to maintain a more narrow range of moisture content (within the recommended range) in order to consistently achieve the recommended density.

Field density tests should be taken as each lift of fill material is placed. As a guide, one field density test per lift for each 5,000 square feet of compacted area is recommended. For small areas or critical areas the frequency of testing may need to be increased to one test per 2,500 square feet. A minimum of 2 tests per lift should be required. The earthwork operations should be observed and tested on a continuing basis by an experienced geotechnician working in conjunction with the project geotechnical engineer.

Each lift should be compacted, tested, and approved before another lift is added. The purpose of the field density tests is to provide some indication that uniform and adequate compaction is being obtained. The actual quality of the fill, as compacted, should be the responsibility of the contractor and satisfactory results from the tests should not be considered as a guarantee of the quality of the contractor's filling operations.

7.3 Trench Backfill

Trench backfill for pipelines or other utilities should be properly placed and compacted. Overly dense or dry backfill can swell and create a mound along the completed trench line. Loose or wet backfill can settle and form a depression along the completed trench line. Distress to overlying structures, pavements, etc. is likely if heaving or settlement occurs. On-site soil fill material is recommended for trench backfill. Care should be taken not to use free draining granular material, to prevent the backfilled trench from becoming a french drain and piping surface or subsurface water beneath structures, pipelines, or pavements. If a higher class bedding material is required for the pipelines, a lean concrete bedding will limit water intrusion into the trench and will not require compaction after placement. The soil backfill should be placed in approximately 4- to 6-inch loose lifts. The density and moisture content should be as recommended for fill in Section 7.2, Placement and Compaction, of this report. A minimum of one field density test should be taken per lift for each 150 linear feet of trench, with a minimum of 2 tests per lift.

7.4 Excavation

The side slopes of excavations through the overburden soils should be made in such a manner to provide for their stability during construction. Existing structures, pipelines or other facilities, which are constructed prior to or during the currently proposed construction and which require excavation, should be protected from loss of end bearing or lateral support.

Temporary construction slopes and/or permanent embankment slopes should be protected from surface runoff water. Site grading should be designed to allow drainage at planned areas where erosion protection is provided, instead of allowing surface water to flow down unprotected slopes.

Permanent slopes at the site should be as flat as practical to reduce creep and occurrence of shallow slides. The following slope angles are recommended as maximums.

TABLE 7.4-1 – RECOMMENDED SLOPE ANGLES

Height (ft.)	Horizontal to Vertical
0 – 3	1:1
3 – 6	2:1
6 – 9	3:1
> 9	4:1

The presented angles refer to the total height of a slope. Site improvement should be maintained away from the top of the slope to reduce the possibility of damage due to creep or shallow slides.

Trench safety recommendations are beyond the scope of this report. The contractor must comply with all applicable safety regulations concerning trench safety and excavations including, but not limited to, OSHA regulations.

7.5 Acceptance of Imported Fill

Any soil imported from off-site sources should be tested for compliance with the recommendations for the particular application and approved by the project geotechnical engineer prior to the materials being used. The owner should also require the contractor to obtain a written, notarized certification from the landowner of each proposed off-site soil borrow source stating that to the best of the landowner's knowledge and belief there has never been contamination of the borrow source site with hazardous or toxic materials. The certification should be furnished to the owner prior to proceeding to furnish soils to the site. Soil materials derived from the excavation of underground petroleum storage tanks should not be used as fill on this project.

7.6 Soil Corrosion Potential

Specific testing for soil corrosion potential was not included in the scope of this study. However, based upon past experience on other projects in the vicinity, the soils at this site may be corrosive. Standard construction practices for protecting metal pipe and similar facilities in contact with these soils should be used.

7.7 Erosion and Sediment Control

All disturbed areas should be protected from erosion and sedimentation during construction, and all permanent slopes and other areas subject to erosion or sedimentation should be provided with permanent erosion and sediment control facilities. All applicable ordinances and codes regarding erosion and sediment control should be followed.

8.0 CONSTRUCTION OBSERVATIONS

In any geotechnical investigation, the design recommendations are based on a limited amount of information about the subsurface conditions. In the analysis, the geotechnical engineer must

assume the subsurface conditions are similar to the conditions encountered in the borings. However, quite often during construction anomalies in the subsurface conditions are revealed. Therefore, it is recommended that CMJ Engineering, Inc. be retained to observe earthwork and foundation installation and perform materials evaluation during the construction phase of the project. This enables the geotechnical engineer to stay abreast of the project and to be readily available to evaluate unanticipated conditions, to conduct additional tests if required and, when necessary, to recommend alternative solutions to unanticipated conditions. Until these construction phase services are performed by the project geotechnical engineer, the recommendations contained in this report on such items as final foundation bearing elevations, proper soil moisture condition, and other such subsurface related recommendations should be considered as preliminary.

It is proposed that construction phase observation and materials testing commence by the project geotechnical engineer at the outset of the project. Experience has shown that the most suitable method for procuring these services is for the owner or the owner's design engineers to contract directly with the project geotechnical engineer. This results in a clear, direct line of communication between the owner and the owner's design engineers and the geotechnical engineer.

9.0 REPORT CLOSURE

The borings for this study were selected by CMJ Engineering, Inc. The locations and elevations of the borings should be considered accurate only to the degree implied by the methods used in their determination. The boring logs shown in this report contain information related to the types of soil encountered at specific locations and times and show lines delineating the interface between these materials. The logs also contains our field representative's interpretation of conditions that are believed to exist in those depth intervals between the actual samples taken. Therefore, the boring logs contain both factual and interpretive information. Laboratory soil classification tests were also performed on samples from selected depths in the borings. The results of these tests, along with visual-manual procedures were used to generally classify each stratum. Therefore, it should be understood that the classification data on the logs of borings represent visual estimates of classifications for those portions of each stratum on which the full range of laboratory soil classification tests were not performed. It is not implied that the logs are representative of subsurface conditions at other locations and times.

With regard to ground-water conditions, this report presents data on ground-water levels as they were observed during the course of the field work. In particular, water level readings have been made in the borings at the times and under conditions stated in the text of the report and on the boring logs. It should be noted that fluctuations in the level of the ground-water table can occur with passage of time due to variations in rainfall, temperature and other factors. Also, this report does not include quantitative information on rates of flow of ground water into excavations, on pumping capacities necessary to dewater the excavations, or on methods of dewatering excavations. Unanticipated soil conditions at a construction site are commonly encountered and cannot be fully predicted by mere soil samples, test borings or test pits. Such unexpected conditions frequently require that additional expenditures be made by the owner to attain a properly designed and constructed project. Therefore, provision for some contingency fund is recommended to accommodate such potential extra cost.

The analyses, conclusions and recommendations contained in this report are based on site conditions as they existed at the time of our field investigation and further on the assumption that the exploratory borings are representative of the subsurface conditions throughout the site; that is, the subsurface conditions everywhere are not significantly different from those disclosed by the borings at the time they were completed. If, during construction, different subsurface conditions from those encountered in our borings are observed, or appear to be present in excavations, we must be advised promptly so that we can review these conditions and reconsider our recommendations where necessary. If there is a substantial lapse of time between submission of this report and the start of the work at the site, if conditions have changed due either to natural causes or to construction operations at or adjacent to the site, or if structure locations, structural loads or finish grades are changed, we urge that we be promptly informed and retained to review our report to determine the applicability of the conclusions and recommendations, considering the changed conditions and/or time lapse.

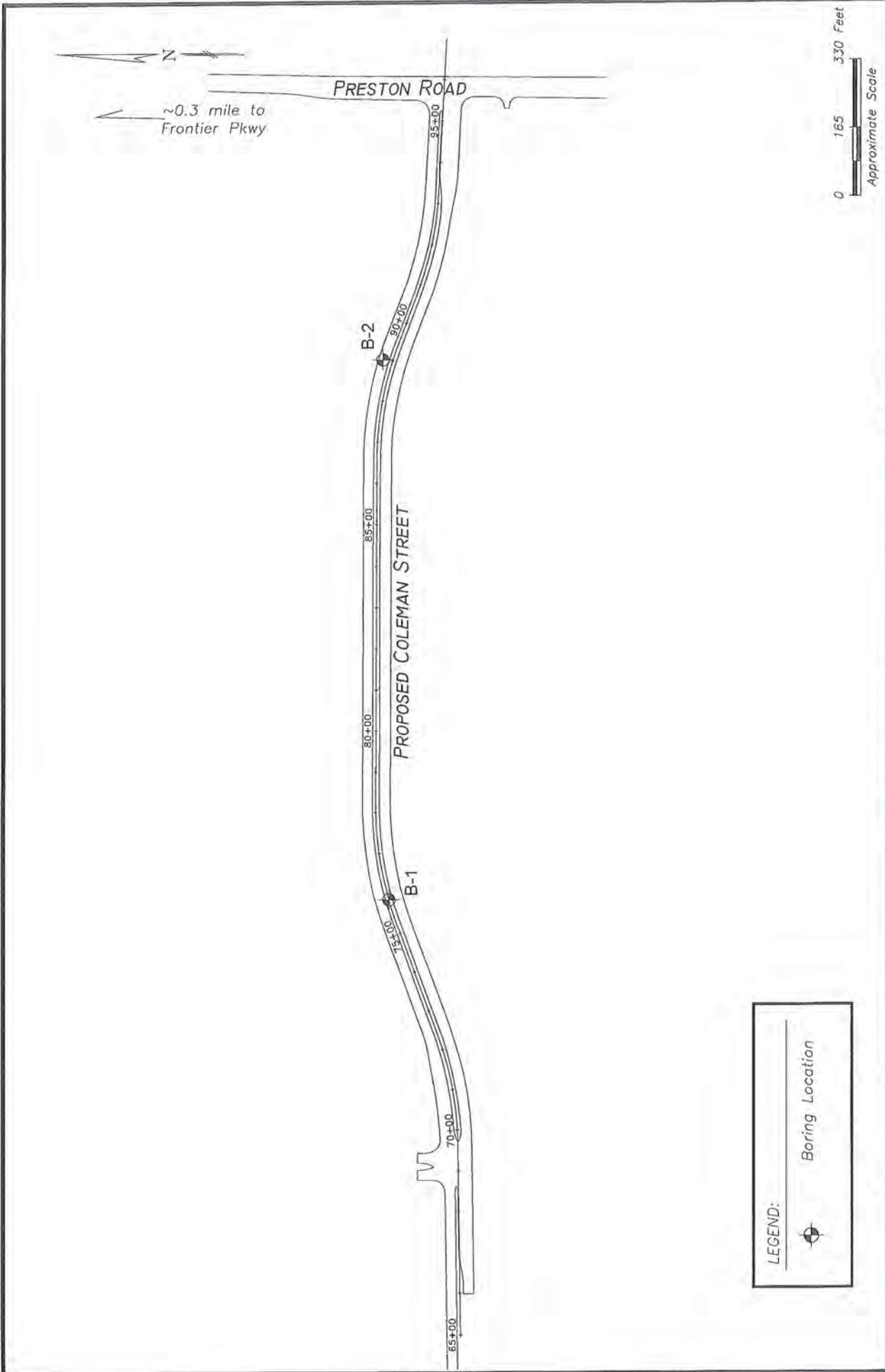
Further, it is urged that CMJ Engineering, Inc. be retained to review those portions of the plans and specifications for this particular project that pertain to earthwork and foundations as a means to determine whether the plans and specifications are consistent with the recommendations contained in this report. In addition, we are available to observe construction, particularly the compaction of structural fill, or backfill and the construction of foundations as recommended in the report, and such other field observations as might be necessary.

The scope of our services did not include any environmental assessment or investigation for the presence or absence of wetlands or hazardous or toxic materials in the soil, surface water, ground water or air, on or below or around the site.

This report has been prepared for use in developing an overall design concept. Paragraphs, statements, test results, boring logs, diagrams, etc. should not be taken out of context, nor utilized without a knowledge and awareness of their intent within the overall concept of this report. The reproduction of this report, or any part thereof, supplied to persons other than the owner, should indicate that this study was made for design purposes only and that verification of the subsurface conditions for purposes of determining difficulty of excavation, trafficability, etc. are responsibilities of the contractor.

This report has been prepared for the exclusive use of Kimley-Horn and Associates, Inc. for specific application to design of this project. The only warranty made by us in connection with the services provided is that we have used that degree of care and skill ordinarily exercised under similar conditions by reputable members of our profession practicing in the same or similar locality. No other warranty, expressed or implied, is made or intended.

* * * *



LEGEND:
 Boring Location

PLAN OF BORINGS
 COLEMAN STREET IMPROVEMENTS
 VICTORY LANE TO SH 289 (PRESTON ROAD)
 PROPSER, TEXAS



CMJ PROJECT No. 103-15-194

PLATE
 A.1

Major Divisions		Grp. Sym.	Typical Names	Laboratory Classification Criteria		
Coarse-grained soils (more than half of the material is larger than No. 200 sieve size)	Gravels (More than half of coarse fraction is larger than No. 4 sieve size)	Clean gravels (Little or no fines)	GW	Well-graded gravels, gravel-sand mixtures, little or no fines	$C_u = \frac{D_{60}}{D_{10}}$ greater than 4; $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ between 1 and 3	
		GP	Poorly graded gravels, gravel-sand mixtures, little or no fines	Not meeting all gradation requirements for GW		
		Gravels with fines (Appreciable amount of fines)	GM	Silty gravels, gravel-sand-silt mixtures	Liquid and Plastic limits below "A" line or P.I. greater than 4 Liquid and plastic limits plotting in hatched zone between 4 and 7 are borderline cases requiring use of dual symbols	
			GC	Clayey gravels, gravel-sand-clay mixtures		
		Sands (More than half of coarse fraction is smaller than No. 4 sieve size)	Clean sands (Little or no fines)	SW	Well-graded sands, gravelly sands, little or no fines	$C_u = \frac{D_{60}}{D_{10}}$ greater than 6; $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ between 1 and 3
	SP			Poorly graded sands; gravelly sands, little or no fines	Not meeting all gradation requirements for SW	
	Sands with fines (Appreciable amount of fines)		SM	Silty sands, sand-silt mixtures	Liquid and Plastic limits below "A" line or P.I. less than 4 Liquid and plastic limits plotting between 4 and 7 are borderline cases requiring use of dual symbols	
			SC	Clayey sands, sand-clay mixtures		
	Determine percentages of sand and gravel from grain size curve. Depending on percentage of fines (fraction smaller than No. 200 sieve size), coarse-grained soils are classified as follows: Less than 5 percent.....GW, GP, SW, SP More than 12 percent.....GM, GC, SM, SC 5 to 12 percent.....Borderline cases requiring dual symbols					
	Fine-grained soils (More than half of material is smaller than No. 200 sieve)	Silt and clays (Liquid limit less than 50)	ML	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands, or clayey silts with slight plasticity		
CL			Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, and lean clays			
OL			Organic silts and organic silty clays of low plasticity			
Silt and clays (Liquid limit greater than 50)		MH	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts			
		CH	Inorganic clays of high plasticity, fat clays			
		OH	Organic clays of medium to high plasticity, organic silts			
Highly Organic soils		Pt	Peat and other highly organic soils			

SOIL OR ROCK TYPES											
	GRAVEL		LEAN CLAY		LIMESTONE						
	SAND		SANDY		SHALE						
	SILT		SILTY		SANDSTONE						
	CLAYEY		HIGHLY PLASTIC CLAY		CONGLOMERATE	Shelby Tube	Auger	Split Spoon	Rock Core	Cone Pen	No Recovery
TERMS DESCRIBING CONSISTENCY, CONDITION, AND STRUCTURE OF SOIL											
Fine Grained Soils (More than 50% Passing No. 200 Sieve)											
Descriptive Item		Penetrometer Reading, (tsf)									
Soft		0.0 to 1.0									
Firm		1.0 to 1.5									
Stiff		1.5 to 3.0									
Very Stiff		3.0 to 4.5									
Hard		4.5+									
Coarse Grained Soils (More than 50% Retained on No. 200 Sieve)											
Penetration Resistance			Descriptive Item				Relative Density				
(blows/foot)											
0 to 4			Very Loose				0 to 20%				
4 to 10			Loose				20 to 40%				
10 to 30			Medium Dense				40 to 70%				
30 to 50			Dense				70 to 90%				
Over 50			Very Dense				90 to 100%				
Soil Structure											
Calcareous		Contains appreciable deposits of calcium carbonate; generally nodular									
Slickensided		Having inclined planes of weakness that are slick and glossy in appearance									
Laminated		Composed of thin layers of varying color or texture									
Fissured		Containing cracks, sometimes filled with fine sand or silt									
Interbedded		Composed of alternate layers of different soil types, usually in approximately equal proportions									
TERMS DESCRIBING PHYSICAL PROPERTIES OF ROCK											
Hardness and Degree of Cementation											
Very Soft or Plastic		Can be remolded in hand; corresponds in consistency up to very stiff in soils									
Soft		Can be scratched with fingernail									
Moderately Hard		Can be scratched easily with knife; cannot be scratched with fingernail									
Hard		Difficult to scratch with knife									
Very Hard		Cannot be scratched with knife									
Poorly Cemented or Friable		Easily crumbled									
Cemented		Bound together by chemically precipitated material; Quartz, calcite, dolomite, siderite, and iron oxide are common cementing materials.									
Degree of Weathering											
Unweathered		Rock in its natural state before being exposed to atmospheric agents									
Slightly Weathered		Noted predominantly by color change with no disintegrated zones									
Weathered		Complete color change with zones of slightly decomposed rock									
Extremely Weathered		Complete color change with consistency, texture, and general appearance approaching soil									
KEY TO CLASSIFICATION AND SYMBOLS										PLATE A.3	

Project No. 103-15-194		Boring No. B-2		Project Coleman Street Improvements Victory Lane to SH 289 - Prosper, Texas											
Location See Plate A.1		Water Observations Dry during drilling; dry at completion													
Completion Depth 20.0'		Completion Date 2-10-15													
Surface Elevation		Type CME-55, w/ CFA													
Depth, Ft.	Symbol	Samples	Stratum Description			REC %	RQD %	Blows/Ft. or Pen Reading, T.S.F.	Passing No 200 Sieve, %	Liquid Limit, %	Plastic Limit, %	Plasticity Index	Moisture Content, %	Unit Dry Wt. Lbs./Cu. Ft.	Unconfined Compression Pounds/Sq. Ft.
5	[Diagonal Hatching]	[Small Squares]	CLAY AND SHALY CLAY, gray, brown, dark brown, and light brown, stiff to very stiff (FILL) -firm below 4'					3.0					25		
10	[Diagonal Hatching]	[Small Squares]	CLAY, dark brown, firm to stiff					3.5		66	22	44	23		
15	[Diagonal Hatching]	[Small Squares]	SHALY CLAY, brown and light brown, stiff					3.25					23		
20	[Diagonal Hatching]	[Small Squares]						2.75					23		
								1.5					29	93	2130
								1.0					35		
								1.5		66	22	44	29	92	1100
								1.5		64	21	43	26	99	
								3.0							

LOG OF BORING 103-15-194.GPJ CMJ.GDT 2/24/15

FREE SWELL TEST RESULTS

Project: Coleman Street Improvements
Victory Lane to SH 289 - Prosper, Texas

Project No.: 103-15-194

Boring No.	Depth Interval (ft.)	Sample Description	Liquid Limit	Plastic Limit	Plasticity Index	Moisture Content %		Percent Swell (%)
			LL	PL	PI	Initial	Final	
B-2	14 – 15	Clay	64	21	43	26.4	27.3	0.0

Free swell tests performed at approximate overburden pressure

SOLUBLE SULFATE TEST RESULTS

Project: Coleman Street Improvements
Victory Lane to SH 289 - Prosper, Texas

Project No.: 103-15-194

Boring No.	Depth (ft.)	Material	Soluble Sulfates (ppm)
B-1	1 - 2	Clay	787
B-2	0 - 1	Clay	>4,000

Note: Test Method TxDOT Tex 145-E.

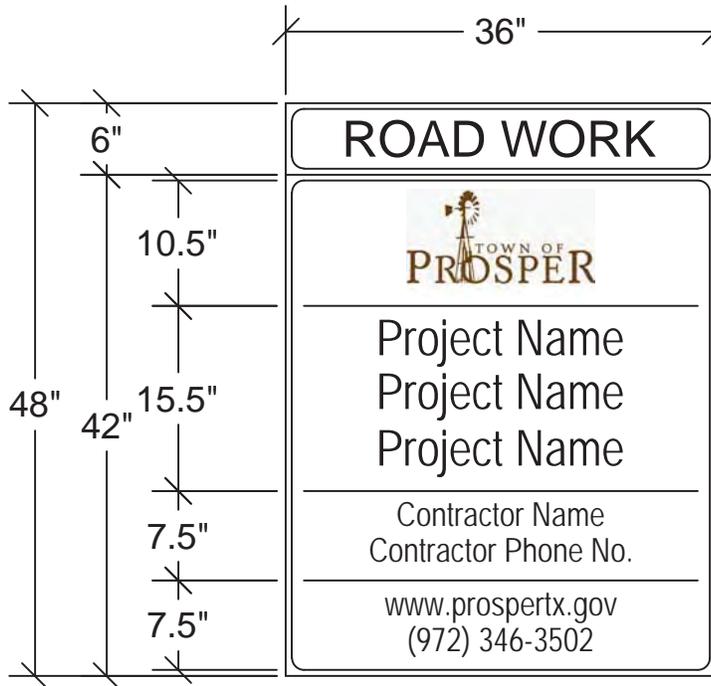
LIME SERIES TEST RESULTS

Project: Coleman Street Improvements
Victory Lane to SH 289 - Prosper, Texas

Project No.: 103-15-194

Boring No.: B-1	Depth: 0' to 1'
Material: Clay	
Percent Lime	pH
0	8.22
2	11.32
4	11.95
6	12.40
8	12.40
10	12.40

APPENDIX A2 – PROJECT INFORMATION SIGN



BACKGROUND: ORANGE
 BORDER/TEXT: BLACK
 BORDER WIDTH: 1/2"
 FONT: FHWA SERIES D
 HEIGHT: 3 INCHES

BACKGROUND: BROWN
 BORDER/TEXT: WHITE
 BORDER WIDTH: 1/2"
 LOGO HEIGHT: 9 INCHES
 FONT: FHWA SERIES C
 HEIGHT: 3 INCHES (LARGE)
 2 INCHES (SMALL)

NOTES:

1. Project information signs shall be fabricated and erected in accordance with the current version of the TxDOT Barricade and Construction (BC) details, including mounting height, retroreflective materials, and mounting requirements.
2. Town logo will be provided to Contractor in electronic format upon request. Town may request additional logos be added to recognize funding partners. All logos shall be converted to monochrome coloring unless otherwise directed.
3. "ROAD WORK" text may be modified as directed by the Town Project Manager to reflect scope of project, for example "UTILITY WORK" "DRAINAGE WORK" or other appropriate description.
4. Contractor shall provide Town Project Manager a proof for review prior to fabrication of the project information sign.
5. Project information signs shall be erected as shown in the plans or as directed by the Town Project Manager. Signs shall not obstruct sight lines or pedestrian circulation paths.



**PROJECT INFORMATION
SIGN**

TOWN OF PROSPER, TEXAS

STANDARD DRAWING NO.

PS

REVISED: DEC 2014



PARKS & RECREATION

To: Mayor and Town Council
From: Paul Naughton, RLA, Landscape Architect
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – October 27, 2015

Agenda Item:

Consider and act upon approving the purchase of lighting and installation services for the Frontier Park - Southeast Corner, Phase 2 Field Lighting project, from Musco Sports Lighting, LLC, through the Texas Local Government Purchasing Cooperative.

Description of Agenda Item:

At the Town Council's January 29, 2014, Strategic Planning Session, staff was given direction to begin moving forward with adding additional athletic field lighting at Frontier Park. The first project was the additional lighting for the soccer fields at Frontier Park east of the concession stands. The second project was adding lighting at the southwest corner practice fields. This project is for the remaining lights on the area south of the soccer fields at the southeast corner of Frontier Park.

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment). The Town of Prosper entered into an interlocal participation agreement in June 2005, providing the Town's participation in the Texas Local Government Purchasing Cooperative. Participation in the cooperative purchasing program allows our local government to purchase goods and services from the cooperative's online purchasing system, BuyBoard, while satisfying all competitive bidding requirements.

Budget Impact:

The total cost of the lighting and installation services is \$596,788. The total budget for the project is \$600,000, which includes a \$3,212 contingency. Funding in the amount of \$600,000, was approved in the FY 2015-2016 budget from the Park Dedication Fund (Account No. 61-6610-60-00-1602-PK).

Attached Documents:

1. Musco Lighting BuyBoard Quote
2. Location Map

Town Staff Recommendation:

Town staff recommends that the Town Council approve the purchase of lighting and installation services for the Frontier Park - Southeast Corner, Phase 2 Field Lighting project, from Musco Sports Lighting, LLC, through the Texas Local Government Purchasing Cooperative.

Proposed Motion:

I move to approve the purchase of lighting and installation services for the Frontier Park - Southeast Corner, Phase 2 Field Lighting project, from Musco Sports Lighting, LLC, through the Texas Local Government Purchasing Cooperative.



**Frontier Park Multipurpose Area 2 and Multipurpose Area 3
(3 Zones for Multipurpose Area 2 and 2 Zones for Multipurpose Area 3)
Prosper, Texas
Buy Board Quote
Park and Rec. Field Lighting Contract #423-13 Expiration Date: 9/30/2016
Date: September 24, 2015**

Equipment Description

Light-Structure Green™ System delivered to your site in Five Easy Pieces™

- 10 - Pre-cast concrete bases
- 10 – 70' Galvanized steel poles
- UL Listed remote electrical component enclosure
- Pole length wire harness
- 112 - Factory-aimed and assembled luminaires
- Painting the poles, remote ballast enclosures, crossarms and fixtures dark bronze to match other Musco lighting equipment throughout the park.

Also Includes:

- Energy savings of more than 50% over a standard lighting system
- 50% less spill and glare light than Musco's prior industry leading technology
- Musco Constant 25™ warranty and maintenance program that eliminates 100% of your maintenance costs for 25 years, including labor and materials
- Guaranteed constant light level of 30 footcandles for 25 years
- 1 group re-lamp at the end of the lamps' rated life, 5000 hours
- Reduced energy consumption
- Control Link® Control & Monitoring System for flexible control and solid management of your lighting system
- Lighting Contactors
- Installation of Musco equipment and electrical for a fully operational system (See page 3)
- Designs and Plans
- Bonding and insurance

Quote

Musco's Light Structure Green™ as described above

Multipurpose Area 2 and Area 3 Musco Equipment (\$34,025.20 per pole).....	\$340,252
Adder for powder-coat paint to match the existing equipment at the park.....	\$75,299
Installation.....	\$175,750
Bonding.....	\$5,487
Total.....	\$596,788

Pricing furnished is effective for 60 days and is considered confidential.

Payment Terms

Net 30.

Musco will attempt to coordinate shipment so that delivery corresponds with the customer's payment schedule. We will expect payment within the terms described above unless there is a written statement from Musco's corporate headquarters stating the acceptance of different terms.

- **Delivery to the job site from the time of order, submittal approval, and confirmation of order details including voltage and phase, pole locations is approximately 30-45 days. Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior to production. Changes to pole locations after the product is sent to production could result in additional charges.**

Notes

Quote is based on:

- Shipment of entire project together to one location
- Structural code and wind speed = 2009 IBC, 90 MPH
- Confirmation of pole locations prior to production

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.

Chris Johnson
Sales Representative
Musco Sports Lighting, LLC
Cell: 214-733-2927
E-mail: chris.johnson@musco.com
Fax: 800-374-6402

Installation Services**Multipurpose Area 2**

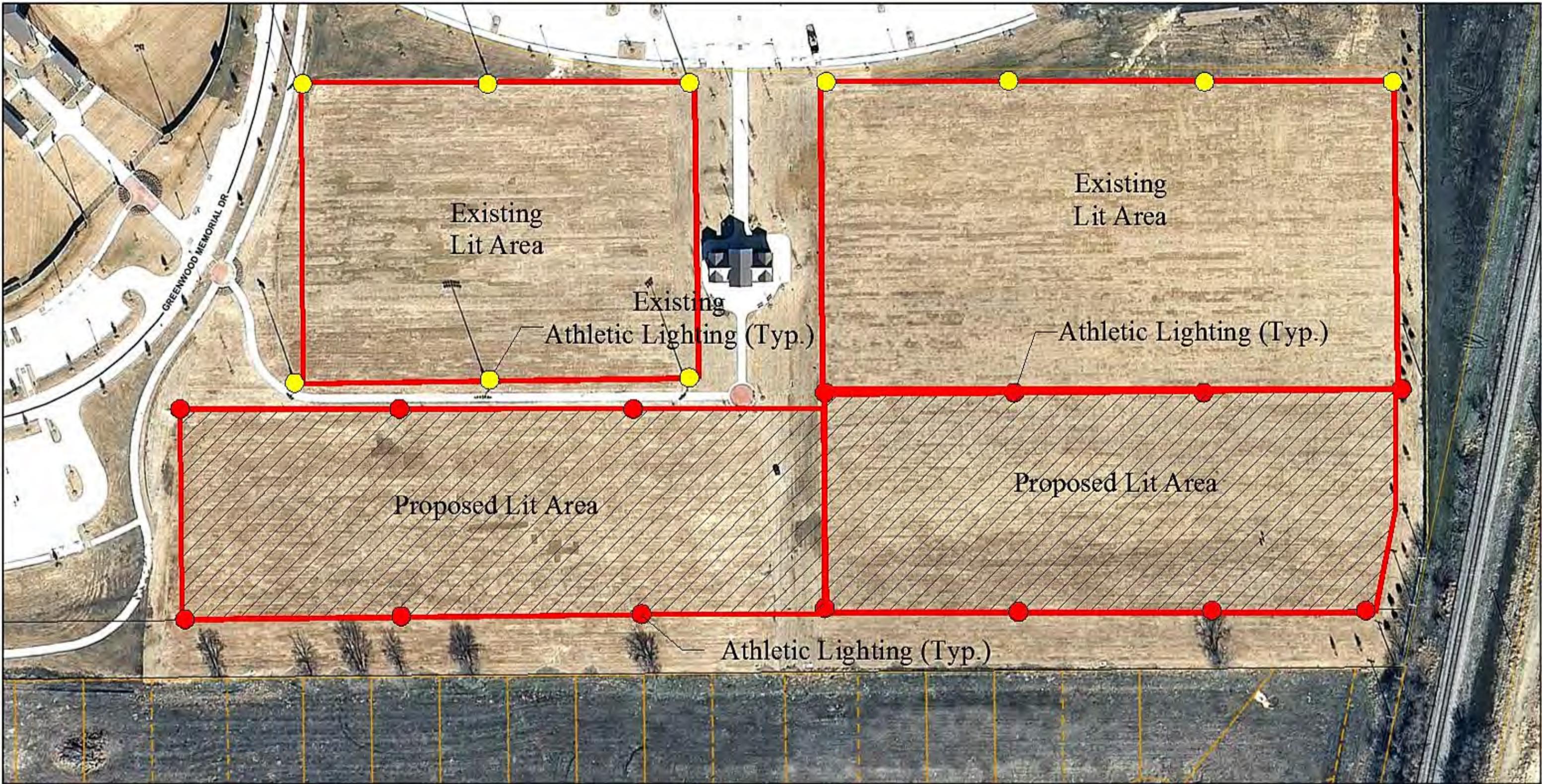
- Unload Musco poles, precast bases, fixtures and components at site
- Provide storage for glass product
- Drill holes for 4 Musco poles per Musco structural design for standard soil conditions
- Install Musco precast concrete bases, backfill with concrete
- Assemble poles and 60 – Light Structure Green fixtures
- Assemble and Install Fixtures on back of Multi-Purpose 1
- Stand poles
- Orientate to aiming spot
- Install Musco wiring harnesses
- Bore for underground circuits
- Furnish and install conduit and conductors
- Furnish and install (near existing Power Company XFMR) Enclosure, Enclosure Pad, Panels, & Service
- Install Musco Lighting Control Cabinet
- Miscellaneous material and labor
- Haul-off and Site Clean-up

Multipurpose Area 3

- Unload Musco poles, precast bases, fixtures and components at site
- Provide storage for glass product
- Drill holes for 6 Musco poles per Musco structural design for standard soil conditions
- Install Musco precast concrete bases, backfill with concrete
- Assemble poles and 52 – Light Structure Green fixtures
- Stand poles
- Orientate to aiming spot
- Install Musco wiring harnesses
- Bore for underground circuits
- Furnish and install conduit and conductors
- Tie in to Panels and Controls supplied in Multi-Purpose 2
- Miscellaneous material and labor
- Haul-off and Site Clean-up

Excludes:

- ∅ Other work not stated above
- ∅ Permit fees
- ∅ Survey
- ∅ Tree Protection
- ∅ Soil Erosion
- ∅ Re-establishing SOD
- ∅ Utility company charges





PLANNING

To: Mayor and Town Council

From: John Webb, AICP, Director of Development Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – October 27, 2015

Agenda Item:

Conduct an annual review of the Town's Comprehensive Plan.

Background:

When the Comprehensive Plan (Plan) was adopted in 2012, the Implementation section noted the Plan should be a dynamic document that responds to changing needs and conditions of the Town. It recommends that at one-year intervals, a review of the Plan should be conducted with respect to current conditions and trends. Such evaluations provide a basis for adjusting capital expenditures and priorities, as well as identify changes and additions that should be made to the Plan in order to keep it current and applicable for the long-term.

On October 7, 2014, and October 14, 2014, the Planning & Zoning Commission and Town Council, respectively, conducted their annual review of the Plan. At a Joint Work Session held on December 2, 2014, the Council and the Commission discussed the annual review of the Plan. The services of the consulting firm, Masterplan, had been retained in 2014 to perform the annual review. At the Joint Work Session, it was determined that it would not be necessary to utilize a consultant for a formal review every year, and a staff-conducted annual review would be sufficient. The 2014 Annual Update of the Comprehensive Plan is attached for reference.

Summary of Agenda Item:

One of the significant purposes of a Plan is to guide the decision-making process in rezoning requests. Since the adoption of the Future Land Use Plan in August 2012, 41 rezoning requests have been approved. Per advice from the Town Attorney, beginning in July 2014, rezoning requests which do not conform to the Future Land Use Plan are required to be accompanied by a separate request to formally amend the Plan.

- Between August 2012 and July 2014, 25 rezoning requests were approved, eight of which were not in accordance with the Future Land Use Plan.
- Since July 2014, 16 rezoning requests have been approved, one of which was not in accordance with the Future Land Use Plan, for a minor amendment to Planned Development-40 (Windsong Ranch) to incorporate a five acre outlot into the development. Since that time, there have been three amendments to the Future Land Use Plan which have been approved in conjunction with the companion rezoning requests.

One of the major accomplishments this year was the adoption of updated residential development standards. This project was identified in the Council's Strategic Goals and was consistent with the following Goals in the Plan which state:

- *“Maintain and enhance the high quality of life and small-town feel currently available and expected by Prosper residents.*
- *Protect the quality and integrity of Prosper's neighborhoods.*
- *Require high-quality and visually attractive architectural characteristics in both residential and non-residential developments.”*

Future Projects:

In the upcoming year, Development Services intends to initiate or complete the following Strategic Goals and projects to meet the objectives of the Implementation section of the Plan:

- Update Zoning Ordinance Use Chart
- Update the Subdivision Ordinance
- Update non-residential development standards
- Initiate Phase One Old Town Planning assessment study
- Update zoning districts and land use charts in the zoning ordinance (i.e. Commercial Corridor District)
- Reformat the Zoning Ordinance to improve ease of use

Staff is requesting the consideration of an amendment to the Comprehensive Plan regarding the correlation/equivalency between Future Land Use Map Designations and Zoning Districts. For instance, the Future Land Use Map designates some of the non-residential areas as “Business Park,” “Tollway District,” and “US 380 District,” but the Plan does not provide equivalent zoning district designations, such as the “Retail,” “Commercial,” and the “Commercial Corridor,” Districts. When zoning change requests are considered, it would assist in determining whether or not the request is consistent with the Future Land Use Plan's designation.

Findings and Trends:

With the Plan being in effect in its third year, the document appears to be consistent with the Council's goals and market conditions.

Residential Development:

The strong DFW economy and demand for new housing will continue to place Prosper as a prime market to meet this residential demand. With the increasing costs of land and development, there will be pressure to maximize lot yield. Where zoning entitlements do not currently exist, such as properties zoned Agricultural, it is anticipated that the Planning & Zoning Commission and the Town Council will be asked to approve higher density single family developments which may not be in conformance with the Future Land Use Plan.

Prosper is beginning to see an interest in age-restricted housing, which is currently not offered in the Town. This housing comes in the form of,

1. independent senior living facilities which may be situated on detached single family lots or apartment-style developments,
2. assisted living/memory care facilities and
3. skilled nursing facilities.

While the Zoning Ordinance permits independent senior living facilities, “retirement housing,” by right in the Multifamily District, “retirement housing” appears to be a somewhat antiquated term due to the variety of senior housing options that currently are available, such as assisted living

facilities, senior congregate care facilities, memory care facilities, and traditional nursing homes, for example. As a consequence, in the above-noted "Update Zoning Ordinance Use Chart," staff will provide a process for consideration of multi-family, age-restricted housing through the SUP process.

Non-Residential Development:

The Town's demographics and the increased traffic volume on the highways and major thoroughfares have created a demand for retail and service oriented developments. The Town is witnessing the evolution from a predominantly bedroom suburb to a full service community that offers services to its citizens. The sales tax leakage will continue to decrease as the commercial developments increase providing residents the ability to purchase goods in Prosper instead of in McKinney, Frisco, or other neighboring cities.

With this new interest in commercial developments in the Town, there may be requests for non-residential zoning in areas where the Plan recommends residential development. As with other requests to amend the Plan, the test for the applicants will be to identify why the Plan's recommended residential development for a particular location is no longer appropriate.

Attachments:

1. 2014 Annual Review of the Comprehensive Plan

Planning & Zoning Commission Review:

This item was presented to the Planning & Zoning Commission at their October 20, 2015, meeting.

Town Staff Recommendation:

Town staff recommends that the Town Council provide feedback on this review of the Plan, findings, trends and proposed amendments.

Proposed Motion:

I move to accept the annual review of the Town's Comprehensive Plan with respect to current conditions and trends and request staff to initiate the formal process for amending the Plan.

Town of Prosper Comprehensive Plan

An Annual Review of the Plan with Respect to Current Conditions and Trends

September 13, 2014

Prepared By:



Dallas Cothrum, Ph. D.

Karen Wunsch, AICP

Executive Summary

The Prosper Comprehensive Plan serves as the Town's guide for development-related policy decisions. Although the planning process and various components of the Plan are not uncommon, several characteristics unique to the Town of Prosper are highlighted throughout the Plan. The most significant theme relates to how Prosper can best prepare for what is anticipated to be a period of rapid population growth and corresponding land development, so that the fully developed Prosper of the future retains many of the characteristics that the community values today.

As with any comprehensive plan, the Prosper Comprehensive Plan is intended to be a dynamic, flexible, and adaptable guide. The Plan suggests that an annual review of the document be conducted to ensure that it stays relevant during this period of rapid development activity. This supplement to the Plan summarizes the findings of the document within the context of current market conditions and evolving trends.

As an active participant in the development industry, Masterplan often spearheads land use negotiations with municipalities and other governmental entities on behalf of developers. This perspective provides consideration of the goals and objectives of the Plan from a developer's point of view, and it offers regional examples of potential opportunities and threats that Prosper may encounter as it strives toward plan implementation.

The community vision focuses on Prosper maintaining a rural character, despite experiencing rapid population growth. One interpretation is that residential areas will have a small town feel that speaks to the Town's rural roots through large lots and openness, while the primary transportation corridors will be denser and result in a much different development pattern than exists in the Town today. The visioning process also recognized the importance of having a variety of land uses, which diversifies the tax base and prevents the Town from relying too heavily on single-family residential property owners for revenue.

After exploring the seven sections of the Plan and identifying opportunities and threats given current market trends, recommendations were formulated to help guide development towards the community's desired vision. These recommendations focus primarily on concentrating retail and mixed-use development projects along the Dallas North Tollway and US 380 corridors, protecting the quality of large lot single-family residential land uses, and implementing policies of collaboration and data collection that will facilitate future planning initiatives and the Town's responsiveness to community needs.

Specifically, the recommendations include:

- Revise the current Zoning Map to be consistent with the Future Land Use Plan. A significant component to this exercise is to evaluate the appropriateness of Planned Development Districts, particularly zoning districts more than five years old that have not developed. The Town should feel empowered to initiate zoning conversations with developers when the existing development plan is no longer appropriate.
- Facilitate desired development patterns within the Dallas North Tollway and US 380 corridors by ensuring that zoning regulations encourage desired development projects and prohibit undesirable projects. A healthy Town economy requires a variety of land uses that contribute to the tax base. The corridor areas are appropriate areas to concentrate mixed-use projects and land uses other than large lot residential subdivisions. In addition, the Town should give careful consideration before rezoning additional sites for neighborhood service retail beyond what is already proposed on the Future Land Use Plan. Perpetuating a surplus of retail uses may result in lower end finish-outs and less desirable retail tenants.
- Ensure that current zoning regulations and Town policies allow for mixed-use development opportunities without over-saturating the market. In particular, evaluate mixed-use development standards. Many mixed-use projects have failed, and often multistory mixed-use projects are not successful - even in desirable locations. Some scrutiny must be given to ensure successful mixed-use projects, not just a mixture of uses. Within the region, there exist numerous resources that should be consulted in order to identify best practices and lessons learned that will allow Prosper to achieve high-quality, successful projects.
- Establish a community benchmark questionnaire that helps planners and Town administrators understand how residents and their opinions change over time. The data collected will be beneficial to future planning studies, and it will assist the Town in responding to and anticipating the changing needs of the community.

Perhaps most importantly, the Town should actively foster ongoing relationships with community partners such as the Prosper Independent School District and the Economic Development Corporation. Collaborative planning efforts will strengthen each of the three entities and therefore the ability of Prosper to prepare for growth and attract the high quality development projects envisioned in the Comprehensive Plan.

Introduction

The Town of Prosper contracted with Masterplan, a land use-consulting firm, to review the Town's Comprehensive Plan. Masterplan has extensive experience representing land development interests in the region and throughout the state. This market-driven, private sector point of view provides a different perspective for evaluating the Prosper Comprehensive Plan and developing recommendations for implementing the Plan.

As with most comprehensive plans, the Town of Prosper's Comprehensive Plan is intended to serve as a flexible guide for growth and development. Plans must be flexible enough to work within the market, yet strong enough to manage competing interests. The plan must foster a spirit of community while allowing for and guiding growth. Periodic reviews of the Plan provide another tool for plan implementation, and Plan maintenance helps the document remain up-to-date and relevant.

A central theme of Prosper's Comprehensive Plan involves preparing for non-residential growth that will diversify land use within the community as well as strengthen the tax base. Retail uses represent a significant component of anticipated new development. As emphasized in the Plan, retail development should be strategically located, well designed, and of high quality. However, the community must also recognize that the retail market is evolving along with consumer shopping habits, and development trends experienced in neighboring communities may not necessarily be applicable to Prosper's development boom.

The retail industry has seen considerable changes over recent years. Although the Dallas-Fort Worth market has climbed above 90 percent occupancy for retail in anchor-type shopping centers for the first time since 2004. It does not appear to be a trend. The region has 187,987,318 square feet of retail in shopping centers over 25,000 square feet. The Metroplex has done much better than most parts of the country. One important reason is the increase in density fueled by significant multifamily development. Municipalities can no longer separate residential planning from commercial.

Prosper must evaluate how much successful retail it can construct and have citizens patronize. A number of troubling trends are changing commercial property. Shopping and eating habits are rapidly changing. In 2010, there were 33 billion retail visits to stores during the holiday season. This number has dropped to 17.6 billion visits during the same November to December time period in 2013. As a result, retailers are building far fewer shopping centers. In 2010, there were 310 million square feet of new retail space opened nationally; in 2013 the number declined to 43.8 million square feet. To compound the problem, stores of popular retailers have closed. The Gap, JC Penney, Sears, Macy's, and Best Buy have all closed numerous stores. Previously, these were institutional

lions capable of anchoring shopping centers, and they consistently focused on expansion.

During the previous decade, developers shifted shopping trends from malls to power centers. Now, consumers are driving the market and they have decided that the Internet is ascendant. This is no longer a trend but a reality. Online sales once again doubled during the 2013 holiday season. Retailers had half the traffic that they did just three years ago. This change in shopping habit is impacting other commercial property sectors.

Municipalities also need to watch emerging changes in restaurants. Casual dining concepts struggled prior to the recession and continue to post marginal numbers. One recent study contends that the concepts are too familiar and not dissimilar from one another. Sales in casual dining have remained stagnant and are now below inflation levels. These concepts now feature value dining menus that have reduced average customer tickets to \$12.42. Unfortunately, value menu options, however, are essential to generate store traffic. The rise in fast-casual concepts also continues to eat into the sit down dining sector. Importantly, the fast-casual concept typically takes far less space. Interestingly, the per person average at Chipotle compares quite favorably at \$11.30.

City planners must actively understand the market and adapt to emerging trends. Likewise, a community must interact with staff from various departments to ensure a range of development. This review attempts to make use of real world, real estate based priorities and understand them within a planning framework. Masterplan typically represents developers and works as an agent of change at the "tip of the spear." This knowledge and interaction with developers and their tenants provides perspective often not embraced in comprehensive planning exercises.

Review

The Prosper Comprehensive Plan establishes a vision for the community's future and serves as a guide that will help direct development and policy decisions toward achieving a desirable future. The Plan is organized into seven sections which include: Planning Context, Community Vision, Community Character, Transportation Plan, Economic Analysis, Infrastructure Assessment, and Implementation Plan.

A brief synopsis of each Plan section is provided for reference as well as observations that have been categorized as either "Opportunities" or "Threats." These observations are intended to focus attention on key topics and facilitate additional discussion of potential vulnerabilities or omissions of the Plan. Exploring these topics in greater detail highlights areas of the development code that need improvement and provides a foundation for establishing a plan implementation strategy that includes recommendations for next steps.

In general, the "Opportunities" listed are concepts presented in the Plan that seem particularly important or relevant to successful plan implementation and achieving the vision created during the planning process. In some cases, the opportunities are points that speak to the Town's character currently or as it hopes to be in the future. Consideration of Prosper's opportunities for a vibrant future is also provided within the context of the larger region in which it is located. The proximity of Prosper to surrounding communities with similar experiences provides confidence in recognizing trends and preparing for the future.

"Threats" refer to topics that are perhaps vague or not easily understood by someone who did not participate in the original planning process. Threats in this context also represent external factors and local conditions that, if not addressed, could result in undesirable development patterns or an overall community character that is different from what is envisioned. Emerging national trends create concern for the ability of the Town to adapt to new and changing philosophies that may limit the potential for successful development projects. The digital age continues to influence American lifestyles and impact the way people live, work, and play. Ultimately, these changes affect the landscape of the built environment by altering needs related to housing, retail, office, and recreational uses.

Planning Context - This chapter provides a discussion of the justification for planning from both a legal and practical standpoint. The section includes a thorough examination of the existing local and regional conditions that will influence Prosper's future. The most significant characteristic of the existing community is that the Town is experiencing rapid growth that will likely continue for the next ten to twenty years. This provides exciting opportunities that may galvanize a community and create a unique sense of place, but only if the "threats" to this vision are recognized and mitigated.

The City of Plano provides an outstanding example for communities to both replicate and avoid. The city stands as a national example regarding rapid growth. In 1960, Plano remained a rural community that had not seen any substantive benefit from World War II post-war boom. Community leaders, however, recognized the city was poised to grow. By 1970, the city had a population of 17,872. The city planned a number of public works projects, acquired right-of-way, and, perhaps most importantly, did significant planning to prepare for the 1980s. The city also built a number of excellent city facilities and planned locations for others. The decision to locate the city hall in downtown has proven effective, especially with the advent of mass transit. By 1980, the city had a population of 72,000 and a national reputation for keeping up with the growth and having a quality community. The city reported population growth to 128,713 in 1990 and 222,030 to close out the century.

Plano sustained high-quality growth over a long period because of several factors. First, the city had strong leadership and longtime community members that helped identify and maintain a distinct character. Second, the city instituted rigid financial controls that remain in place. Of Texas' largest cities, Plano has the lowest per capita debt at \$1,371. Third, the city attracted a number of corporate headquarters. Likewise, high-paying and well-educated employees followed these businesses to Plano. In part, they stayed in the community because of the quality of schools. Today the community has a median income of \$82,901.

Plano thoughtfully made sound planning decisions. The city elected to participate in Dallas Area Rapid Transit. Today the downtown area has an urban feel that is bolstered by mass transit and a variety of housing stock that provides density. The city has also had strong commitment in planning from staff that has remained in place for many years as well as committed elected and appointed officials.

The city also provides a valuable perspective of what to avoid. Plano suffers from bimodal distribution in terms of an East and West split. The newest retail and most expensive homes are in the west along the Dallas North Tollway corridor. In contrast, the east, situated along North Central Expressway, suffers from vacant retail and lower home values. The city has too much retail and faces expanded competition for spending dollars on every side. Its earlier dominance of retail has

been tempered in the last decades. In fact, the city now has instituted a retail pruning initiative.

Opportunities

The Prosper planning area contains a significant amount of vacant land. An estimated eighty percent of the Town's twenty-seven square miles is undeveloped. With such a large proportion of Prosper's land projected to develop in a short amount of time, there is an opportunity for the creation of a cohesive community comprised of land uses and design styles that complement each other. In Prosper, issues such as promoting infill development or encouraging redevelopment of sites are less important than in other communities. This allows for planning efforts and infrastructure improvements to focus on encouraging quality new development.

Prosper's projected growth trend resembles the development explosion witnessed in surrounding communities over recent decades. The experiences of municipalities such as Frisco, Allen, and Plano provide a resource to Town administrators, elected officials, and citizens of lessons learned and examples of policies to emulate as well as things to avoid. Exploring the experiences of other rapidly growing communities may help Prosper officials with effective decision-making as it prepares for an extended period of rapid growth.

Although each resident has his or her own reason for living in Prosper, it appears that currently the biggest draw for people settling in the community is the opportunity for a large home on a large lot. As Prosper grows, the reasons for moving to Prosper will likely evolve. Eventually, the proximity of housing to jobs and retail may motivate people to reside in Prosper, but it seems clear that the Plan is intended to preserve the identification of Prosper as a community of large homes and large, rural lots.

Prosper has many positive attributes working in its favor. Key among those, as with any discussion of real estate, is location. Prosper's location positions the Town as the next frontier of the expanding Dallas-Fort Worth region. The center of the Metroplex (previously downtown Dallas) has shifted to LBJ and the Dallas North Tollway. This trend will continue with Highway 121 and the Dallas North Tollway becoming the regional hub in the future. The concentration of the largest retail project of the decade in Nebraska Furniture Mart as well as the relocation of Toyota illustrate that this shift is in progress. Not only does this position the Town for growth, but the location also provides the Town with numerous planning resources

not only in the form of regional planning studies and statistical data, but also in the form of experience by other planning professionals in accommodating the needs of a rapidly growing community.

Threats

The largest threat to achieving the community's vision is missing opportunities for quality development as described in the Plan and anticipated by residents. In fact, residents will expect the timely addition of development that aligns with their tastes and interests. Failure to provide these can result in citizen dissatisfaction. Missed opportunities could come in the form of development projects that fall short of the community's expectations, if the types of development that the Town is planning do not occur at the scale, quality, or rate that is predicted, or when projects locate just outside the Town limits. The desire for a full service, upper end grocery store currently is a good example.

Rapid development can easily lead to reactionary planning and administrative processes. The responsibility of juggling heavy caseloads and high volumes of permitting, zoning and subdivision applications could interfere with initiating corrective zoning measures until, of course, a development application is filed for a use that is undesirable at a particular location. Incorporating a specific plan implementation strategy into departmental work programs will assist staff in effectively guiding future development while managing current development review cycles. Town staff and elected and appointed officials must not practice exclusionary planning by only responding to development requests on a case by case basis without regard to big picture thinking. Similarly, a community can become paralyzed by only knowing what it does not want.

Like the Town of Prosper, the Prosper Independent School District faces challenges associated with accommodating rapid growth. If the school district is not able to provide an adequate supply of quality schools and teachers, residents and high quality land uses most likely will not be attracted to the community. It is vital that there is an open and continuous dialogue with the school district regarding land use assumptions and population projections in order to adequately predict student population growth. As witnessed in many communities and especially lately in Frisco, locating new schools and changing attendance zones can create community stresses that can spill into municipal activities, too.

The high density residential components of proposed mixed-use projects, for instance, require additional study to better understand how such land uses will factor into future student population projections. Typically, mixed-use projects attract households with fewer school aged children, but that assumption may be offset by Prosper's exurban location. A collaborative

relationship with the school district is key to understanding how the proposed growth scenario and Future Land Use Plan will impact the student population and facility needs for the school district.

Consideration of the tenure of citizens who participated in the planning process is necessary. The assumption is that the most of the active community leaders are newcomers that moved to Prosper within the last ten years or so. Sometimes residents of changing communities are excited and eager for new development to occur. Other times, residents seem more apprehensive about change. It is also interesting to consider that the opinions of long-time residents may differ from those of newer community members. It might prove useful to track the changing opinions of residents over time. A community survey provides a method for establishing benchmarks that describe current opinions and identifying potential changes in attitude about development and land use. Monitoring changing attitudes about important issues will allow for those topics to be more easily accommodated by future planning processes.

Although Prosper welcomes many new residents each year, long-term residents of the community may serve as an important community resource. Given Prosper's rural farming roots, families with generational ties to the community would be expected to have large land holdings with significant acres of contiguous land for development. Perhaps a historic Prosper family could be motivated to participate actively in planning and development issues with the intent of creating a legacy project within the Town. A consideration of the eagerness on the part of homeowners as well as specific segments of the community for new development projects may assist the Town in prioritizing implementation strategies.

Another area of concern relates to the large number of Planned Development (PD) Districts that were enacted several years ago but never developed. It is possible that some of the older PD Districts reflect development proposals that are out-of-date, no longer appropriate, or not feasible given current market conditions. In addition, these outdated PD Districts complicate population and land use projections. If the proposed densities are no longer realistic, the assumptions used for planning Town services and the ultimate land use mix is skewed, and the results are less accurate. If the development proposals outlined within the adopted PD Districts are no longer desirable, implementation of the community vision is certainly more challenging. Although a difficult task, renegotiating these agreements must be explored.

The first step would be a general assessment of the risks and rewards associated with individual agreements. Obviously, the legal implications of renegotiating previously approved zoning conditions would need to be considered as well as the impact that this initiative would have on Town's

reputation and perception by the real estate community. If the decision to re-evaluate existing PD Districts is made, a process approach could be based on the age of the PD District, the location, the density, or some other criteria that would allow for a prioritization of the sites rather than tackling all of the PD Districts at one time. Discussions to determine the appropriate strategy should involve representatives from the Town's administrative team, planning department, and Town council.

Community Vision - The visioning process utilized an appointed advisory committee of residents and business owners, some with past or present Council experience. The public participation process resulted in the generation of six community goals. The common theme of these goals is a dichotomy of preparing for high-quality growth while maintaining a rural, small-town image.

Opportunities

Establishing a community's vision for the future is a difficult task. It is easy for people to describe what they do not like, but imagining development types that are attractive, functional, and feasible is a much harder exercise.

Perhaps even more valuable than the adoption of a comprehensive plan is the process of planning itself. As a community, working through the steps necessary to produce a comprehensive plan establishes communication channels between residents and businesses, and the elected officials and staff who work to serve the needs of the community. Participating in a planning process focuses attention on the concerns of the community, and establishes a common ground for understanding existing conditions and the direction in which the community is headed. Maintaining this ethos after adoption is challenging and rarely occurs.

In addition to the residents and business owners that participated in the planning process, the Plan mentions attendance by representatives of the development community at Comprehensive Plan Advisory Committee meetings. If representatives were active participants in the planning process and not merely observers attending on behalf of real estate interests, those people may be key to opening a dialogue with specific developers interested in participating in future plan implementation projects. The Prosper Developers Council is an appropriate avenue for pursuing this dialogue.

As with any plan, development proposals that are inconsistent with the Comprehensive Plan and Future Land Use Plan will be encountered. The Plan should guide the decision-making process, but as a guide it is not inflexible. The Plan suggests several questions to consider when evaluating a development that does not reflect the Future Land Use Plan. In such instances, the additional evaluation may result in a higher and better use than originally envisioned for that specific location. Market conditions and real estate opportunities will lead to adjustments to the Plan. It is appropriate for a comprehensive plan to be flexible when well justified and based on reasons that are supported by the planning process including a good understanding of new opportunities, existing conditions, market shifts, and the intent of the community.

Threats

Using photographs to facilitate discussion during a visioning process is a common exercise, but there is concern with the results of the Visual Character Survey. Focusing too much attention on pictures of what has worked well in other communities may not be an appropriate method for determining the most appropriate use for Prosper. It also fails to fully take into account changes in the market, especially with respect to retail. It could be perceived as an exercise in identifying what is popular at the moment and not what is best or even realistic. It is important for the community to evolve into something genuine that establishes the Town's market niche rather than copy another community's success story. Otherwise, the Town becomes "Disney-like" and never creates its own identity. Even worse, the community loses the character that makes it special to residents and visitors and becomes "just another bedroom suburb."

Another issue with the Community Vision is that it is unclear how the participants envision maintaining a small town feel as the community braces for continued rapid growth and proposed large scale retail and mixed-use development projects. For example, not enough parking downtown is often a characteristic of small towns, but it is unlikely that is the kind of small town feel that Plan participants envision or that national retailers would accept. Future revisions to the Plan should clarify the intent of statements describing a small town feel to avoid sounding like the community is against development.

Protecting the quality and integrity of Prosper's neighborhoods is interpreted to mean that single-family residential uses should be protected from impact by non-residential land uses. Zoning is a tool for separating incompatible land uses and mitigating potential conflicts between uses,

but zoning is only effective if it avoids land use conflicts before the conflict is created. With approximately eighty percent of the Town's land undeveloped, new development cannot avoid changing the Town's landscape, which in some cases will impact existing neighborhoods. The open fields and ranches that exist today will eventually develop. In fact, the future prosperity of the Town depends on it. If the proposed future development does not occur, the Town will have an insufficient tax base, resulting in lesser Town services and ultimately reduced home values and an exodus of well-paid and well-educated professionals. The economic strength of the Town is dependent on a tax base of both residential and non-residential uses. Citizens must recognize that undeveloped tracts will eventually undergo development, and Town leaders have the difficult task of tempering citizen comments with the need for a balanced tax base.

Ultimately, achieving the community's vision of high quality development depends on having the tools (zoning and development standards) that prohibit undesirable uses or uses at the wrong location. Proper zoning encourages desirable development patterns by controlling uses and providing confidence in the compatibility of future development. The Town's experienced staff and a well trained, long-tenured, largely apolitical Planning and Zoning Commission provide components to resolving zoning and land use issues and preparing for future development opportunities. Cultivating institutional knowledge of these issues is critical.

Community Character - This section provides definitions, descriptions, analysis, and images of land use recommendations proposed on the Future Land Use Plan. The residential density ranges within the Prosper Comprehensive Plan are much less dense than densities traditionally described in other communities. This is reflective of Prosper's character, and the Town's desire to preserve that characteristic. It may, however, result in higher per capita costs for basic municipal services, including water, sanitary sewer, storm sewer, and garbage collection.

However, for a community with a strong low density rural vision the Plan recommends a significant amount of multifamily within mixed-use developments. These areas are not located near employment centers, an urban core, transit or other uses that traditionally encourage multifamily and mixed-use projects. Typically, mixed-use projects offer a solution for bringing together residents and businesses within a compact environment that is influenced by high land prices or limited land availability. Presently, these market forces do not exist in Prosper.

Opportunities

The character of Prosper's large lot, single-family residential subdivisions is well established, but there is an opportunity to promote housing options that meet the needs of residents with different housing preferences. This can complement and enhance large lot subdivisions, not marginalize them. The community should recognize that not everyone wants or needs a large home on a large lot. For example, grandparents of Prosper residents, young adults returning from college, service professionals such as teachers, police officers, and fire fighters all contribute to a healthy community, but the size and maintenance requirements of a large home and a large lot may not be desirable. Similarly, the housing needs of people change over time. Ideally, there would be alternatives within the community that would be attractive to current residents as they age or as their needs change.

The proposed Town Center District that includes public space, existing structures, and future large-scale mixed-use development seems an ideal solution for bringing together the community's desire for social spaces in which to interact and enjoy a small town atmosphere. This area is located within Tax Increment Reinvestment Zone (TIRZ) Number 1, which provides additional funding alternatives for public infrastructure improvements and community enhancements.

Threats

The biggest obstacles to achieving a community characterized by high quality development is being unrealistic about what is feasible or perceiving a development proposal as being high quality when it is not. The Plan's emphasis on mixed-use and loft-style apartments seems unrealistic until additional single-family styles of housing are developed that provide additional rooftops and heighten the demand on undeveloped tracts.

Although ironic given the desire for large lots, vertical mixed-use is indicated as being preferred over horizontal mixed-use by Prosper residents. Sometimes communities realize too late in the development process that existing codes are not conducive to mixed-use projects. It is important to confirm that the Town's Building Code and Fire Code will accommodate residential and non-residential uses within the same building.

Zoning and development regulations should be in place that will encourage development projects proposed for corridor districts, not just

prohibit unwanted development. The mid-rise office buildings and mixed-use loft-style apartments with parking garages described in the Plan may not be a developer's first choice with such an abundance of land available for development. Although structured parking offers many benefits over surface parking lots such as better walkability, reduced heat island effect, and lower stormwater run-off, market prices may not allow for a development to recoup the cost of structured parking, which is generally about four times the cost of surface parking. Development incentives or other tools for discouraging more traditional suburban products that are less expensive to develop may be needed. Examples of ways to incentivize structured parking within mixed-use developments include offering a density bonus that allows a developer to provide additional square footage, building height, or residential units to offset the cost of structured parking, or allowing for a reduction in the number of required off-street parking spaces when a portion of on-street parking is available within a mixed-use scenario.

The Plan proposes livability guidelines that include a recommendation to provide for a range of housing types in Prosper. Except for the overview of housing types provided within this section, most of the emphasis is placed on large lot homes and mixed-use loft-style apartments within special corridor districts. More emphasis on accommodating other types of single-family residential housing styles such as patio homes and zero lot line homes will help realize the "livability" objectives outlined in the Plan. The US 380 and Town Center Districts support these uses, and when located within appropriate areas these residential options allow efficient use of the land, without sacrificing quality.

A disproportionate amount of large lot subdivisions results in a uniformity of land uses, and it allows fewer housing options for entry-level buyers, young couples, empty-nesters, or older residents. If the assumption is that most residents within subdivisions comprised of lots over 10,000 square feet are members of households with school-age children, then the result is a community without much range in age among property owners. As these households become empty-nesters themselves, this could have a significant financial impact as many residents age out of their homes or the school district at about the same time, which may negatively impact property maintenance, tax revenues, and school bond referendums.

Furthermore, large lot subdivisions can contribute to poor connectivity issues, if the design isolates areas from other neighborhoods, schools, parks, and services, and it requires residents to rely on the use of automobiles. Youth and elderly populations in particular benefit from safe and effective non-auto related transportation alternatives. A reliance on the automobile creates an auto-centric community that needs large

parking areas and encourages auto-oriented land uses such as fast food restaurants.

The proposed 5,000 units of high density residential use will complement the lower density residential developments, while mitigating some of the negative impacts commonly associated with sprawl. As development occurs, it is appropriate for the Town to re-evaluate the target proportion of residential densities, and if necessary adjust the proposed Future Land Use Plan to encourage a healthy local economy.

In addition to residential character, there exist vulnerabilities to the character of nonresidential development. The community wants to discourage cookie-cutter strip development patterns. Therefore, it must regulate proper design and building orientation. Further, future Town facilities must be constructed at high levels of execution. The Town must set a standard of good development as future public projects are realized.

Land use is the product of both form and function. Building design and orientation of shopping center developments throughout the Town should give consideration to establishing a proper interface with residential developments if the high quality retail development products proposed in the Plan are to be realized. Emphasis should not be given to particular tenants, which may change over time.

Transportation Plan - The basis for this Plan section is the 2010 Thoroughfare Plan, which establishes a traditional grid network for the Town. Fundamental to this approach is the identification of key corridors within the community. Specific north-south and east-west roadways are identified by name.

Opportunities

In general, projections for the 2035 traffic volumes indicate that all proposed 2035 roads within the Town are forecasted to operate at acceptable levels of service with the exception of Preston Road and US 380. The anticipation of future issues with these roadways will encourage the Town to make necessary improvements. Prosper is fortunate in that it benefits from other planning initiatives including North Central Texas Council of Governments (NCTCOG) regional studies and plans as well as the Collin County Mobility Plan.

In addition to the street system, the Parks Plan proposes a trail system that is recognized as important from both a mobility standpoint and a

recreational standpoint. Parkland dedication requirements seem to be an effective tool that allows for the Town to adequately prepare for extensions to the trail system.

Threats

Consistency between local and regional transportation plans is important in order to better compete for federal transportation funds. It is key for the Town to have representation at regional planning initiatives to avoid inconsistencies at the regional and local planning levels. Validation of local projects by regional plans may help secure funding opportunities.

Limitations on federal transportation funds that impact state and regional transportation budgets may affect the timing of improvements that are necessary in order to maintain traffic flow at adequate levels of service throughout Town. It is important to consider how the Town might be impacted by national funding issues, and then seek solutions that reduce reliance on outside government sources for infrastructure improvements.

Economic Analysis - Provides a financial justification for future land use recommendations provided in the plan. The analysis calculates future retail demand based on current household spending estimates and land use capacity projections, although not all retail zoning will necessarily result in retail development. Those estimates are then used to compare projected sales tax and ad valorem tax revenues with estimated per capita expenditures.

Opportunities

The Plan provides for more than enough land to accommodate retail demand. However, an overabundance of retail use should be avoided. Nodal retail activity should be concentrated at primary intersections, and the “four corner” principle should be avoided to reduce the possibility of an oversupply of retail acreage. The challenge is determining and encouraging appropriate development at the other corners of an intersection. Recognize that Prosper’s traditional large-lot neighborhoods may not be appropriate at these locations because of incompatible rear yards and other site design issues. Other single-family residential styles or institutional uses, however, may complement non-residential uses quite well.

The economic analysis discusses the Town's ultimate sales tax potential being dependent on the ability to attract high quality retail establishments that provide a regional destination. It might be beneficial to identify where regional shoppers will be drawn from since there is an abundance of retail destinations located within communities to the south and east. Determining the needs of future shoppers may help Prosper identify a niche within the region.

Threats

Current zoning allows for approximately 2,900 acres of retail use. However, the economic analysis recommends 346 acres of retail use at build-out, while the Future Land Use Plan accommodates an estimated 757 acres of retail use. The assumptions used for these analyses should be revisited often and adjusted accordingly, which will provide greater confidence in the land use recommendations of the Plan. Placing too much confidence in the ultimate "Tax Gap Surplus" estimates should be avoided. Consequences of an oversupply of retail could include vacant, underutilized land, lower rental rates leading to undesirable uses, pressures for more multifamily residential uses, and blighted corridors.

Prosper, like other communities, must stay aware of the changing landscape of retail in America. With increases in online shopping showing no sign of reversing, it is reasonable to expect that there will be less of an emphasis on traditional brick-and-mortar stores. Many large retailers are not only reducing the number of new store openings, but some retailers also plan to close large numbers of underperforming stores. As online retailing continues to reduce the need to develop physical store locations, more attention should be paid to encouraging development of other types of non-residential uses.

The Plan fails to assess Frisco's regional retail hub status. Prosper must balance skepticism and optimism when it comes to retail development. The previous cycles experienced by Plano, Allen, and Frisco may or may not be applicable to Prosper. The commercial sector has witnessed a paradigm shift in many regards. These must be accounted for and constantly monitored. Town staff must work outside of a silo and be interactive and cooperative with economic development to evaluate shifting trends. The Town of Prosper should embrace that a paucity of retail creates a better and more competitive environment. By creating a market cascade, where citizens see a thriving and busy center, the Town could prosper from less retail space, rather than more. Too much retail dilutes the pool of attractive users.

It is important to give careful consideration to promoting retail uses at the right locations. Following the laws of supply and demand, an overabundance of retail use should be avoided in order to keep the values and quality of development high. This is particularly important as retail continues to evolve in response to the growing online retail market. However, the demand for perishable food goods and localized personal services cannot be fully replaced by Internet shopping. Prosper residents identified an upscale grocery store as one of their top priorities along Preston Road, which will reduce the amount of sales tax dollars that Town residents divert to other communities and instead allow that revenue to serve the growing Town.

The Dallas-Fort Worth market has climbed above 90 percent occupancy for retail in shopping centers with 25,000 square feet or more for the first time since 2004. While this is a positive sign, it is not, however, a trend. One reason shopping centers in the region are on the upswing is a dramatic increase in multifamily. The Town needs to evaluate the role high density residential use plays in shaping and assisting retail. Should the Town not participate in this trend, it may find that retail will be harder to attract. At the very least, Prosper must realize there are few anchor tenants active in the market and municipalities face an unrivaled buyer's market. The recent feeding frenzy by cities to attract Nebraska Furniture Mart illustrates this trend. The Colony finally landed the furniture behemoth only after an unprecedented package of economic incentives.

Municipalities also need to watch emerging changes in restaurants. Casual dining concepts struggled prior to the recession and continue to post marginal numbers. Municipalities must take seriously the idea of pushing consumers to key locations. This helps all retailers and allows for combined trips.

The City of Plano, for instance, suffers from having too much retail. A study they commissioned after the turn of the century focuses on attracting new tenants to existing spaces that are unoccupied. Planning departments must constantly update studies and stay timely. Moreover, staff cannot stand by without regard to changing markets without the market skipping the municipality for the neighboring jurisdictions.

The Town must also evaluate the effectiveness of other retail in the area, especially that of Frisco. The proximity to Frisco and its many destination locations may make large-scale retail less likely. As such, retail should be located at key locations that are immune to outside retail interference. Prosper should see that Frisco has done a sound job of attracting high quality retail anchors, including ones, like IKEA, that is one of only three stores in Texas and the only store of that brand located within the region. Likewise, Frisco has a thriving mall, and the entertainment options are

unrivaled in the state for a city its size. As such, Prosper must realize that Frisco is a regional shopping hub that will cause competition for commercial tracts. Although in a general sense, there seems to be a strong indication that perhaps too much real estate is zoned for retail use, the importance of directing retail of the right type to the best location cannot be overstated.

Infrastructure Assessment - Refers to previous planning studies conducted by Freese and Nichols, Inc. In 2006, an in-depth analysis of water and wastewater needs was completed, and an update to the Water and Wastewater Capital Improvement Plans were completed in conjunction with an Impact Fee Update in 2011. In 2010, the Town's drainage system was assessed as part of the Drainage Utility System Fee Development Report.

Opportunities

The most critical issues identified in the Plan have since been addressed including the implementation of the new Upper Trinity Regional Water District delivery point on the west side of Town, and the adoption of the Upper Trinity Regional Water District agreement. These enhancements to the water and wastewater system reduce maintenance and operating costs, while preparing the Town to meet the demands of future growth.

By monitoring population growth, the future applicability of federal storm water quality regulations (Phase II MS4) that would require additional water quality protections for creeks and lakes should be anticipated and planned for. The year that regulations will take effect can be estimated based on population growth and TCEQ requirements. The Town should develop a Comprehensive Drainage and Utility System Master Plan to facilitate continued success in meeting the infrastructure needs for the Town of Prosper. It may also be appropriate to include stormwater protection measures in the Subdivision Ordinance, and implement a stormwater quality management plan.

Threats

A potential issue identified in the Plan is that the North Texas Municipal Water District (NTMWD) delivery point within the southeast portion of the Town is the only existing treated water delivery point. There are no emergency water connections with surrounding communities. This issue

will be addressed in 2021 when the NTMWD North Water Treatment Plant: 2nd High Service Pump Station is anticipated to be completed and in service along with the necessary pipeline to provide Prosper with a second point of delivery.

Typically, large lot residential neighborhoods create additional stresses on a water supply. The Town may need to develop special programs for accommodating the needs of these residential uses. Because Prosper's residential lot sizes are larger than traditional lots within other communities, adjustments to water modeling and utility planning methodologies may be required. Reliance on only large lot subdivisions could have a negative impact as North Texas grapples with growing water supply concerns.

Implementation Plan - Provides a list of objectives related to the six goals identified in the Community Vision section of the Comprehensive Plan. The objectives are intended to provide direction towards achieving the ultimate vision for the Town.

Opportunities

This section recognizes the need to revise the zoning map and zoning ordinance to be consistent with the land use recommendations of the Comprehensive Plan. It also suggests that zoning text amendments may also be in order.

Offering incentives to property owners in order to rezone vulnerable sites may be a way of bringing property owners to the table to negotiate zoning changes. Conversations with other developers might be helpful in formulating such a strategy.

Threats

Although the objectives are intended as methods for Plan implementation, the objectives are perceived as being incomplete. No target start dates or completion dates are assigned to the objectives, and no project champions are identified.

Many of the objectives require additional research and collaboration with supporting entities such as the Economic Development Partnership and

the Prosper Independent School District to develop a unified action plan for implementation.

Overall, the Comprehensive Plan serves as a reasonable guide for basing land use decisions. In general, the most significant areas of concern include an abundance of zoning for land uses not compatible with the Plan, a gap in single-family residential options, and potential inaccuracies in the assumptions used to validate the land use recommendations due to the effects of a shifting retail economy.

Recommendations

The following is a discussion of recommendations for addressing the most significant obstacles to achieving the goals and objectives of the Comprehensive Plan. Many of the recommendations relate to rezoning, which is often a difficult and contentious issue since property rights and property values are involved. Fortunately, the Town's Zoning Ordinance, as updated in May 2005 and with minor amendments in November 2011, appears user-friendly and is easy to understand. The zoning regulations are modern, relevant, and appropriate so the recommendations provided relate more to the zoning district assigned to properties, rather than the appropriateness of the regulations within districts.

Without proper zoning in place, the Town is vulnerable to incompatible development patterns. A citywide zoning change evaluation is not necessarily feasible or recommended. An update to the Zoning Map should be done by breaking the task into smaller study areas that include Planned Development negotiations and revisions, straight zoning changes, modifications to development standards, and zoning text amendments.

Recommendation: Revise the current Zoning Map to be consistent with the Future Land Use Plan.

The first step in this process is a thorough comparison of existing zoning and proposed land uses to identify target areas in which discrepancies exist between the two. Many of the discrepancies between the Zoning Map and Future Land Use Plan are a function of the Agricultural (A) District zoning that is also used as a holding district after an annexation and prior to establishing zoning for development. Agricultural zoned properties are the lowest priority for a Town-initiated zoning change because development options on these sites are limited. However, opportunities may exist in which rezoning an Agricultural District could provide an incentive for a property owner to rezone another site.

Identifying discrepancies between the zoning and proposed future land use within Planned Development Districts will require additional effort. First, Districts for which no development has occurred must be identified. If the Planned Development District is older than five years, there may be an opportunity to revise the conceptual development plan if the proposed development is no longer valid. Consideration should be given to the validity of the conceptual plan by evaluating the compatibility of the proposal with current conditions including the recommendations of the Comprehensive Plan. Consulting with other staff members, property owners, design engineers, and economic development experts may assist in determining if a project is still active or if it has been declared dead. If the project is not deemed dead but just delayed, evaluate the probability of development occurring within the next year versus a later planning

horizon. Soliciting input from experts in the real estate community could assist in determining the timing of projects.

Section 24.5 of the Zoning Ordinance provides, “If no development has occurred in the PD District within five (5) years from the date of adoption of the granting ordinance, the Planning & Zoning Commission and Town Council may review the original conceptual development plan to ensure its continued validity. If the Town determines the concept is not valid, a new conceptual development plan shall be approved prior to the Town issuing a building permit for any portion of the PD District.” This provision justifies further study of existing zoning, which may prompt pursuit of Town-initiated rezoning considerations.

If the PD no longer meets the land use objectives outlined in the Comprehensive Plan, explore opportunities to modify the zoning. A Town policy for reevaluating PD Districts older than five years may need to be formalized. The plan review and building permit process may provide a method for stalling a project and requiring revisions to a proposed development before it is constructed, but ideally such measures would not be necessary.

From a developer’s perspective, stopping development at the permit phase is an expensive and unexpected hurdle since pro forma, development plans, and engineering drawings would be based on the requirements of a previously adopted PD District. If a scenario occurred in which a developer resumed a project that was on hold but had an approved PD District and spent considerable dollars on engineering plans only to find out that the PD District expired, the Town’s reputation within the development community could be harmed. A better approach is to work with property owners and economic development partners to implement a project that pleases the property owner and aligns with the Comprehensive Plan.

The special districts identified in the Plan include the Old Town District, the Tollway District and the US 380 District. Zoning regulations and development standards that are tailored to the Old Town District have been adopted and should continue to be applied as new development or redevelopment occurs. This model could also be applied to the US 380 and Tollway Districts.

Recommendation: Facilitate desired development patterns within the Town’s corridor districts by ensuring that zoning regulations encourage desired development and prohibit undesirable products.

Priority should be given to ensuring appropriate development along the US 380 corridor. This corridor is comprised of several PD Districts, some of which date back to 2000. Areas not zoned PD District are for the most part zoned Commercial or Agricultural District. Ensuring high-quality development along this

corridor is important because it has high development potential, serves as a gateway to the Town, and establishes the first impression of the community.

One approach that could be used to address the zoning and development issues within the US 380 corridor is to develop a master plan that would allow for a coordinated approach to transportation flow, infrastructure improvements, site access, and urban design objectives. It would also provide an opportunity to solidify the branding theme and gateway entry treatments for the Town.

A form-based code for all or part of this corridor is another alternative to explore. Form-based codes provide greater flexibility with respect to use while placing a greater emphasis on design. An advantage of this tool is that it provides predictable products. The premise is to provide land use controls through regulation of the physical form, rather than separation of uses. This approach seems particularly appropriate for mixed-use applications. Form-based codes are regulations. Therefore, more development control is provided than those offered by design guidelines or recommendations from planning documents.

Typically, form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations are usually presented with written descriptions and diagrams that relate to a specific plan and design character. Many examples of form-based codes exist, providing plenty of resources for additional consideration if appropriate.

Planning activities and particularly rezoning initiatives within this corridor should strive to be collaborative efforts. The Economic Development Corporation could be a resource in the process as well as other experts in the real estate arena. Opportunities for collaboration with property owners should be encouraged. Although a time-consuming and delicate process, consulting with property owners about their development objectives allows for better understanding and perhaps recognition of common ground so that opportunities for mutual benefit can be explored. These meetings are not intended for a public forum. Meetings will be more effective if conducted privately between individual property owners, members of their development team and representatives from the Town. Part of the strategy includes identifying incentives that would drive desirable density and development activities to the corridor districts.

Sometimes traditional zoning ordinances and building codes result in unintended consequences or create challenges as mixed-use projects strive to meet development regulations. Encouraging mixed-use may require additional Town focus and new initiatives. These efforts may result in a new category within the Zoning Ordinance, a policy paper to guide developers, and/or a tool for evaluating mixed-use districts.

Recommendation: Conduct a mixed-use development study to ensure that current zoning regulations and Town policies allow for mixed-use development opportunities without over-saturating the market.

Preparing for the eventual consideration of mixed-use projects now will help reviewers ensure that Fire Department policies and design requirements are accommodated and Building Code issues are properly understood, while maintaining reasonable review cycles. Researching vertical and horizontal mixed-use regulations from other municipalities may provide an overview of typical requirements. In addition, consulting with planning staff from other communities and developers of mixed-use projects provides insight into lessons learned from their experiences, and that knowledge can be incorporated into the Town's policies.

Because mixed-use projects will likely merit specially tailored zoning in the form of a planned development district, amendments to the permitted use chart are not necessary. However, adding a definition for "mixed-use," "loft-style apartment," and other uses proposed in the Plan but not specifically addressed in the Zoning Ordinance may be helpful as the Town prepares for development of these land uses.

Recommendation: Establish a community benchmark questionnaire that helps planners understand how residents and their opinions change over time.

With record setting permit activity for single-family homes showing no signs of slowing, Prosper will continue to welcome many newcomers. For planning purposes, it would be useful to understand better household size, where residents work, what type of work they do, what direction they commute, what goods and services come from outside the community, shopping habits, and level of satisfaction with the Town.

Establishing a quality questionnaire and survey methodology will require time and research. It is important that questions are relevant and worth tracking. The creation of a community profile will assist future planning efforts, particularly as the population increases and changes.

If retail trends that have led to declining store openings and the closing of existing stores continue, the surveys will provide an opportunity to identify alternative uses for land that was previously designated for retail use. The Town should incorporate the timing of citizen surveys with reviews of the Comprehensive Plan to identify potential small planning studies for further improvement of the Town's development climate.

Recommendation: Initiate a planning study of the Downtown District, and develop a Town Center Master Plan.

Exploring in greater detail opportunities for future development such as various types of single-family residential housing styles, mixed-use, and the Town Center District would be beneficial. A master plan or planning study that is specific to downtown opportunities would provide a better understanding of the long-range objectives for this area and help maximize the economic and cultural opportunities associated with development in this area of Town.