

**DESIGN/BUILD CONTRACT BETWEEN
OWNER AND DESIGN/BUILDER**

This **DESIGN/BUILD CONTRACT** (the “Contract”) is made and entered into by and between the **CITY OF NORTH RICHLAND HILLS**, a Texas municipal corporation (the “Owner” or “Buyer” or “City”) and **PROSLIDE TECHNOLOGY, INC.**, a Canadian Corporation, with its principal place of business at 150-2650 Queensview Dr., Ottawa, Ontario K2B 8H5 Canada (the “Design/Builder” or “ProSlide”). Owner and ProSlide are each individually referred to as a “party,” and collectively referred to herein as the “parties.”

This Contract is for the design, construction and installation of the Water Coaster Water Ride at NRH20 Family Water Park in the city of North Richland Hills, Tarrant County, Texas (the “Project”).

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Design/Builder agree as follows:

**ARTICLE 1
THE CONTRACT AND THE CONTRACT DOCUMENTS**

(A) The Contract: The Contract between Design/Builder and Owner consists of this document and the other Contract Documents described in Paragraph 1(B). The Contract shall be effective as of June 26, 2023, the date of its approval, and that date shall also be considered the execution date of this Contract.

(B) The Contract Documents: The Contract Documents shall consist of the following:

- (a) This Contract and all documents attached hereto and incorporated herein;
- (b) Exhibit “A” - Purchase Agreement between Owner and ProSlide for the purchase of water ride services, which is attached and incorporated herein;
- (c) Exhibit “B” - Insurance Requirements, which are attached and incorporated herein;
- (d) Exhibit “C” - Owner’s Specifications and ProSlide’s Response to the request for services for the Project, which are attached and incorporated herein, and collective comprise the “Specifications” for the Project;
- (e) Exhibit “D” - Standard Bond Forms attached and incorporated herein; and
- (f) Any Change Orders or amendments to this Contract that are mutually agreed by the parties;

all of which are hereby incorporated herein by reference and made a part of this Contract.

(C) Enumerated Documents Form Entire Contract: Documents not specifically enumerated in Paragraph 1(B) of this Contract are not Contract Documents.

(D) Contract Interpreted As A Whole: This Contract is intended to be an integral whole and shall be interpreted as internally consistent. Work required by any page, part, or portion of the Contract shall be deemed to be required Contract Work as if called for in the whole Contract and no claim for extra work shall be based upon the fact that the description of the Work in question is incomplete.

(E) Provision Of All Things Required: Anything that may be required, implied or inferred by the

Contract Documents which make up this Contract, or any one or more of them, shall be provided by Design/Builder for the Contract Price.

(F) Privity Only With Design/Builder: Nothing contained in this Contract shall create, nor be interpreted to create, privity or any other relationship whatsoever between Owner and any person except Design/Builder.

(G) Agreed Interpretation Of Contract Terms: When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage. Headings are used herein solely for convenience.

(H) Term "Include" Intended To Be Encompassing: "Include," "includes," or "including," as used in the Contract, shall be deemed in all cases to be followed by the phrase, "without limitation."

(I) Use Of Singular And Plural: Words or terms used as nouns in the Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

(J) Definition Of Material Breaches Not Exhaustive: The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of the Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of the Contract.

(K) Order Of Precedence: Unless otherwise provided in this document, in the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents which make up this Contract, the following shall control:

- (1) This Contract and its terms, covenants and conditions
- (2) The Purchase Agreement
- (3) ProSlide's Response to the request for services for the Project

(L) Administration: This Contract shall be administered on behalf of Owner by the Director of the Parks and Recreation Department, or the Director's designee (hereinafter called collectively referred to as the "Director"), or by the Owner's selected representative, Aquatic Design Group, "Owner's Representative," and on behalf of the Design/Builder by its duly authorized representatives.

ARTICLE 2 DESIGN/BUILDER'S REPRESENTATIONS

(A) Specific Representations: In order to induce Owner to execute this Contract and recognizing that Owner is relying thereon, Design/Builder, by executing this Contract, and without superseding, limiting, or restricting any other representation or warranty set forth elsewhere in the Contract Documents, or implied by operation of law, makes the following express representations to Owner:

- (1) Design/Builder is professionally and fully qualified to act as the design professional and installer for the Project and is, and will remain, and maintain any professional licenses or certification necessary to provide the services under this Contract;

(2) Design/Builder will maintain all necessary licenses, permits or other authorizations necessary to act as Design/Builder for the Project until Design/Builder's duties under this Contract have been fully satisfied;

(3) Design/Builder has the expertise, experience, and knowledge as well as the necessary plant, personnel and financial capability to perform the Design Services and the Work in accordance with the terms of this Contract;

(4) Prior to the execution of this Contract, Design/Builder has visited and inspected the Project site and the local conditions under which the Project is to be designed, constructed and operated, and Design/Builder has performed such tests, if any, as are necessary to determine the conditions under which the Work will be performed, and Design/Builder accepts the conditions of the Work site and has taken those conditions into account in entering into this Contract;

(5) Design/Builder assumes full responsibility to Owner for the improper acts and omissions of its Subcontractors or others employed or retained by Design/Builder in connection with the Project.

ARTICLE 3 REGULATORY GUIDELINES, REQUIREMENTS AND STANDARDS

(A) Generally: Design/Builder shall perform all Design Services described in, contemplated by, inferable from, or necessary or desirable to achieve the objectives for design, scope and specifications enumerated by Owner, or its representative, in the ProSlide Proposal (“Specifications”), including all Design Services necessary for the Project to be properly constructed by Design/Builder and used, operated and maintained by Owner in accordance with all applicable guidelines, requirements and standards. “Design Services” means any and all architectural, engineering and design services required to be performed by Design/Builder pursuant to the Contract and all labor, materials, supervision, equipment, computers, documents, and all other things necessary for the performance of such services. “Specifications” means the document prepared by Owner which specifies the general scope of the Design Services to be performed by Design/Builder under the Contract, and the Response from Design/Builder confirming the service to be provided. A copy of the Specifications is attached hereto and included in Exhibit “C.” The Design Services shall be performed within the time provided by the Design Schedule for the performance of Design/Builder's Design Services as provided in Paragraph 3(G) of this Contract.

(B) Owner's Review Of Design Services: Subject to Paragraph 13(G) of this Contract, Design/Builder shall submit all documents produced as part of the Design Services to the Director or Owner’s Representative for review and approval in accordance with the terms of the Contract. However, any review or approval by the Director or the Owner’s Representative shall not relieve Design/Builder of or otherwise diminish its obligations under the Contract. The Director or Owner’s Representative may direct Design/Builder to make changes to any design documents in order to conform the documents to Owner's objectives. Any changes by Design/Builder ordered by the Director or Owner’s Representative shall not relieve Design/Builder of its obligations under this Contract unless, and only to the extent that, Design/Builder notifies Owner in writing, within seven (7) business days after receipt of Owner's directive to make changes, concerning any adverse impact on schedules, budgets, operational costs, operational performance, satisfaction of regulatory requirements, or other adverse impact that may result from the directed changes. Failure of Design/Builder to submit its notice within the seven (7) business day period constitutes a waiver by Design/Builder of any claim for an adjustment to the Design Schedule or the Contract Time.

(C) Preparation Of Site Information: Design/Builder shall prepare, as necessary, surveys and topographic information including aerial photographs needed to establish line and grade of sewers, location of property lines and easements. Sewer easements, both construction and permanent, shall be referenced to property lines by field surveys, and plans shall include the location of any improvement as it relates to property lines. **Owner expressly does not warrant any information provided by it in connection with preparation of the above-mentioned information;** Design/Builder, however, may reasonably rely on information provided by Owner to the extent the information has been prepared by Owner or an independent consultant hired by Owner to prepare the information specifically for this Project, without absolving Design/Builder from its responsibility to independently verify or investigate information that a reasonable, prudent professional architect or engineer should or would inquire about.

(D) Quality Of Design Services: Design/Builder shall be responsible for the professional quality, completeness, accuracy, and coordination of Design Documents. Design/Builder shall provide Design Services that will result in an operationally cost-efficient and economical facility that meets all environmental and regulatory requirements as of the date hereof, and uses the most appropriate available technology. Design/Builder shall provide for all quality control reviews required by sound professional architectural and engineering practices and by governmental authorities having jurisdiction over the Project.

(E) Compliance With Laws And Regulatory Requirements: In providing Design Services, Design/Builder shall comply with the lawful requirements of all federal, state, and local authorities having lawful jurisdiction over the Project. Design/Builder shall design the Project to meet all applicable requirements of building and public work control laws and regulations in relation to the design, construction, occupation, and operation of the Project, including, without limitation, environmental standards, fire and safety regulations, and requirements and compliance with all other applicable standards and codes.

(F) Duty To Correct Errors: Design/Builder shall, without additional compensation, immediately correct any errors, omissions or deficiencies in its Design Services and Design Documents in accordance with the Warranty provisions set forth in the Purchase Agreement.

(G) Schedule Of Design Services: The Project Schedule or Design Schedule shall be agreed to by the parties and included in the Purchase Agreement, incorporated and made a part of this Contract. The Project Schedule, shall not, except for good cause, be exceeded by Design/Builder. Should Design/Builder at any time during the course of performing the Contract, have reason to believe that it will be unable to meet any completion date in accordance with the Design Schedule, it shall immediately notify the Director or Owner's Representative in writing. Design/Builder shall state the reason for the delay in the notice, including the party responsible, if any, and the steps being taken to remedy or minimize the impact of the delay. **Failure of Design/Builder to submit such notice shall constitute a waiver by Design/Builder of any claim for an adjustment to the Contract Price, the Design Schedule, or the Contract Time.** All extensions of time shall be governed by Articles 16 and 17 of this Contract. Subject to the provisions of Paragraph 13(G) of this Contract, Owner shall review and approve, where appropriate, the Design Schedule, or any portion thereof.

(H) Requirement to Design Within the Project Budget: Owner's total fixed Project Construction Budget for this Project is \$3,800,200 ("Project Construction Budget"). **This amount is established as a condition of this Contract, and shall provide the basis for Design/Builder's design decisions.** Design/Builder, in consultation with Owner, shall determine what materials, equipment, component

systems, and types of construction are to be included in the Project, and will make reasonable adjustments in the scope of the Project to ensure it remains within the Project Construction Budget. Owner may, in its sole discretion and only if circumstances require it, approve a higher fixed limit for the Project Construction Budget. **Any redesign or additional design services required to bring the Project within the Owner's fixed Project Construction Budget shall be at Design/Builder's sole expense, unless the parties mutually agree upon a Change Order to the adjust the amount of the Project Construction Budget.**

ARTICLE 4 PRELIMINARY CONSULTATION AND PROJECT ANALYSIS

(A) Determining The Project Objectives: Prior to the preparation of the Preliminary Design as required by Article 5 below, Design/Builder shall first consult in detail with Owner, or Owner's Representative, and shall carefully analyze any information furnished by Owner concerning requirements of the Project, including but not limited to, any design, construction, scheduling, budgetary or operational requirements, limitations, and objectives, as well as the Design Scope Specification.

(B) Report On Project Requirements And Objectives: Based on its study and analysis, and no later than ten (10) calendar days after the effective date of the Contract, Design/Builder shall submit to Owner a written executive summary detailing Design/Builder's understanding and analysis of the Project requirements identifying design scope, construction, scheduling, budgetary, and operational guidelines for the Project. If applicable, Design/Builder shall also identify and challenges that the Design/Builder anticipates, and how those challenges will be resolved.

ARTICLE 5 PROJECT DESIGN

(A) Time For Design: Not later than the date called for in the Design Schedule, the parties shall agree on a Design for the Project.

(B) Contents Of the Project Design: The Project Design shall address all requirements of the Project and shall include, without limitation, the following:

- (1) drawings which illustrate each of the basic components of the Project including the size, scale, location, dimensions, and character of each building or structure;
- (2) drawings which illustrate each exterior view of the Project;
- (3) drawings and specifications illustrating and describing the architectural, electrical, mechanical, structural, and manufacturing systems of the Project;
- (4) a written description of the materials and equipment to be incorporated into the Project and installed at the location site; and
- (5) any other documents or requirements necessary to illustrate, describe or depict the Project Design and the conformity of same with the requirements of the Specifications and this Contract.

(C) To Be Reviewed With Owner: Design/Builder shall review the Project Design with the Director

or Owner's Representative and shall incorporate any changes ordered by the Director in regard to the Project Design or the requirements of the Project.

(D) Authorization To Proceed With Project Design: After review of the Project Design and incorporation of any changes ordered by the Director, and after approval by Owner, the Director shall issue a notice to commence the Construction Work directing Design/Builder to proceed with the Work on the date indicated in the notice (the "Commencement Date").

ARTICLE 6

Intentionally deleted.

ARTICLE 7 CONSTRUCTION SERVICES

(A) General Intent: Design/Builder shall perform all Construction Work necessary to construct the Project in accordance with this Contract, and to render the Project and all its components operational and functionally and legally usable for their intended purpose.

(B) Construction Work Defined: The term "Construction Work" shall mean whatever is done by or required of Design/Builder to perform and complete its duties relating to the construction of the Project under the Contract, including, without limitation, the following:

- (1) construction of the whole and all parts of the Project in full and strict conformity with this Contract;
- (2) the provision and furnishing, and prompt payment therefor, of all labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, other utilities and things required for the construction of the Project;
- (3) the procurement and furnishing of all necessary building permits and other permits required for the construction of the Project;
- (4) the creation and submission to Owner of as-built drawings or other renderings acceptable to the Owner depicting construction requirements of the Project;
- (5) the furnishing of any required surety bonds and insurance as required by the Contract;
- (6) the furnishing of all equipment and product warranties, manuals, test results and user guides required by the Contract or otherwise reasonably available to Design/Builder; and
- (7) the furnishing of all other services and things required or reasonably inferable from the Contract Documents, including the provisions of Article 9 below.

ARTICLE 8
TIME FOR CONSTRUCTION: THE CONTRACT TIME

- (A) Notice of Time For Completion: Design/Builder shall commence the Construction Work on the Commencement Date, and the Construction Work shall be carried out regularly and without interruption. Design/Builder shall achieve final inspection of the Construction Work, Commissioning and Water Ride Verification not later than May 25, 2024, or such other date as may later be designated by Change Order or otherwise mutually agreed upon by the parties (the “Substantial Completion Date”). Design/Builder shall have fourteen (14) calendar days following the Substantial Completion Date to fully complete the Project. The parties agree that final acceptance of the Project and all Work related to the Project must be complete not later than June 8, 2024 (“Completion Date”).
- (B) Liquidated Damages For Delay In Completion: Design/Builder shall pay Owner the sum of **ONE THOUSAND EIGHT HUNDRED FORTY-FIVE DOLLARS (\$1,845)** per day for each and every calendar day of unexcused delay in achieving completion of the Project beyond the Completion Date. Any sums due and payable hereunder by Design/Builder shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Contract. Such liquidated damages shall apply regardless of whether Design/Builder has been terminated by Owner prior to the Completion Date so long as Design/Builder's actions or inactions contributed to the delay. Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects in Design/Builder's performance hereunder for matters other than delays in completion. When Owner reasonably believes that the Completion Date will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due to Design/Builder, an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Design/Builder overcomes the delay in achieving completion, or any part thereof, for which Owner has withheld payment, Owner shall promptly release to Design/Builder those funds withheld, but no longer applicable as liquidated damages.
- (C) Time Is Of The Essence: All limitations of time set forth in this Contract are material and time is of the essence of the Contract.

ARTICLE 9
ADDITIONAL DUTIES AND RESPONSIBILITIES OF DESIGN/BUILDER

- (A) Design/Builder To Perform All Work Required By The Contract: The intent of this Contract is to require complete, correct and timely execution of the Design Services and the Construction Work. Any and all Design Services that may be required, reasonably implied, or reasonably inferred by the Contract, or any part of it, as necessary to produce the intended result shall be provided by Design/Builder for the Design Services Fee as provided in Article 10 of this Contract. In addition, any and all Construction Work that may be required, reasonably implied, or reasonably inferred by the Contract, or any part of it, as necessary to produce the intended result shall be provided by Design/Builder for the Contract Price as provided in Article 10 of this Contract.
- (B) Strict Compliance With The Contract Documents: All Construction Work performed by Design/Builder shall be in strict compliance with this Contract. “Substantial Compliance” is not strict compliance. Any Construction Work not in strict compliance with the Contract is defective.

(C) Supervision Of The Construction Work: The Construction Work shall be strictly supervised and directed using Design/Builder's best and highest skill and effort. Design/Builder shall bear full responsibility for any and all acts or omissions of those engaged in the Construction Work on behalf of Design/Builder.

(D) Warranty Of Construction Workmanship And Materials: Design/Builder warrants and guarantees to Owner that all labor providers performing the Construction Work under the Contract will be competent to perform the tasks undertaken with the best quality obtainable, that the product of such labor will yield only industry standard results in strict compliance with the Contract, that materials and equipment furnished will be of high quality and new unless otherwise permitted by the Contract, and that the Construction Work will be of high quality, free from faults and defects and in strict conformance with the Contract. Any and all Construction Work not strictly conforming to these requirements shall be considered defective and shall constitute a breach of Design/Builder's warranty. The specific guarantees and warranties for the Project are set forth in the Purchase Agreement.

(E) Commencement Of Guarantee And Warranty: Special or specific guarantees and warranties which are required by the Contract to run for a fixed period of time shall commence running on the date of the Completion Deadline.

(F) Record Copy Of Contract Documents: Design/Builder shall maintain an updated copy of this Contract, including one record copy of the Contract Documents marked to record on a current basis changes, selections and modifications made during construction. Additionally, Design/Builder shall maintain a copy of all renderings, product data, samples, and other information as applicable, that comprise the Contract Documents. A complete copy of all Contract Documents shall be finally updated and delivered to Owner or its representative and shall become the property of Owner.

(G) Procurement And Review Of Warranties: Design/Builder shall procure all warranties from Subcontractors and Suppliers as applicable and shall transfer all warranties required by the Contract to Owner. Design/Builder shall review all such warranties and shall certify to Owner that the warranties are in strict compliance with the requirements of the Contract.

(H) Procurement Of Operations And Maintenance Documentation: Design/Builder shall prepare or procure and shall transmit to the Director all documentation required by this Contract regarding the operation and recommended maintenance programs relating to the various elements of the Construction Work.

(I) As-Built Drawings: Design/Builder shall prepare and provide to the Director a complete set of all as-built drawings which shall be complete and, except as specifically noted, shall reflect performance of the Construction Work in strict compliance with the requirements of this Contract.

(J) Compliance With Labor Laws: Design/Builder shall assume all labor responsibility for all personnel assigned to or contracted for the performance of the Construction Work and agrees to strictly comply with all its obligations as employer with respect to said personnel under all applicable labor laws.

(K) Testing, Inspections, And Approvals: Design/Builder shall be responsible for procuring all tests and inspections required by sound professional practices and by governmental authorities having jurisdiction over the Project. Design/Builder shall submit certified results of such tests to Owner. If the laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Construction Work to be specifically inspected, tested, or approved, Design/Builder shall assume full responsibility therefore, pay all costs in connection therewith and furnish to Owner the required

certificates of inspection, testing or approval.

(L) Owner's Regulations And Applicable Laws: Design/Builder shall, during the course of the Construction Work, comply with any regulations or guidelines prescribed by Owner. Design/Builder warrants that it will comply with all public laws, ordinances, rules and regulations applicable to the services to be performed under the Contract, including without limitation, those relating to the terms and conditions of the employment of any person by Design/Builder in connection with the Construction Work to be performed under the Contract.

(M) Compliance With Construction Regulations: Design/Builder shall perform the Construction Work in accordance with all construction codes, laws, ordinances or regulations applicable to the design and execution of the Construction Work. Any fine or penalty which may be imposed as a consequence of any violation of this provision shall be paid by Design/Builder, and Design/Builder shall fully indemnify and hold Owner harmless from all loss, damage, and expense, including attorney's fees, resulting from any such violation or alleged violation of codes, laws, ordinances, or regulations, **REGARDLESS OF A CONCURRENT CONTRIBUTION BY OWNER, THROUGH NEGLIGENCE OR OTHER WRONGFUL ACT, TO SUCH LOSS, DAMAGE, OR EXPENSE**, except that such indemnity shall not apply if the violation is solely and directly caused by a negligent or willful act or omission of Owner, its officers, agents, or employees.

(N) Permits, Licenses And Notices: All construction and building permits, licenses and authorizations necessary for the construction of the Project shall be secured and paid for by Design/Builder. Design/Builder shall notify the Director when it has received said permits, licenses, and authorizations, and upon receipt shall supply the Director with copies of same. The originals of permits, licenses and authorizations shall be delivered to the Director upon completion of the Construction Work, and receipt of these documents by Owner shall be a condition precedent to final payment. Design/Builder shall also give and maintain any and all notices required by applicable laws pertaining to the construction of the Construction Work.

(O) Conditions To Site Access: While on Owner's property, all Design/Builder's employees and Subcontractors shall confine themselves to areas designated by the Director and will be subject to Owner's badge and pass requirements, if any, in effect at the site of the Construction Work.

(P) Site Safety And Security: Design/Builder shall take all reasonable steps and legally required measures at the site to comply with applicable safety regulations and standards and to adequately protect the Construction Work, stored materials, and temporary structures located on the premises, and to prevent unauthorized persons from entering upon the site. Design/Builder shall at all times safeguard Owner's property and employees from injury or loss in connection with the performance of the Contract. Design/Builder shall at all times safeguard and protect its own partially or completely finished Construction Work from damage. Design/Builder shall protect Owner's equipment, apparatus, machinery, and other property and all adjacent construction Work with boarding and other safeguards, if necessary, so as to keep the premises free from dampness, dirt, dust, or other damage and shall remove all such temporary protection upon completion of the Construction Work.

(Q) Repair Of Collateral Damage: Unless otherwise instructed by Owner, Design/Builder shall repair and return to original condition all buildings, streets, curbs, sidewalks, utilities or other facilities affected by Design/Builder's performance of the Construction Work.

(R) Cleaning The Site: Design/Builder shall keep the site reasonably clean during performance of the Construction Work. Upon Acceptance of the Construction Work, Design/Builder shall thoroughly clean the site and the Project and remove all waste, debris, trash and excess materials or equipment, together

with Design/Builder's property therefrom.

(S) Owner's Access To Construction Work: At all times relevant to the Contract, Design/Builder shall provide access to the Construction Work to Owner and its designees, or Owner's Representative, without formality or other procedure.

(T) Decisions Regarding Aesthetic Effect: The Director's decisions in matters relating to aesthetic effect shall be final.

(U) Design/Builder To Remain An Independent Contractor: In performing both Design Services and Construction Work under this Contract, the relationship between Owner and Design/Builder is that of independent contractor, and the execution of this Contract does not change the independent status of Design/Builder. Design/Builder shall exercise independent judgment in performing its duties under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the Contract work flow and determining how all Contract work is to be performed. No term or provision of this Contract or act of Design/Builder in the performance of this Contract shall be construed as making Design/Builder the agent, servant or employee of Owner, or making Design/Builder or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which Owner provides its employees.

ARTICLE 10 CONTRACT PRICE

(A) Design Services Fee And Contract Price: Owner shall pay, and Design/Builder shall accept, the Contract Price, as full and complete payment for the Design Services. The "Contract Price" shall be the amount of the Project Construction Budget as set forth in Article 3(H), an amount not to exceed \$3,800,200, plus any additional amounts agreed upon by the parties in writing which constitute a Change Order, an Amendment to the Contract, or otherwise increases the amount to be paid by Owner to Design/Builder under the Contract.

(B) The Contract Price, unless changed by Supplemental Agreement or Change Order, represents the absolute limit of obligation or liability that Owner may ever have insofar as the cost for full and final completion of the Construction Work, and the total of all payments to Design/Builder or its Subcontractors, are concerned. Should additional amounts be required to be expended, over and above the Contract Price, to achieve completion of the Construction Work, including Project construction, and payment to Design/Builder, in accordance with this Contract, liability for and payment of such additional amounts shall be the sole responsibility of Design/Builder and its Contract Surety herein, and Owner shall never be liable for same. Should the final Cost of the Construction Work and Design/Builder's compensation total less than the Contract Price, or any approved revision thereof, the difference shall inure to the benefit of Owner and no claim for all or any portion of said difference shall be valid against or payable by Owner. Owner's limitation of obligation or liability set out in this Paragraph shall be incontrovertible and unequivocal; any term or provision of this Contract, the Exhibits, attachments, or provisions incorporated by reference in or to this Contract, or of any Subcontract executed in furtherance of the anticipated Construction Work under the Contract shall not be construed or deemed to alter or waive this absolute condition. Likewise, Design/Builder's absolute responsibility for the completion of the Project in accordance with the Contract Documents, including the Plans and Specifications, and within the agreed cost constraints, as well as Design/Builder's agreement to bear all costs in excess of the Contract Price without recourse to Owner, if such excess costs are necessary for the completion of the Construction Work, shall be incontrovertible and undisputable, and shall take precedence over all other terms and provisions of this Contract and the Exhibits hereto, no part of which shall be deemed to alter, diminish or waive such obligations.

(C) Management of Construction Work: In addition to the Construction Work Design/Builder will perform, it will also provide all the usual and necessary traditional construction management services incidental to construction projects of the nature and scope of this Project. The services required are not intended in any manner to diminish the overall responsibility of Design/Builder for the full and final completion of the Construction Work within the time and cost constraints specified in this Contract.

(D) Payment of Design/Builder Employees and Subcontractors: Design/Builder shall be responsible for payment of all salaries, labor costs, prevailing wages in accordance with state and/or federal law, insurance, taxes, benefits, workers' compensation coverage or any other costs of employment for its own employees and subcontractors. Owner shall in no way be liable or responsible for the payment of any costs directly to any Design/Builder employee or subcontractor.

ARTICLE 11 PAYMENT OF THE CONTRACT PRICE

(A) Payment Procedure: Owner shall pay the Contract Price to Design/Builder in accordance with the procedures set forth in this Article 11, and specific Payment Terms set forth in the Purchase Agreement.

(B) Right To Audit: Owner shall be entitled to rely upon the accuracy and completeness of the information furnished by Design/Builder in connection with any request for payment under this Contract. Owner reserves the right to audit, at Owner's election, all of Design/Builder's records and billings relating to the performance of Design Services or Construction Work under this Contract. Such audit shall be at a location acceptable to Owner. Design/Builder agrees to retain its Project records for a minimum of three (3) years following completion of all Services under this Contract. Owner agrees that it will exercise the right to audit during Design/Builder's normal working hours, unless otherwise agreed by both parties. Owner shall provide Design/Builder with no less than ten (10) business days' notice of any intended audit.

(C) Condition Precedent To Final Payment: Notwithstanding any other provision in the Contract Documents, final payment shall not be made to Design/Builder until Design/Builder has fully performed all of its obligations under the Contract and the Design Services and the Construction Work are fully complete.

(D) Owner's Review Of Pay Requests: Owner shall have the right to review all pay requests for the Design Services and the Construction Work to determine whether the quantity and quality of the Design Services and the Construction Work is as represented in the pay request and as required by the Contract.

(E) Passage of Title to Construction Work: Notwithstanding progress payments made by Owner under this Contract, title to Construction Work under this Contract does not pass to Owner until final completion and acceptance of the Project by Owner, at which point title to all Construction Work is deemed to pass immediately to Owner. The risk of loss regarding completed Construction Work that is paid for by Owner prior to final completion and acceptance remains with Design/Builder.

(F) Design/Builder's Use Of Progress Payments: Upon receipt of any payment from Owner, Design/Builder shall promptly pay all Subcontractors, materialmen, laborers, and Suppliers such amounts as they are entitled for the Construction Work covered by such payment. Design/Builder shall also comply with the requirements of the Standard Specifications relating to payments to Subcontractors.

(G) Use Of Joint Checks: If Owner becomes informed that Design/Builder has not paid a Subcontractor, materialman, laborer, or supplier as provided herein, Owner shall have the right, but not the duty, to issue checks and payment then or thereafter otherwise due to Design/Builder naming

Design/Builder and any such Subcontractor, materialman, laborer, or supplier as joint payees. Such joint check procedure, if employed by Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit Owner to repeat the procedure in the future nor to create any contractual or other relationship of any kind between Owner and such person or entity.

(H) Withholding Of Payment: Owner shall have the right to withhold make payment for Construction Work and, if necessary, may demand the return of a portion or the entire amount previously paid to Design/Builder in an amount then believed by Owner to be adequate to cover the penalties, damages, and potential losses resulting or likely to result from:

- (1) the quality of a portion, or all, of Design/Builder's Construction Work not being in accordance with the requirements of this Contract;
- (2) the quantity of Design/Builder's Construction Work not being as represented in Design/Builder's pay request, or otherwise;
- (3) Design/Builder's rate of progress being such that, in Owner's opinion, Substantial Completion, Acceptance, or both, may be inexcusably delayed;
- (4) Design/Builder's failure to use Contract funds, previously paid to Design/Builder by Owner, to pay Design/Builder's Project-related obligations including, but not limited to, Subcontractors, laborers and material and equipment suppliers;
- (5) evidence that the balance of the Construction Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
- (6) claims made, or likely to be made, against Owner or its property;
- (7) loss or damage caused by Design/Builder;
- (8) Design/Builder's failure or refusal to perform any of its obligations to Owner; or
- (9) any other basis for withholding of payment as set forth in the Specifications.

In the event that Owner makes written demand upon Design/Builder for amounts previously paid by Owner as contemplated in this Paragraph 11(H), Design/Builder shall promptly comply with such demand.

(I) Unexcused Failure To Pay: If Owner, without cause or basis, fails to pay Design/Builder any amounts due and payable under this Contract to Design/Builder within thirty (30) days after the date established in this Contract for payment of such amounts, then the payment shall bear interest in accordance with the Texas Prompt Payment Act, as amended. Provided, however, that Owner shall not be liable for interest due on any late or delayed progress payment or final payment caused by any good faith claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the request for payment or as a precondition to payment under the Contract Documents, or due to any payment Owner has a right to withhold or not certify under the Contract Documents.

ARTICLE 12
SUBSTANTIAL COMPLETION AND ACCEPTANCE

(A) Substantial Completion: “Substantial Completion” means that stage in the progression of the Construction Work, as documented by Owner in writing, when the Project is sufficiently complete in accordance with the Contract that Owner can enjoy beneficial use or occupancy of the entire Project and can utilize it for all of its intended purposes, as more specifically defined in the Rider 1 to the Purchase Agreement. A condition precedent to Substantial Completion is the receipt by Owner of all necessary authorizations for the use and occupancy of the Project required by any governmental or regulatory authority.

(B) Determination Of Substantial Completion: When Design/Builder believes that the Construction Work is substantially complete, Design/Builder shall notify the Director in writing and shall submit to Owner a list of items remaining to be completed or corrected. The Director, or Owner’s Representative, shall have the right to perform an inspection. The Substantial Completion Date shall be the date set forth in the Project Schedule when the Commissioning and Ride Verification by Design/Builder is complete.

(C) Acceptance: “Acceptance” means the completion of all Design Services and all Construction Work required by, and in strict compliance with, the Contract, including Design/Builder's provision to Owner of all documents and things required to be provided by the Contract.

(D) Determination Of Acceptance: When Design/Builder believes that all of the Construction Work is finally complete, and Design/Builder is ready for a final inspection, Design/Builder shall so notify the Director or Owner’s Representative in writing. The Director or Owner’s Representative will then make final inspection of the Construction Work and, if the Construction Work is complete in strict accordance with the Contract, and the Contract has been fully performed, then Owner will issue a Certificate of Acceptance, providing for payment of the remainder of the Contract Price, less any amount withheld pursuant to the Contract.

(E) Payment After Acceptance: Owner shall make final payment of all remaining sums due to Design/Builder within thirty (30) days after Acceptance as reflected by Owner's Certificate of Acceptance, provided that all documents and things required to be delivered to Owner under this Contract have been delivered as required, and provided that all other conditions precedent to payment have been satisfied.

(F) Conditions Precedent To Acceptance: Prior to being entitled to receive final payment and as a condition precedent thereto, Design/Builder shall furnish Owner, in the form and manner required by the Director, the following:

- (1) Owner’s standard Affidavit of Final Payment and Release, in particular certifying that all Subcontractors and Suppliers have been paid all sums lawfully due to them, and releasing Owner from all claims that Design/Builder had or might have asserted during the performance of this Contract;
- (2) if required by Owner, separate releases of lien, lien waivers, or affidavits of payment from each Subcontractor, lower tier subcontractor, laborer, Supplier or other person or entity who has, or might assert a claim against Owner or Owner's property;
- (3) consent of surety to final payment, if requested by Owner;
- (4) a complete set of the as-built drawings and the record set of Contract Documents, if

applicable; and

(5) all product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of a Contractor, or expressly required herein, as a part of or prior to Project closeout.

(G) Acceptance Of Final Payment A Waiver: Acceptance by Design/Builder of final payment shall constitute a waiver and release of all claims against Owner by Design/Builder except for those claims previously made in writing against Owner by Design/Builder, pending at the time of final payment and specifically identified on Design/Builder's pay request for final payment as unsettled at the time it submits its pay request.

ARTICLE 13 OWNER'S DUTIES, OBLIGATIONS, AND RESPONSIBILITIES

In addition to payment, Owner shall undertake to perform the following:

(A) Provide Project Information: Owner shall provide Design/Builder with information regarding Owner's requirements for the Project including any desired or required design or construction schedule.

(B) Review Of Documents: Owner shall review any documents submitted by Design/Builder requiring Owner's decision, and shall render any required decisions pertaining thereto.

(C) Provide Notice Of Defects: In the event Owner knows of any material fault or defect in the Construction Work, nonconformance with the Contract, or of any errors, omissions or inconsistencies in the Design Documents, then Owner shall give prompt notice thereof in writing to Design/Builder.

(D) Access To The Site And The Construction Work: Owner shall provide Design/Builder access to the site and to the Construction Work, and shall provide Design/Builder with such information, existing and reasonably available, necessary to Design/Builder's performance of the Contract as Design/Builder may request.

(E) Cooperation To Secure Permits, Licenses, Approvals, And Authorizations: Owner shall cooperate with Design/Builder in securing any necessary licenses, permits, approvals or other necessary authorizations for the design, construction and certification of the Project.

(F) Timely Performance: Owner shall perform the duties set forth in this Article 13 in a reasonably expeditious fashion so as to permit the orderly and timely progress of Design/Builder's Design Services and of the Construction Work.

(G) Owner's Reviews, Inspections, Approvals, And Payments Not A Waiver: Owner's review, inspection, or approval of any Construction Work, Design Documents, Submittals, or pay requests by Design/Builder shall be solely for the purpose of determining whether such Construction Work and such documents are generally consistent with Owner's construction program and requirements. No review, inspection, or approval by Owner of the Construction Work or documents shall relieve Design/Builder of its responsibility for the performance of its obligations under the Contract or the accuracy, adequacy, fitness, suitability, or coordination of its Design Services or the Construction Work. Approval by any governmental or other regulatory agency or other governing body of any Construction Work, Design Documents, or Contract Documents shall not relieve Design/Builder of responsibility for the strict performance of its obligations under the Contract. Payment by Owner pursuant to the Contract

shall not constitute a waiver of any of Owner's rights under the Contract or at law, and Design/Builder expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by Owner.

(H) Delay Or Forbearance Not Waiver: Owner's agreement not to exercise, or its delay or failure to exercise, any right under the Contract or to require strict compliance with any obligation of Design/Builder under the Contract shall not be a waiver of the right to exercise such right or to insist on such compliance at any other time or on any other occasion.

(I) Documents Requested By Design/Builder: Owner shall furnish to Design/Builder, prior to the execution of this Contract, any and all written and tangible material knowingly in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to Design/Builder only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, Owner does not represent, warrant, or guarantee its accuracy or completeness either in whole or in part, and shall have no liability therefor. If Design/Builder requests it in writing, Owner shall also furnish surveys, legal limitations, utility locations (if known), and a legal description of the Project site.

(J) Approvals And Easements: Owner shall obtain all easements required for construction, if any, and shall pay for necessary assessments and charges required for use and occupancy of the Construction Work. Design/Builder shall render such assistance as Owner may request in obtaining such easements, certificates of occupancy, and the like.

(K) Right To Stop Construction Work: In the event Design/Builder fails or refuses to perform the Construction Work in strict accordance with the Contract, or is otherwise in breach of this Contract in any way, Owner may, at its option, instruct Design/Builder to cease and desist from performing further Construction Work, or any part thereof. Upon receipt of such instruction from Owner in writing, Design/Builder shall immediately cease and desist as instructed by Owner and shall not proceed further until the cause for Owner's instructions has been corrected, no longer exists, or Owner instructs that the Construction Work may resume.

(L) Owner's Right To Perform Construction Work: In the event Owner issues such instructions to stop Construction Work, and in the further event that Design/Builder fails and refuses within seven (7) calendar days of receipt of same to provide adequate assurance to Owner that the cause of such instructions will be eliminated or corrected, then Owner shall have the right to carry out the Construction Work with its own forces, or with the forces of other contractors, and Design/Builder shall be fully responsible for the costs incurred in correcting any defective or deficient Construction Work. The rights set forth in Paragraph 13(K) and this Paragraph 13(L) are in addition to, and without prejudice to, any other rights or remedies Owner may have against Design/Builder, including the rights to terminate or withhold payment as provided herein.

ARTICLE 14 PROJECT DOCUMENTATION

(A) Maintenance Of Project-Related Records: Design/Builder shall maintain and protect all records relating in any manner whatsoever to the Project (the "Project Records") for no less than three (3) years after Acceptance of the Project, and for any longer period of time as may be required by law or good management practice.

(B) Availability Of Project-Related Records To Owner: All Project Records which are in the possession of Design/Builder or Design/Builders Subcontractors shall be made available to Owner for inspection and copying upon Owner's request at any time. Additionally, such records shall be made

available upon request by Owner to any state, federal or other regulatory authorities, and any such authority may review, inspect and copy such records. The Project Records include, without limitation, all drawings, plans, specifications, Submittals, correspondence, logs, minutes, memoranda, photographs, recordings, or other writings or things which document the Project, its design, or its construction. Said records include those documents reflecting the cost of design and construction to Design/Builder.

ARTICLE 15 SUBCONTRACTORS

(A) Subcontractor Defined: A “Subcontractor” means an entity which has a direct contract with Design/Builder to perform a portion of the Construction Work or the Design Services. For purposes of the Contract, Subcontractors shall also include those furnishing specially fabricated equipment and materials for the Project.

(B) Terms Of Subcontracts: All subcontracts and purchase orders with Subcontractors shall afford Design/Builder rights against the Subcontractor which correspond to those rights afforded to Owner against Design/Builder under this Contract, including those rights of Contract suspension, termination, and stop Construction Work orders as set forth in this Contract. It is expressly agreed that no relationship of agency, employment, contract, obligation or otherwise shall be created between Owner and any Subcontractor of Design/Builder, and a provision to this effect shall be inserted into all agreements between Design/Builder and its Subcontractors.

(C) Design/Builder Responsible For Acts Of Its Subcontractors: Should Design/Builder subcontract all or any part of the Construction Work, such subcontracting of the Construction Work shall not relieve Design/Builder from any liability or obligation under the Contract or under any applicable policy, law or regulation, and Design/Builder shall be responsible for all and any acts, defaults, omissions or negligence of its Subcontractors, Suppliers, and consultants.

(D) Removal Of Subcontractors And Personnel: If, at any time during the course of the Project, Owner reasonably determines that the performance of any Subcontractor or any member of Design/Builder's staff construction Working on the Project is unsatisfactory, Owner, or Owner's Representative may require Design/Builder to remove such Subcontractor or staff member from the Project immediately and replace the staff member at no cost or penalty to Owner for delays or inefficiencies the change may cause.

ARTICLE 16 CHANGES AND EXTENSIONS OF TIME

(A) Changes And Extensions of Time: All changes to the scope of Design Services or extensions of the agreed upon Project Schedule during the design process shall be made by mutual agreement of Owner and Design/Builder. Claims for an increase in design compensation due to a change in the scope of design construction Work or for an extension of time to the Design Schedule shall be made in writing within seven (7) calendar days after occurrence of the event that gives rise to the claim. All requests for additional compensation due to a change in the scope of Design Services, and all requests for an extension of time to the Project Schedule, shall include sufficient backup documentation for Owner to reasonably understand the request and the amount of time or compensation requested and to determine the merits of the request.

(B) Adjustments To Contract Price or Contract Time: Upon the occurrence of a change order for Construction Work as set forth in Paragraph 16(A) hereinabove which increases the Cost of the

Construction Work, the Contract Price will thereafter include such Cost of the Construction Work and Services attributable to such change to the extent allowed by Paragraph 10(B) hereinabove. The failure of Design/Builder to provide notice in writing to Owner in accordance with Paragraph 16(B) of any request for an increase in the Contract Price or for an extension of the Contract Time shall constitute a waiver by Design/Builder of any entitlement thereto.

(C) Continuing Duty To Perform Construction Work And Make Payment: In the event the parties are unable to agree on the terms of a Change Order or Supplemental Agreement, then Design/Builder shall continue to diligently perform the Design Services and the Construction Work, including any change directed by Owner by Change Order or Supplemental Agreement, and shall keep thorough records of the cost of performance of such Change Order or Supplemental Agreement.

(D) Good Faith: Design/Builder agrees that it shall at all times in good faith use its best efforts to perform the Design Services and the Construction Work in the highest professional manner.

ARTICLE 17 TERMINATION

(A) Termination For Convenience: Either party shall have the right to terminate performance under this Contract for convenience. Such party shall give the other party not less than ninety (90) calendar days advance written notice of termination for convenience. After the effective date of termination, Design/Builder shall incur no further obligations in connection with the Contract and Design/Builder shall stop Design Services and the Construction Work when such termination becomes effective. Design/Builder shall also, at Owner's direction, either terminate or assign to Owner outstanding orders and subcontracts. Design/Builder shall settle the liabilities and claims arising out of any terminated subcontracts and orders. Owner may direct Design/Builder to assign Design/Builder's right, title and interest under terminated orders or subcontracts to Owner or its designee. Design/Builder shall transfer title and deliver to Owner such completed or partially completed Design Documents, Construction Work and materials, equipment, parts, fixtures, information and Contract rights as Design/Builder has.

(B) Remaining Payment in the Event of Termination for Convenience. In the event of termination for convenience, Design/Builder shall submit a termination claim to Owner specifying the amounts believed to be due because of the termination for convenience together with costs, pricing or other data required by Owner. Owner and Design/Builder may agree to the compensation, if any, due to Design/Builder under this paragraph. Absent agreement to the amount due to Design/Builder, Owner shall pay Design/Builder, as full compensation for termination for convenience, the cost of the Construction Work and Services, to the extent incurred or paid prior to receipt and up to the effective date of termination. In no event shall either party be entitled to recover lost profits or other incidental or consequential damages from the other party on account of a termination for convenience.

(C) Termination by Owner for Non-appropriation: Owner shall have the right to terminate this Contract in the event Owner does not appropriate sufficient funds to satisfy Owner's obligations under this Contract. In the event of such termination under this Section 19(C), Owner shall pay to Design/Builder all amounts due up through the end of the fiscal period for which funds have been appropriated for payment under this Contract.

(D) Termination For Cause: If either party fails to perform any of its obligations under this Contract, or proceeds to disobey applicable laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise commits a violation of a material provision of the Contract, and fails to

cure such violation after thirty (30) days written notice from the other party, or such other cure period as may be agreed to by the parties, then the non-breaching party may, by written notice to the other party, without prejudice to any other right or remedy against that party or others, immediately terminate the performance of this Contract. In the event of such termination, Owner shall have the right to take possession of the Project site and of all materials and equipment at the site and may finish the Construction Work by whatever methods it may deem expedient. In such case of termination by Owner for Design/Builders breach, Design/Builder shall not be entitled to receive any further payment, except for payment for services rendered through the effective date of termination.

ARTICLE 18 OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

- (A) Documents Considered Owner's Property: The Design Documents and the Contract Documents, including but not limited to, the drawings, specifications and other documents or things prepared by Design/Builder for the construction and installation of the Project, shall immediately become and be the sole property of Owner upon completion. Any documents furnished by Owner shall remain the property of Owner.
- (B) Trademark Usage: Each party grants to the other a worldwide, royalty-free, non-exclusive license to use, reproduce, publish, perform and display the other party's name, any of its brand names, or trademarks ("Marks") in conjunction with this Project only, provided permitted use of the Marks conforms to all applicable intellectual property laws; proposed use of the Marks complies with the other party's guidelines, and use of the Marks is not done in a demeaning manner or in a manner that places the other party in a negative light.
- (C) Intellectual Property: Design/Builder will retain all patents, copyrights, trademarks and any and all other intellectual property rights in and to Design/Builder's proprietary Water Rides and materials, and all related plans, prints, designs, drawings, illustrations, architectural 3D and 2D CAD files, mesh files, manuals, specifications and any other related materials ("ProSlide IP Material") provided to the Owner under this Agreement. Design/Builder grants to Owner, a perpetual, non-exclusive, royalty-free, worldwide right and license to use ProSlide IP Material directly in connection with this Project. Except as required by applicable law or as required by the Texas Public Information Act, Buyer may not distribute any such ProSlide IP Material to any third party without the prior written consent of ProSlide, which consent may not be unreasonably withheld, conditioned or delayed.

ARTICLE 19 INDEMNITY

General Indemnity: Design/Builder agrees to defend, indemnify and hold Owner, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by Design/Builder's breach of any of the terms or provisions of this Contract, or by any negligent, grossly negligent or strictly liable act or omission of Design/Builder, its officers, agents, or employees, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of Owner, its officers, agents, employees, representatives or separate contractors, and in the event of joint and concurrent negligence or fault of Design/Builder and Owner, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the law of the State of Texas, without, however, waiving any governmental immunity available to the Owner under Texas law and without

waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

ARTICLE 20 INSURANCE

(A) General Insurance Requirements: Design/Builder shall procure, pay for, and maintain during the term of this Contract, with a company authorized to do business in the State of Texas and otherwise acceptable to Owner, the minimum insurance coverage contained in **Exhibit B**, attached hereto and made a part of this Contract.

(B) Liability Notwithstanding Insurance: Approval, disapproval or failure to act by Owner regarding any insurance supplied by Design/Builder or its Subcontractors shall not relieve Design/Builder of full responsibility or liability for damages, errors, omissions or accidents as set forth in this Contract. The bankruptcy or insolvency of Design/Builder's insurer or any denial of liability by Design/Builder's insurer shall **NOT** exonerate Design/Builder from the liability or responsibility of Design/Builder as set forth in this Contract.

ARTICLE 21 SURETY BONDS

(A) Performance and Payment Bonds: Upon execution of this Contract, Design/Builder shall furnish to Owner separate performance and payment bonds in the penal sum of 100% of the portion of the Contract Price that constitutes construction of a public facility, or corresponding 100% of the Project Construction Budget that constitutes construction of a public facility, if the Contract Price has not been established as of the date of execution of this Contract. If the Contract Price established under Article 10 of this Contract is less than the Project Construction Budget, Design/Builder shall furnish a rider to adjust the amount of the bonds to reflect the Contract Price within ten (10) business days of such Contract Price being established. The bonds shall be written by a corporate surety or sureties authorized to conduct an insurance business in the State of Texas and licensed to issue surety bonds in the State of Texas, and otherwise acceptable to Owner. The bonds shall conform to the requirements of Chapter 2253, Texas Government Code, as amended, and Section 3503.003 of the Texas Insurance Code, Vernon's Texas Codes Annotated, as amended. The bonds shall be written on forms approved for use by Owner, a copy of which bond forms are attached to and made a part of this Contract as **Exhibit "D."**

(B) Subcontractor Bonds: Each Subcontractor whose Subcontract is greater than \$50,000 but less than or equal to \$100,000 will likewise be required, as a condition of their Subcontract, to execute similar Payment Bonds (in the case of Subcontracts greater than \$100,000, similar Performance and Payment Bonds will be required) in the full amount of each Subcontract, naming both Design/Builder and Owner as joint obligees. Subcontractors not required to provide a payment bond will not be paid progress payments, but shall be paid upon final completion and acceptance of their Construction Work.

ARTICLE 22 NONDISCRIMINATION

General: As a condition of this Contract, Design/Builder covenants that Design/Builder will take all necessary actions to insure that, in connection with any work under this Contract, Design/Builder, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or disability unrelated to job performance, either directly, indirectly or through contractual or other arrangements.

Design/Builder shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, Design/Builder shall keep, retain and safeguard all records relating to this Contract or work performed hereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

ARTICLE 23 DISPUTES

Disputes: Except in the event of termination pursuant to Section 17(C), if either Owner or Design/Builder has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Contract, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Contract. If the parties fail to resolve the dispute within thirty (30) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation in Tarrant County, Texas, upon written consent of authorized representatives of both parties in accordance with the Industry Arbitration Rules of the American Arbitration Association or other applicable rules governing mediation then in effect. The mediator shall be agreed to by the parties. Each party shall be liable for its own expenses, including attorney's fees; however, the parties shall share equally in the costs of the mediation. If the parties cannot resolve the dispute through mediation after sixty (60) days from the date of the initial notice of dispute, then either party shall have the right to exercise any and all remedies available under law regarding the dispute. Notwithstanding the fact that the parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the parties agree to continue without delay all of their respective duties and obligations under this Contract not affected by the dispute. Either party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.

ARTICLE 24 MISCELLANEOUS PROVISIONS

(A) Governing Law; Venue: This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. This Contract is performed in Tarrant County, Texas, and exclusive venue for the enforcement of rights or legal obligations under this Contract shall be in Tarrant County, Texas.

(B) Successors And Assigns: This Contract shall be binding upon and inure to the benefit of the parties to this Contract and their respective successors and, except as otherwise provided in this Contract, their assigns.

(C) Non-Assignment: Neither party shall assign this Contract, or any part thereof, without the prior written consent of the other party, which such consent shall not be unreasonably withheld. However, Design/Builder shall have the right to assign this Contract upon thirty (30) days written notice to Owner, to any of Design/Builder's affiliates who are under common ownership, or any entity that acquires a majority of its assets. Any assignment not in compliance with this section shall be null and void.

(D) Notices: Any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for Owner, to:

Mark Hindman
City Manager
4301 City Point Drive
North Richland Hills, Texas 76180
Email: mhindman@nrhtx.com

With Copies to the following at the same address:
(which such copies shall not constitute notice)

Adrien Pekurney
Director of Parks & Recreation
apekurney@nrhtx.com

Maleshia B. McGinnis
City Attorney
mmcginnis@nrhtx.com

If intended for Design/Builder, to:

(E) Publicity: No information relative to the existence or the details of the Design Services or the Construction Work shall be released by Design/Builder, either before or after completion of the Project, for publication, advertising or any commercial purposes without Owner's prior written consent.

(F) Severability: In the event that any portion or any portions of this Contract are held to be unenforceable by a court of competent jurisdiction, then the remainder of this Contract shall be enforced as though such portions had not been included, unless to do so would cause this Contract to fail of its essential purposes.

(G) Counterparts: This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

(H) Captions: The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

(I) Confidential Information: Design/Builder understands and acknowledges that it will be provided with information that may be confidential by law, rule, statute, ordinance or legal order. Design/Builder shall not disclose any information deemed confidential to any party who is not privy to or who does not have a special right of access to said information. Design/Builder agrees to use confidential information for purposes of providing the services contemplated herein only as determined by the Owner. Disclosure of, or unauthorized use of, any confidential information by Design/Builder is a material breach of this Contract. If Design/Builder violates this provision, and in addition to any other remedies at law or in equity that the Owner may have, the Owner may immediately obtain injunctive relief in a court of competent jurisdiction enjoining any continuing or further breaches and exercise any further remedies as authorized by law. Design/Builder agrees to indemnify and hold the Owner harmless for any claims or damages caused by Design/Builder's breach of this confidentiality provision.

(J) Force Majeure: Neither party shall be liable for failure to perform its obligations under this Contract if the performance is delayed, and shall have the right to terminate this Contract if a force majeure event continues for more than sixty (60) days, by reason of war; civil commotion; acts of God; inclement weather; epidemics; pandemics; governmental restrictions, regulations, or interferences; fires; strikes; lockouts, national disasters; riots; material or labor restrictions; transportation problems; or any other circumstances which are reasonably beyond the control of the party.

(K) Entire Agreement; No Oral Modifications: This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

EXECUTED on this, the _____ day of _____, 20__.

ACCEPTED AND AGREED:

PRO SLIDE TECHNOLOGY, INC:

By: _____
Name:
Title:
Date: _____

CITY OF NORTH RICHLAND HILLS:

By: _____
Mark Hindman
City Manager
Date: _____

ATTEST:

By: _____
Name:
Title

ATTEST:

By: _____
Alicia Richardson
City Secretary/Chief Governance Officer

APPROVED TO FORM AND LEGALITY:

By: _____
Maleshia B. McGinnis
City Attorney

EXHIBIT "A"
PURCHASE AGREEMENT

EXHIBIT “A”

PURCHASE AGREEMENT (“Agreement”)

| | |
|---------------------------------|---|
| BUYER | City of North Richland Hills |
| BUYER ADDRESS | 9001 Boulevard 26,A North Richland Hills, TX 76180, USA |
| PARK OWNER/ OPERATOR | City of North Richland Hills |
| PROJECT | NRH20 Water Coaster Expansion |
| PROJECT LOCATION | North Richland Hills, Texas |
| PROPOSAL NUMBER | P19-294 |

This Purchase Agreement (“Purchase Agreement”) entered into June 26th, 2023 (“**Effective Date**”) between **ProSlide Technology Inc. (“ProSlide”)** and **Buyer** is an attachment to the Design/Build Contract entered into between the City of North Richland Hills (“Buyer” or “Owner”) and ProSlide effective June 26, 2023 (the “Contract”) which sets forth the controlling terms of the relationship between the parties. This Purchase Agreement provides the specifications for the purchase made by Buyer for the water rides set out in Exhibit A-1 attached hereto (“**Water Rides**”) and related services and deliverables set out in Exhibit A attached hereto (“**Services**”).

The following attached documents form part of this Agreement:

- Exhibit A – Water Rides and Services
- Exhibit B – Payment Terms
- Exhibit C – Project Schedule
- Exhibit D – Warranty Provisions

ProSlide Technology Inc.

City of North Richland Hills

Signature

Name

Title

Date

Signature

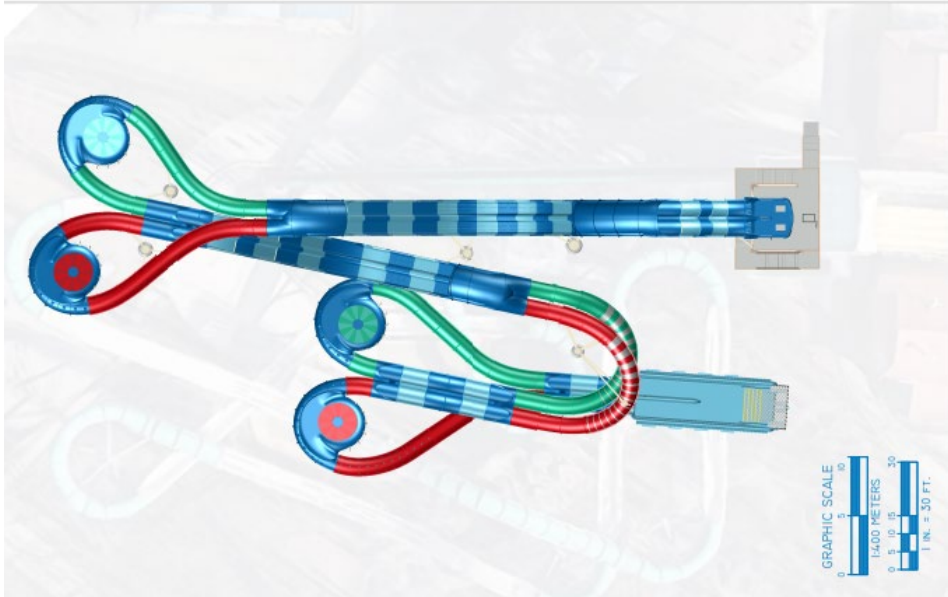
Name

Title

Date

EXHIBIT A – WATER RIDES AND SERVICES

EXHIBIT A1 – WATER RIDES PURCHASED AND DELIVERY TERMS

| WATER RIDES PURCHASED – MATERIAL DESCRIPTION AND SPECIFICATIONS | PRICE* |
|---|-----------------|
| COMPLEX 1 – DUELING ROCKETBLAST + FLYINGSAUCER 20 | Included |
| <p>WATER RIDES DESCRIPTIONS AND SPECIFICATIONS</p>  <p>Dueling RocketBLAST® + (4x) FlyingSAUCER® 20 WATER RIDE (with BLAST™ Technology)</p> <ul style="list-style-type: none"> • Provide all fiberglass flume sections to complete the water ride, including all necessary stainless steel hardware and joint sealant for flange assembly. • Four (4) FlyingSAUCER 20 fiberglass features. • ProSplash landing pool • Fiberglass Shape Effects & Rings • Total ride path length of +/- 612.34 feet/lane <p>Dueling RocketBLAST® TECHNOLOGY**</p> <ul style="list-style-type: none"> • All patented BLAST™ Technology, features new patented water propulsion technology, photo electric sensors with dedicated cables, both Field and Control Room Panels • Two (2) BLAST decline / incline booster zones • One (1) Touchscreen Operator Console for ride monitoring configuration and launch coordination. • Two (2) BLAST Standard Spare Parts Kit • One (1) Public Address (PA) system with controller and 1 speaker per booster zone. • One (1) day of BLAST water coaster operational and maintenance training <p>Note: A Buyer allotment is required for the supply and install of all conduit and wiring</p> <p>WATER RIDE CONNECTION MATERIAL DESCRIPTION AND SPECIFICATIONS</p> <ul style="list-style-type: none"> • 316 stainless steel hardware and joint sealant for fiberglass flange assembly (flanges will be pre-drilled). <p>WATER RIDE OPERATIONS EQUIPMENT</p> <ul style="list-style-type: none"> • One (1) 2-person Configured, platform waterpark scale combined with sealed load cells and an efficient go/no go lighting system | |

| | |
|---|------------------------|
| <ul style="list-style-type: none"> One (1) 4-camera closed-circuit television (CCTV) monitoring kit. <p>STEEL SUPPORT MATERIAL DESCRIPTION AND SPECIFICATIONS</p> <ul style="list-style-type: none"> Hot dipped galvanized yoke plates, embedment plates, anchor rods / bolts. Hot dipped galvanized columns (with clips for arms and braces, end caps and base plates). Hot dipped galvanized radial arms (with knee brace attached and all clips for attachment). <p>OUTDOOR WATER COASTER SERVICE PLATFORMS MATERIAL DESCRIPTION AND SPECIFICATIONS</p> <ul style="list-style-type: none"> Tower framing: hot dipped galvanized steel. Stair treads and risers: concrete filled pan with steel riser (concrete supply by others). Decking material and landing finishing: concrete with steel pans (concrete supply by others). Guardrail pickets and posts: pressure treated wood with hot dipped galvanized steel posts Tower connections: hot dipped galvanized brackets, nuts, bolts and fasteners. (1) Set of stairs with 3ft wide treads from grade to the top deck of the tower. | |
| PROSLIDE SERVICES | Included |
| <ul style="list-style-type: none"> Refer to Design and Engineering Services and Deliverables, Responsibility Matrix Refer to the Installation Services and Deliverables, Responsibility Matrix. Refer to the Water Ride Verification/Site Acceptance Test Services and Deliverables, Responsibility Matrix | |
| TOTAL FOR PROSLIDE WATER RIDES AND SERVICES (Excludes Use Tax) | \$3,800,200 USD |

* ProSlide pricing set out herein is valid for 60 days from the Effective Date. The Purchase Price excludes any costs associated with ProSlide obtaining or providing bonds, guarantees or similar financials instruments; any requirement for such instruments will result in an increase to the Purchase Price.

** Subject to ProSlide Software Licence Agreement, refer to Section 5 of the Terms and Conditions attached hereto.

The Purchase Price indicated in this Agreement does not include any costs related to Water Ride materials or Services related to the existing tower. If required, ProSlide shall issue an estimate for the provision of services and materials for any tower modifications needed to accommodate the Water Rides purchased hereunder. The process will be managed through the Change Order process described in the Terms and Conditions below.

The current pricing includes steel ride supports. The value of the steel for ride supports and evacuation towers is budgetary and is considering an international supply and sufficient time in the schedule to account for lead times and freight. Our ability to meet the overall project schedule and maintain the above price is dependent on the achievement of Buyer commitments as outlined in Exhibit C. The Buyer’s failure to achieve their commitments on-time as outlined in Exhibit C will result in a delay to the project schedule and/or an increase in price to account for localized steel supply.

BASIS OF DESIGN & SPECIFICATIONS

The image and details outlined above have been prepared by ProSlide based on pre-contract discussions with and information provided by the Buyer. The preliminary design and purchase price has been prepared based on the following key information:

- Site Information provided by the Buyer on June 17th, 2022 used as the basis for ProSlide Design Revision P19-294-02-R07
- Standards of Operation and Design:
 - Waterslides – ASTM F2376
 - Steel Ride Supports:
 - The waterslide system is supported at regular intervals using yoke connection plates bolted to the fiberglass flange and connected at their base to one of the following structural elements:
 - Steel column cap plate
 - Target plate or cross beam welded at the ends of radial arms

- Steel plate embedded in a concrete pier
 - Steel backbone system, comprising beams or trusses, that span between steel columns or concrete piers
 - All structural steel is hot dipped galvanized in accordance with ASTM A123/A123M or EN ISO 1461 and unpainted unless noted otherwise
 - Triodetic frame tubes are hot dipped galvanized in accordance with ASTM A653/A653M, minimum coating grade G120
 - Columns are complete with shop welded tab plates and stiffened seats for radial arm and brace connections. Top and bottom of the columns are enclosed with a shop welded cap plate and stiffened base plate respectively.
 - All steel-to-steel bolted connections comprise ASTM F3125 Grade A325/A325M, EN 14399-3 Property Class 8.8 or equivalent with compatible washer/nut specifications.
 - Radial arms are shop welded with yoke target plate (as required), and tab plates for bolted connection to columns. Radial arm to brace connection shop welded connection may be substituted for a bolted end plate splice connection for ease of shipping.
 - Steel to Fiberglass yoke connection plates is included and are field welded to radial arm target plates at their base and bolted to the fiberglass flange at the top.
 - All anchoring of ride support, tower columns to concrete piers shall be cast-in-place anchor rods fabricated in accordance with ASTM F1554 Grade 36 as a minimum. Post-installed anchors shall have appropriate ICC-ES, ETAG or equivalent technical approval and be rated for seismic applications and used for lightly loaded non load bearing applications unless noted otherwise.
- Water coaster service platforms
 - Water coaster service platforms meet ProSlide typical specifications, as listed below. ProSlide will have the opportunity to review any request for deviation from these typical specifications, requirements and provide a change order to capture impacts to the project schedule, design and engineering deliverables, and sell price.
 - 0.9.m (3ft) wide stairs supported by a minimum of 2- MC12x10.6 (or equivalent) stringers with 178mm (7") tall risers up to a maximum of 20 steps
 - All bracing connections are bolted connections using ASTM F3125 Grade F1852 (A325TC), EN 14399-10 Property Class 10.9 or equivalent Tension-Control bolts (TC) with compatible washer/nut specifications
 - Typical beam connections comprise a single plate connection using a minimum diameter M20 (3/4") ASTM F3125 Grade A325/A325M, EN 14399-3 Property Class 8.8 or equivalent bolts with compatible nut/washer specifications
 - Typical outdoor-specific tower specifications include:
 - All steel is hot dipped galvanized in accordance with ASTM A123/A123M or EN ISO 1461 and unpainted unless noted otherwise
 - Minimum 100mm (4") concrete deck over Type P-3615 CANAM (Type 16) or equivalent steel pan decking continuous over a minimum of 1 span unless noted otherwise
 - Minimum 100mm (4") concrete treads over 2mm (14 gauge) thick bent plate steel pan treads and risers
 - Guardrail assembly comprises hot-dipped galvanized posts, wood pickets and aluminum handrails
- Design Loads as follows:
 - Water Loads: in accordance with EN 1069-1 and ASTM F2376, whichever is more stringent
 - Rider Loads: in accordance with ASTM F2376
 - Ground Snow Loads: not exceeding 30 psf in accordance with ASCE 7-16

- Wind Loads: basic wind velocity not exceeding 115 mph (Exposure C, Risk Category II) in accordance with ASCE 7-16

The parties acknowledge that through the evolution of the Project, there may be additional information and/or changes to the above information. Additional charges may apply if (i) there is a material change that results in an increase to the effort required to complete the Services or specifications of the Water Rides (such as changes to size, Water Ride selection and features, site conditions, or codes, laws or regulations) or (ii) ProSlide is required to reperform, change or edit any work that has already been completed through no fault of ProSlide. Any such additional charges will be managed through the Change Order process outlined in the Contract.

| DELIVERY TERMS | | RESPONSIBILITY | |
|-----------------------|---|--|-------------------------------------|
| Description | | ProSlide | Buyer |
| 1. INCO TERM: | | DDP (North Richland Hills, TX) Incoterms® 2020* | |
| 2. | Warehouse services at point of origin. | <input checked="" type="checkbox"/> | |
| 3. | Export packing. | <input checked="" type="checkbox"/> | |
| 4. | Prepare / provide transport documentation (e.g. ocean bill of lading or air waybill). | <input checked="" type="checkbox"/> | |
| 5. | Secure export clearance. | <input checked="" type="checkbox"/> | |
| 6. | Inland freight / ground transportation and delivery charges to named place. | <input checked="" type="checkbox"/> | |
| 7. | Loading at point of origin. | <input checked="" type="checkbox"/> | |
| 8. | Export charges. | <input checked="" type="checkbox"/> | |
| 9. | Forwarder fees. | <input checked="" type="checkbox"/> | |
| 10. | Ocean / Air freight. | <input checked="" type="checkbox"/> | |
| 11. | Charges in foreign port. | <input checked="" type="checkbox"/> | |
| 12. | Import customs clearance (including all related documentation) and duties. | <input checked="" type="checkbox"/> | |
| 13. | Personnel to inspect, accept and release containers for on-site delivery. | | <input checked="" type="checkbox"/> |
| 14. | Determining of site access point for trucks. | | <input checked="" type="checkbox"/> |
| 15. | On-site unloading and positioning of trucks. | | <input checked="" type="checkbox"/> |

* Risk of Loss and title of goods transfers to Buyer upon delivery at final destination.

EXHIBIT A2 - DESIGN AND ENGINEERING SERVICES AND DELIVERABLES, RESPONSIBILITY MATRIX

| | RESPONSIBILITY | |
|--|-------------------------------------|-------------------------------------|
| | PROSLIDE | BUYER |
| WATER RIDES DESIGN AND ENGINEERING | | |
| 1. Provide AutoCAD Water Rides design indicating length and drop. | <input checked="" type="checkbox"/> | |
| 2. Coordinate with design/planning firms for Water Rides integration. | <input checked="" type="checkbox"/> | |
| 3. Provide: <ul style="list-style-type: none"> a. AutoCAD site plan with surveyor control points (minimum of 3 points on drawing with X, Y, Z coordinates and units of measure), indicating any site constraints, such as setbacks, lazy rivers, buildings and/or wave pools, that interact within the design space. b. Grading plan specifying final site elevations and topographical features (contours and X, Y, Z coordinates). c. Certified geotechnical report. d. Environmental loads (wind / snow / seismic) to ProSlide-specified design code. e. All site utility plans. f. Working water elevation and/or deck level elevations (will be used to determine free board and bottom of pool). | | <input checked="" type="checkbox"/> |
| 4. Provide signed approval of: <ul style="list-style-type: none"> a. Water Ride design: Buyer has performed a thorough evaluation of the Water Ride designs and can confirm that the Water Ride(s) location on the Buyer’s most recent provided site plan is correct. b. Water Ride colors, pattern style, etc. | | <input checked="" type="checkbox"/> |
| 5. Submission, to the applicable authorities, of the documents for: <ul style="list-style-type: none"> a. Schematic Design b. Detailed Design/Design Documents c. Construction Documents | | <input checked="" type="checkbox"/> |
| 6. Design and assembly drawings of any thematic lighting, sound and special effects system(s). | | <input checked="" type="checkbox"/> |
| WATER RIDE TOWER AND SUPPORT DESIGN AND ENGINEERING | | |
| 7. Provide minimum tower requirements such as deck void sizing and coordinates, start tower front face alignment line, and recommended scale placement. | | <input checked="" type="checkbox"/> |
| 8. Structural inspection of existing tower by a Professional Engineer licensed in the jurisdiction to determine whether the condition of the structure is suitable for the Water Coaster. | | <input checked="" type="checkbox"/> |
| 9. Submission of shade/roof, theming or cladding requirements for start towers. Including connection details and support reactions | | <input checked="" type="checkbox"/> |
| 10. Design and structural engineering of yokes. | <input checked="" type="checkbox"/> | |
| 11. Design and structural engineering of all water ride support columns, arms, embedment plates, templates, anchor rods/bolts. | <input checked="" type="checkbox"/> | |
| 12. Submission of water ride loads at the interface of structural elements that are designed by others. | <input checked="" type="checkbox"/> | |
| 13. Engineering calculations: safety factors, load cases and load factors, and capacity verification for steel Water Ride supports. | <input checked="" type="checkbox"/> | |
| 14. Design and structural engineering of all water ride supports that are shared with building columns or penetrating through any building walls. | | <input checked="" type="checkbox"/> |
| 15. Structural engineering of all concrete footings and piers. | <input checked="" type="checkbox"/> | |
| 16. Drawing details for lightning protection / electrical grounding of foundations and structural elements (towers, supports). | | <input checked="" type="checkbox"/> |
| 17. ProSlide structural engineering drawings stamped by an engineer certified in the associated jurisdiction. (excludes existing water coaster tower). | | <input checked="" type="checkbox"/> |
| 18. Preparation and submission of steel shop drawings for steel provided as part of this agreement. | <input checked="" type="checkbox"/> | |
| WATER COASTER -SPECIFIC DESIGN AND ENGINEERING | | |
| 19. Design and structural engineering of all water coaster service platforms. | <input checked="" type="checkbox"/> | |
| 20. Submission of water coaster service platform loads at the interface of structural elements that are designed by others. | <input checked="" type="checkbox"/> | |
| 21. Design of electrical room(s) with climate control to accommodate water ride electrical system based on ProSlide requirements. | | <input checked="" type="checkbox"/> |

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| 22. Select, confirm compatibility with ProSlide requirements and procure equipment such as Flow Meters, Pressure Sensors, and pump VFDs. | | <input checked="" type="checkbox"/> |
| 23. Design and engineering of panel mounts for ride control system. | | <input checked="" type="checkbox"/> |
| MECHANICAL AND ELECTRICAL DELIVERABLES | | |
| 24. Specification and submission of Water Ride and Water Ride related device requirements in Mechanical Electrical drawing Package ("MEP") including, but not limited to: a. Minimum water flow requirements, X, Y, Z coordinates, and pipe connection size for all water supply and water removal points b. Flow meter and/or pressure sensors * c. Flow control (valves, VFDs, soft starter, etc...) d. Minimum pool sizing e. Water depths and working water level f. Minimum electrical requirements for water slide related devices supplied by ProSlide; such as Scales and Water Ride Dispatch Systems g. Minimum ride safety lighting h. Minimum CCTV recommendations and requirements, if required * ProSlide provides water flow minimum requirements in the MEP. The water flow in each Water Ride has an effect on the performance of the sliding surface. ProSlide shall, in conjunction with the Buyer and its representatives, determine the flow rate and shall set a fixed range (Min/Max) of acceptability for each installation at the time ProSlide conducts its Site Acceptance Test ("SAT"). This information shall be communicated to the Buyer as part of the Ride Verification Summary Document deliverable. | <input checked="" type="checkbox"/> | |
| 25. Buyer to review and ensure compliance to ProSlide MEP requirements, as outlined in item above. | | <input checked="" type="checkbox"/> |
| 26. All mechanical engineering and electrical engineering of any type, including (pumps, VFDs, piping, piping support, filtration, flow meters, chemical treatment, pool design, conduit routes and landscaping, up to termination points as specified in ProSlide's MEP package. | | <input checked="" type="checkbox"/> |
| 27. Buildings for mechanical equipment. | | <input checked="" type="checkbox"/> |
| 28. ProSlide review of Buyer's Mechanical and Electrical Drawing Set including: a. Flow rate, flow meters and corresponding valve locations. b. Surge volume. c. Coordinates of the water injection and evacuation points. d. Electrical for; scales, lighting, CCTV, Ride Dispatch System. e. Plumbing Layout and Configuration f. ProSlide specific filtration requirements. | <input checked="" type="checkbox"/> | |
| WATER RIDE OPERATION EQUIPMENT DESIGN AND ENGINEERING | | |
| 29. Design and coordination of the proper placement for flow meter locations. | | <input checked="" type="checkbox"/> |
| 30. Design and assembly drawings of safety-related lighting, based on ProSlide requirements. | | <input checked="" type="checkbox"/> |
| 31. Design and layout drawings of Water Ride dispatch system, based on ProSlide requirements, including necessary wiring and cabling for power and control. | <input checked="" type="checkbox"/> | |
| 32. Design and assembly drawings of Water Ride slide path monitoring (CCTV), based on ProSlide requirements. | <input checked="" type="checkbox"/> | |
| 33. Drawing details for anemometers/weather station instruments. | | <input checked="" type="checkbox"/> |
| 34. Provide vehicle specifications. | <input checked="" type="checkbox"/> | |
| MANUALS PROVIDED AT COMPLETION OF DESIGN AND ENGINEERING PHASE | | |
| 35. Provide two (2) Operation and Maintenance Manuals per the manufacturer's requirements and in accordance with applicable industry standards, such as ASTM, EN, GB:, including a. Evacuation procedures and fault handling and, if applicable. b. Best practices for high-capacity operations. c. Maintaining proper boat inflation. d. Dispatch methods. e. Dispatch intervals. f. Rider positioning. g. Ride techniques. | <input checked="" type="checkbox"/> | |
| 36. Provide two (2) Assembly Manuals. | <input checked="" type="checkbox"/> | |

| PROSLIDE ENGINEERING DOCUMENT DELIVERABLES | |
|--|---|
| Construction Drawings (CD) | Final Project Specific MEP, including <ul style="list-style-type: none"> ➤ Flow Rates, pump and piping requirements for water injection and removal ➤ Weigh scale electrical requirements ➤ CCTV coverage requirements, or CCTV equipment layout and electrical requirements ➤ Dispatch System equipment layout and electrical requirements ➤ Lighting requirements |
| | Final 3D AutoCAD drawing including <ul style="list-style-type: none"> ➤ 3D fiberglass layout of the ride and yoke plates on site, ➤ 2D ride centerline, ➤ Minimum pool envelope outlines representing bottom of pool floor, working water elevation and top of pool wall, ➤ Start tower front face alignment line ➤ Start Pool deck void outlines, ➤ Minimum Service platform deck requirement (outline) at recommended elevation |
| | Final Track Support Plan Drawing Package, including <ul style="list-style-type: none"> ➤ Location plan: shows the layout of the ride on site ➤ Track Support Plan: shows the ride centerline, start pool, straight entries, and yoke locations ➤ Runout and Sump Pit Plan ➤ Start Tower Requirements Plan: shows the deck voids to accommodate start pool water boxes, tower front face alignment line, tower top deck elevation, and recommended scale location. ➤ General Notes ➤ Yoke Plate Coordinates ➤ Reference Coordinates ➤ Riding Surface Coordinates |
| | Final Ride Support Structural Package |
| | Electrical Schematics <ul style="list-style-type: none"> ➤ Dispatch/Control System ➤ CCTV |
| Other | Third Party Review Supplemental Documentation (as required). |
| | Ride Support Shop Drawings |
| | Assembly Manual |

EXHIBIT A3 - INSTALLATION SERVICES AND DELIVERABLES, RESPONSIBILITY MATRIX

| INSTALLATION SERVICES AND DELIVERABLES | RESPONSIBILITY | |
|---|-------------------------------------|-------------------------------------|
| | PROSLIDE | BUYER |
| WATER RIDE AND STEEL SUPPORTS INSTALLATION SERVICES AND DELIVERABLES | | |
| 1. Preassemble and erect of all fiberglass flume sections. | <input checked="" type="checkbox"/> | |
| 2. Preassemble and erect all Water Ride support sections on Buyer-provided foundations and concrete piers and in accordance with engineering drawings. | <input checked="" type="checkbox"/> | |
| 3. Any required tower modifications to accommodate Water Coaster. | | <input checked="" type="checkbox"/> |
| 4. Painting of steel columns or any other steel components, if required. | | <input checked="" type="checkbox"/> |
| 5. Remove all existing ride, ride supports, foundations and any other existing ride infrastructure. | | <input checked="" type="checkbox"/> |
| 6. Install all concrete footings and piers in accordance with the construction drawings. | | <input checked="" type="checkbox"/> |
| 7. Install embedment plate(s) to concrete pier. | | <input checked="" type="checkbox"/> |
| 8. Pour all concrete run out pads or slabs to accommodate slide pieces, block-outs in pool walls and slabs, pool(s) / surge, pump pit and sump pit. | | <input checked="" type="checkbox"/> |
| WATER RIDE SAFETY AND OPERATIONS EQUIPMENT INSTALLATION SERVICES AND DELIVERABLES | | |
| 9. Provide electrical connections and field wiring for scales and associated go/no go lighting system | | <input checked="" type="checkbox"/> |
| 10. Install scale support frame in coordinated location | | <input checked="" type="checkbox"/> |
| 11. Install scales in coordinated location | | <input checked="" type="checkbox"/> |
| 12. Installation of photo eyes and traffic lights for Water Ride dispatch system. | <input checked="" type="checkbox"/> | |
| 13. Installation of Water Ride dispatch system components: <ul style="list-style-type: none"> a. Provide and install all conduit required b. Provide all necessary cable and power requirements for system as per MEP c. Mounting and installation of all electrical enclosures d. Pulling and termination of all field cables | | <input checked="" type="checkbox"/> |
| 14. Installation of any thematic lighting, sound and special effects system(s). | | <input checked="" type="checkbox"/> |
| 15. Installation of safety related lighting. | | <input checked="" type="checkbox"/> |
| 16. Installation of Water Ride slide path monitoring (CCTV). | | <input checked="" type="checkbox"/> |
| BLAST COASTER SPECIFIC INSTALLATION SERVICES AND DELIVERABLES | | |
| 17. The supply and installation of all conduit, from BLAST Ride Control System control panels to hand stations and input/output panels, above and below ground. The supply of all conduit/cable tray from control panels, hand stations or input/output panels to water ride specific devices (i.e. photo eyes, flow meters, pressure sensors) | | <input checked="" type="checkbox"/> |
| 18. The supply and installation of all cable from BLAST Ride Control System control panels to hand stations and input/output panels as well as all cable for ride specific devices (i.e. flow meters, pressure sensors) | | <input checked="" type="checkbox"/> |
| 19. Provide all electrical panels for control system except for main power distribution of single and three phase power (i.e. fuse boxes for main power). | <input checked="" type="checkbox"/> | |
| 20. Termination of all cabling and wiring to and within BLAST Ride Control System control panels by certified electrician. <ul style="list-style-type: none"> a. High and Low voltage power connections b. Ethernet Connections or fiber optic cable c. Proximity sensor and photo eye connections. d. Flow meter and pressure sensor connection. | | <input checked="" type="checkbox"/> |
| 21. Supply and termination of fiber optic and ethernet cabling for BLAST Ride Control System panels. | | <input checked="" type="checkbox"/> |
| 22. Supply, install, and commission Variable Frequency Drives for pumps. The Variable Frequency Drive must include the following features: <ul style="list-style-type: none"> a. Safe Torque Off b. Digital Input c. Analog Input | | <input checked="" type="checkbox"/> |
| 23. Supply and installation (as per manufacturer's instructions) of Flow Meters and/or pressure sensors as per MEP-10000 requirements | | <input checked="" type="checkbox"/> |
| 24. Provide and install services of all electrical panels. <ul style="list-style-type: none"> a. Shade/rain structure and panel mounting structures | | <input checked="" type="checkbox"/> |

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| 25. Provide installation services for BLAST Ride Control System panel concrete pedestal and conduit penetration | | <input checked="" type="checkbox"/> |
| 26. Installation of ride operator shade structures | | <input checked="" type="checkbox"/> |
| JOB SITE INSTALLATION SERVICES AND DELIVERABLES | | |
| 27. Provide heavy equipment and operators to off-load, transport and position the Water Ride materials (i.e., cranes, manlifts or forklifts, as required). | <input checked="" type="checkbox"/> | |
| 28. Provide heavy equipment and operators for preassembly and installation of the Water Ride materials (i.e., cranes, manlifts or forklifts, scaffolding as required). | <input checked="" type="checkbox"/> | |
| 29. Provide light equipment to position and assemble the Water Ride materials (i.e., rigging, cribbing, ladders and ropes). | <input checked="" type="checkbox"/> | |
| 30. Provide adequate work area and storage facilities for the duration of the project: a. Storage area as close as possible to site. b. Lay-down and work area near Water Ride. c. Security (guards and fencing) for storage and work areas, including CCTV if required. . | | <input checked="" type="checkbox"/> |
| 31. Protection of tools and equipment. | <input checked="" type="checkbox"/> | |
| 32. Provide site trailer space within the pre-assembly area. | | <input checked="" type="checkbox"/> |
| 33. Provide a site trailer, fully equipped with utilities and office equipment. | <input checked="" type="checkbox"/> | |
| 34. Provide electrical connections and field wiring to any supplied electrical equipment. | | <input checked="" type="checkbox"/> |
| 35. Provide adequate water and electrical sources at convenient locations throughout the job site. | | <input checked="" type="checkbox"/> |
| 36. Provide all transportation, lodging, meals and other living expenses for ProSlide installation labor crew. | <input checked="" type="checkbox"/> | |
| 37. Personnel to resolve or correct technical issues, related to ProSlide scope, that may occur on-site until ProSlide installation has completed. | <input checked="" type="checkbox"/> | |
| 38. Provide a treated water supply that meets the ProSlide MEP to the Water Ride connection points including all pumps, piping, piping supports, valves, electrical, filters etc. | | <input checked="" type="checkbox"/> |
| 39. Comply with all site health and safety requirements, as required by the Buyer, Local, State or Federal agencies. | <input checked="" type="checkbox"/> | |
| 40. Provide health and safety documentation to Buyer, as required. | <input checked="" type="checkbox"/> | |
| 41. Any submittals, building permits, licenses, and approvals as required by building authorities. | | <input checked="" type="checkbox"/> |
| 42. Pay all fees associated with Buyer-contracted resources and trades. | | <input checked="" type="checkbox"/> |
| 43. Site clearing, rough grading, tree clearing and/or rock blasting. | | <input checked="" type="checkbox"/> |
| 44. Grouting of columns, landscaping, decks, walkways, fencing, and signage. | | <input checked="" type="checkbox"/> |
| 45. Backwash line, storm sewer line and/or sanitary sewer line. | | <input checked="" type="checkbox"/> |
| 46. Final clean-up – repairing of leaks or gelcoat chips and cracks, clean the interior / exterior of the slide and wash and wax the interior of the slide. | <input checked="" type="checkbox"/> | |
| 47. Disposal of industrial waste and excess material related to ProSlide installation. | <input checked="" type="checkbox"/> | |

**EXHIBIT A4 – SITE ACCEPTANCE TEST/ WATER RIDE VERIFICATION SERVICES AND DELIVERABLES,
RESPONSIBILITY MATRIX**

| SITE ACCEPTANCE/ WATER RIDE VERIFICATION TEST SPECIALIST SERVICES AND DELIVERABLES | RESPONSIBILITY | |
|--|-------------------------------------|-------------------------------------|
| | PROSLIDE | BUYER |
| SITE ACCEPTANCE TEST/ WATER RIDE VERIFICATION DELIVERABLES APPLICABLE TO ALL WATER RIDE(S) | | |
| 1. Provide necessary Water Ride Specialist(s) for completion of SAT/ RV | <input checked="" type="checkbox"/> | |
| 2. Water Ride Specialist(s) accommodations | <input checked="" type="checkbox"/> | |
| 3. Water Ride Specialist(s) transportation (to and from jobsite) | <input checked="" type="checkbox"/> | |
| 4. Translator services provided for Water Ride Specialist(s) on-site (as required) | | <input checked="" type="checkbox"/> |
| 5. Ensure Job Site is ready for Site Acceptance Testing (“SAT”) and/or Water Ride Verification (“RV”) prior to Water Ride Specialist (s), please reference Pre-SAT and Pre-RV Checklists. | | <input checked="" type="checkbox"/> |
| 6. Provide unimpeded and continuous access to the slide, tower, end of ride, surrounding areas and pump/mechanical room during the SAT/RV process including access to water to operate ride. | | <input checked="" type="checkbox"/> |
| 7. Provide the following sub contractors during the SAT/RV if required: <ul style="list-style-type: none"> a. Personnel to operate pumps/VFDs b. Personnel to program VFDs/Flowmeters c. Personnel to operate/troubleshoot any electrical component issues d. Personnel to operate/troubleshoot any pneumatic system components | | <input checked="" type="checkbox"/> |
| 8. Provide maintenance team, operations team for training during SAT/RV and riders for cycle testing. | | <input checked="" type="checkbox"/> |
| 9. Perform “SAT” and “RV” testing process <ul style="list-style-type: none"> a. Site Installation Inspection b. Water flow verification c. Cycle testing to validate ride performance d. Ride operation and maintenance training for Water Rides (2 days maximum), including: <ul style="list-style-type: none"> I. Dispatch methods II. Rider eligibility, positioning and technique III. Scale and Dispatch system operations (if applicable) IV. Vehicle inspection (if applicable) V. Overview of ride components VI. ProSlide Provided Control System (if applicable) VII. Water Slide Maintenance (Daily, Weekly, Monthly, Yearly) | <input checked="" type="checkbox"/> | |
| 10. Provide a Summary Report of Water Ride settings as verified. | <input checked="" type="checkbox"/> | |

Water Ride Site Acceptance Test/ Verification Specialist Services and Deliverables Notes:

1. If ProSlide is unable to complete the SAT/ RV (due to Buyer Delays) while the SAT/ RV specialist is on-site, the Buyer will be responsible for all associated costs incurred to extend the site visit or re-mobilization of our specialist(s) to return to the Buyer site.

EXHIBIT B - PAYMENT TERMS

| | |
|---|------------------------|
| 1. Down Payment: upon signing of this Agreement, paid in two installments: <ul style="list-style-type: none"> I. The first installment shall be in the amount of \$ 1,000 U.S. and paid within 5 days from receipt of invoice II. Balance of the Down Payment shall be paid within 5 days from ProSlide’s notice to Buyer of successful receipt of the first installment | \$ 1,140,060 U.S. |
| | 30% |
| 2. Progress Payment No. 1: prior to shipment of Water Ride materials proportionate with the value of the materials being shipped. | \$2,090,110 U.S. |
| | 55% |
| 3. Progress Payment No. 2: upon deployment of Installation Services of the Water Rides | \$380,020 U.S. |
| | 10% |
| 4. Final Payment: upon SAT/RV confirming Water Rides performs to design intent | \$190,010 U.S. |
| | 5% |
| PURCHASE PRICE (Excludes any applicable Sales and Use Tax) | \$3,800,200 USD |

Notes to Payment Terms:

1. Payments are to be made by (a) corporate check, (b) wire transfer, or (c) Automated Clearing House (“ACH”).
2. Down Payment shall be paid in 2 installments as set out in the above table. The above Down Payment process is in place to protect both parties against losses due to cybercrime. As a result, if Buyer chooses to deviate from this process then any resulting losses suffered by either party will be borne on the Buyer.
3. Except for the Down Payment, all payments are due within 30 days from Buyer’s receipt of ProSlide’s invoice (“Payment Due Date”).
4. ProSlide’s banking information set out below is effective for the duration of the Project.

METHOD OF PAYMENT:

- a) Corporate Check: payments to be sent by courier to the ProSlide head office at:

ProSlide Technology Inc.
2650 Queensview Drive, Suite 150
Ottawa, Ontario
CANADA K2B 8H6
Tel: (613) 526-5522

- b) Wire transfer. Directly to ProSlide as follows:

For credit to: ProSlide Technology Inc.
HSBC Bank Canada
131 Queen Street
Ottawa, ON K1P 0A1
\$U.S. Account #: 031-487505-070
Transit #: 10031
Institution #: 016
S.W.I.F.T.: HKBCCATT

EXHIBIT C – PROJECT SCHEDULE

| STEP | RESPONSIBILITY | ACTION DESCRIPTION | TARGET DATE |
|------|--------------------|---|------------------|
| 1. | ProSlide and Buyer | Sign Full Agreement | June 26, 2023 |
| 2. | Buyer | Remit Down Payment | June 27, 2023 |
| 3. | Buyer | Remit Site all items listed in Exhibit A2, Item 3 | June 9, 2023 |
| 4. | ProSlide and Buyer | Confirmation of Water Ride Design | June 16, 2023 |
| 5. | Buyer | Sign-off of Final AutoCAD Conceptual Design(s) | June 26, 2023 |
| 6. | Buyer | Sign-off of colors of the Water Rides | July 10, 2023 |
| 7. | ProSlide | Initiation of Engineering Package | July 4, 2023 |
| 8. | ProSlide | Initiation of Fiberglass Production – Based on Buyer Payment | August 16, 2023 |
| 9. | ProSlide | Initiation of Steel Production – Based on Buyer Payment | October 16, 2023 |
| 10. | ProSlide | Water Ride Equipment and Materials On-site Arrival | March 10, 2024 |
| 11. | ProSlide | Installation Labor Arrival to Site | March 10, 2024 |
| 12. | ProSlide | Initiation of SAT, Water Ride Testing, Water Ride Commissioning and Water Ride Verification | May 25, 2024 |
| 13. | Buyer | Opening Date | June 14, 2024 |

Milestone Schedule Note:

- ProSlide target dates can only be met if Buyer meets their respective target dates on-time. If the Buyer fails to provide the above information by the target dates stated, or fails to meet their target dates, each such delay will be considered a Buyer Delay and ProSlide’s production, shipping and delivery schedule will be extended relative to the delay.
- Buyer acknowledges and agrees there may be schedule impacts due to government restrictions and ProSlide will not be liable for such delays. ProSlide will notify the Buyer as soon as practicable of any such potential schedule impacts.
- It is ProSlide’s understanding that the ride area will be cleared of the existing ride. Except as otherwise set forth in this Purchase Agreement, the project schedule does not account for any time associated with design and engineering coordination to re-use any existing ride, ride supports, concrete (including foundations) or any other existing ride infrastructure.

EXHIBIT D – WARRANTY PROVISIONS

1. Warranties

1.1. General Warranties. Each party warrants that it:

- i. has the right and authority to enter into this Agreement, and has not entered into a legal or administrative procedure that may interfere in the fulfillment of their obligations derived from this Agreement;
- ii. shall maintain, at its sole expense, all necessary licenses, insurance, business permits, consents, releases, and authorizations to carry on its business and to perform its obligations;
- iii. shall use best efforts to act in an ethical manner and shall, during the term of this Project, comply with all applicable international, national, state and local law, rules, and regulations with respect to the conduct of its business and its performance ; and,
- iv. has not offered, and will not offer or give any employee, agent or representative, or any government official any gratuity or improper payment with the intent of securing any business or favorable treatment under any agreement.

A breach of any warranty shall be considered a material breach of the terms and conditions of this Agreement and any other agreement between the parties.

1.2. Buyer Warranties. Buyer warrants that:

- i. all information to be provided to ProSlide by Buyer (including without limitation site survey plans, soil and geo-technical testing reports, and, wind speed and wind loading information, and any information listed in an applicable Exhibit) shall be accurate in all material respects;
- ii. Buyer knows of no impediment, which would cause delay, hinder or prevent ProSlide from carrying out the Services. Buyer shall provide reasonable and prompt access to key personnel and the Project site to facilitate ProSlide carrying out the Services;
- iii. it possesses the necessary capital, experience, facilities and personnel to meet its obligations under this Agreement;
- iv. unless otherwise stated in the roles and responsibilities listed in the Exhibits above or as set forth in the Contract, Buyer will obtain and maintain all consents, waivers, approvals permit fees, submittals, approvals, certifications, licences, and third-party reviews/ inspections required by any applicable levels of government or regulatory authorities. In addition, Buyer acknowledges that the list of Water Ride materials and Services provided by ProSlide in the Exhibits above is comprehensive but may be modified as necessary by Buyer;
- v. Buyer shall fulfill its ongoing obligation of performing ordinary and necessary inspections and maintenance of the Water Rides as prescribed by ProSlide in applicable Operations Manuals and Maintenance Manuals, applicable local standards, and/or other documents as provided by ProSlide, including what is considered normal, usual, customary and applicable industry practice. The Buyer shall complete, and provide to ProSlide upon request, any records directed to be maintained by applicable Operations Manuals and Maintenance Manuals, applicable local standards, and/or other documents provided by ProSlide, for any reason that ProSlide may require, including but not limited to showing fulfillment of Buyer's obligations under this Section 1.2v;
- vi. Buyer's use of any Water Rides containing software (such Water Rides are noted in Exhibit A), if applicable, is subject to ProSlide's Software License Agreement ("SLA"), a copy of which can be found at <https://www.proslide.com/software-license-agreement/>;
- vii. when applicable, Buyer shall procure and install flow meters and corresponding valves to monitor, measure and record water flows on each Water Ride to ensure recommended water flow requirements provided by ProSlide shall be maintained at all times. It is the Buyer's responsibility to operate their Water Rides in accordance with all government (of any applicable tier) or regulatory body guidelines and/or standards including but not limited to ASTM-F2376 (or any other similar guidelines and/or standards in the jurisdiction where the Water Rides are installed). The Buyer shall adhere and maintain the recommended water flow range by performing daily monitoring, measurement and confirmation of such. It is for this reason that flow meters and corresponding valves, as well as water depths, at key locations are mandatory. It is essential that the Buyer's Mechanical Contractor of record is apprised of this requirement for the inclusion of flow meters and corresponding valves;

- viii. when applicable, Buyer shall install scales and agree to the consistent/continued use of the scales in daily operation to monitor and measure rider and vehicle weights in order to ensure each Water Ride is being operated within the minimum and maximum rider and vehicle weight limits set forth in the provided Water Ride operations and maintenance manual;
- ix. Buyer shall only use third party products (including accessories and vehicles) with or make alterations to the Water Ride that are approved by ProSlide in writing in advance;
- x. During the Warranty Period, Buyer will report any mishap, accident or incident involving bodily injury, damage, death, injury to or destruction of the Water Ride to ProSlide within ten (10) business days of the incident becoming known to the Buyer, regardless of whether any claim or demand for damages is made;
- xi. in the event Buyer is not the Park Owner/Operator, Buyer shall (a) pass through any and all applicable obligations and responsibilities to Park Owner/Operator as, under relevant laws, legislation or regulations, may be passed through, (including without limitation, obligations set out in the warranties, indemnification, insurance and confidentiality sections herein) provided that Buyer continues to be fully liable and responsible for full performance of all obligations assumed in this Agreement; and, (b) shall provide the Water Rides under terms and conditions no less restrictive than as set out in this Agreement.

1.3. ProSlide Product and Service Warranties. ProSlide warrants that:

- i. Services provided under this Agreement will be performed in a good and workmanlike manner consistent with standard industry practices;
- ii. Water Rides provided under this Agreement are new and will perform in compliance with ASTM F2376 and ProSlide's specifications;
- iii. Water Rides provided under this Agreement will be covered by ProSlide's Product Warranty Program set out in Rider 1 attached hereto for the respective lengths of time outlined therein ("Warranty Period"), subject to Buyer's applicable warranty obligations set out in Section 1.2 and the exceptions outlined in Section 1.4; and
- iv. during the Warranty Period, ProSlide will be responsible to repair and/or replace the Water Ride materials or workmanship that are covered by ProSlide's Product Warranty Program. The decision whether to repair or replace shall be made at ProSlide's sole and exclusive discretion. During the Warranty Period, any replacement parts will be provided by ProSlide without charge, provided the payment terms have been adhered to by the Buyer.

1.4. Exceptions to ProSlide Product and Service Warranty. The warranties detailed above do not apply to and/or will become void and render ProSlide free from any warranty obligations, if:

- i. defects are caused by normal wear and tear, or is a consumable part;
- ii. defects are caused by the Buyer's negligence, improper maintenance or operation, improper storage, abuse, misuse, vandalism, soil shifting, poor water quality, or modifications;
- iii. defects are caused by use of the Water Rides with any accessories not approved or supplied by ProSlide;
- iv. Buyer fails or refuses to make payment in accordance with the payment schedule set out in Exhibit B; or,
- v. Buyer does not fulfill its ongoing obligation of performing ordinary and necessary inspections and maintenance of the Water Rides as prescribed by ProSlide in applicable Operations Manuals and Maintenance Manuals and/or other documents as provided by ProSlide, and as outlined in applicable local standards, including what is considered normal, usual, customary and applicable industry practice.

1.5. Notice. The Buyer will promptly, within ten (10) business days, notify ProSlide of any defect, incident, failure or malfunction which affects the continued proper operation of the Water Ride.

1.6. No Other Warranty. *Other than the warranties set forth in this Section 1, or as set forth in the Contract, ProSlide makes no other warranties or guarantees of any sort or kind to Buyer.*

1.7. Customer Support. Following the Warranty Period, Buyer may purchase, at ProSlide's then current rates, additional customer support services, offered under separate terms and conditions.

Rider 1 –

This Rider 1 outlines the warranties applicable to the Water Rides and Services purchased under this Agreement.

For the purposes of this Rider,

‘Substantial Completion’ means the date of completion of site acceptance testing by ProSlide, and ProSlide’s issuance to Buyer of a signed acceptance test certificate indicating the Water Rides operate as per the specifications herein and meet design intent, which such date is designated in the Contract as May 25, 2024.

‘Warranty Start Date’ means the date of Substantial Completion.

General Warranties

ProSlide provides a 1-year warranty from the Warranty Start Date for all Water Rides materials and Services provided by ProSlide (“General Warranty”). This warranty covers poor workmanship and defects in Water Ride materials that renders the Water Ride unsafe, Water Ride materials or Services that do not comply with the applicable standards and the terms of the Agreement, or color fading of more than 20% according to the ProSlide fade measurement samples. The warranty also protects against defects in workmanship for the installation of the Water Ride as well as any damage done to the Water Ride materials by ProSlide during installation.

Along with the General Warranty, ProSlide provides an **enhanced warranty** for the following elements:

| | Length from Warranty Start Date |
|--|---------------------------------------|
| Fiberglass | |
| Fiberglass will remain intact and free from any delamination. This covers any lamination below the gelcoat where fiberglass layers are visibly separated and cause a structural deficiency | 5 years |
| Major laminate failure, such as holes, flange failure, laminate fracture | 5 years |
| Fiberglass below the gelcoat will be free from any damage due to bolt pull through | 5 years |
| Cracking that penetrates into structural laminate (below the gelcoat) | 5 years |

| | Length from Warranty Start Date |
|--|---------------------------------------|
| Steel Provided by ProSlide | |
| Steel should not exhibit plastic deformations, deflections in excess of those specified in the contract documents or exceed the out-of-plumbness tolerances specified in AISC’s Code of Standard Practice (or otherwise approved by ProSlide Structural Engineers) at the time of ride verification. | 5 years |
| All steel shall be free of corrosion (pitting, crevice etc.) that impairs the performance of the structure | 5 years |
| Steel will be free from: <ul style="list-style-type: none"> a. Pull-through damage caused due to bolt stresses. b. Full penetration cracks or fracture | 5 years |

| | Length from Warranty Start Date |
|---|---------------------------------------|
| BLAST Water Coasters | |
| Ride will be free of water leaks in water distribution manifolds | 1 year |
| Floor panels will be free of major hardware corrosion causing damage to ride vehicles | 1 year |
| Splash guard windows will be free of cracking or warping greater than 6mm (0.25") | 1 year |

Notes to Rider -

- Software warranties are outlined in ProSlide's Software License Agreement, a copy of which can be found at <https://www.proslide.com/software-license-agreement/>
- The warranties against '*Corrosion*' outlined above do not apply to surface corrosion, which can be mitigated by following preventative instructions as outlined in the Operations and Maintenance Manuals.

EXHIBIT "B"
INSURANCE REQUIREMENTS



MINIMUM INSURANCE REQUIREMENTS

Contractors performing work on City property or public right-of-way for the City of North Richland Hills shall provide the City a certificate of insurance evidencing the coverages and coverage provisions identified herein. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of North Richland Hills.

The following guidelines are designed to show the most common minimum insurance requirements for standard contracts and agreements with the City. Non-standard agreements may require additional coverage and/or higher limits. Coverage Amounts required for non-standard agreements to be determined by the department and the City Manager.

General Contracts for Services:

Service work, and general maintenance agreements, etc.

- Commercial General Liability
- Automobile Liability
- Workers' Compensation & Employer's Liability
- Payment and Maintenance Bond (if applicable)

See Exhibit A for insurance language to include in general contracts for services

Professional Services:

Consultants or other professionals including: accountants, attorneys, architects, engineers, medical professionals, medical services, etc.

- Commercial General Liability
- Automobile Liability
- Workers' Compensation & Employer's Liability
- Professional Liability or equivalent Errors & Omissions (appropriate to Contractor's profession)

See Exhibit B for insurance language to include in professional services contracts

Construction:

Building contractors for construction projects.

- Commercial General Liability
- Automobile Liability
- Workers' Compensation & Employer's Liability
- Professional Liability (if applicable for design function)
- Builder's Risk (required for new or existing property under construction)
- Payment and Maintenance Bond (if applicable)

See Exhibit C for insurance language to include in construction contracts

Information Technology/Network Access Services:



For the purchasing and installation of technology-related software and equipment or contracting services that support, maintain or interact with the CITY’S technology systems.

- Commercial General Liability
- Automobile Liability
- Workers’ Compensation & Employer’s Liability
- Professional Liability (if applicable)
- Cyber Liability

See Exhibit D for insurance language to include in IT/network access services agreements

Standard Minimum Required Insurance Coverage

| Insurance Type | Limit | Provision |
|---|---|---|
| Commercial General Liability | \$1,000,000 Each Occurrence \$2,000,000 Aggregate | City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage |
| | For Construction Projects: \$2,000,000 Each Occurrence \$4,000,000 Aggregate | |
| Automobile Liability | \$1,000,000 Combined Single Limit | |
| Workers’ Compensation | Texas Statutory Requirements | Waiver of subrogation in favor of City |
| Employer’s Liability | \$500,000 injury - each accident \$500,000 disease - each employee \$500,000 disease - policy limit | |
| Professional Liability (or equivalent Errors & Omissions coverage appropriate to the Contractor’s profession) | \$1,000,000 Each Occurrence | |
| Builder’s Risk (required for new or existing property under construction) | 100% Value | |
| Cyber Liability | \$1,000,000 Each Occurrence | |
| Payment/Maintenance Bonds | In accordance with Chapter 2253 of the Texas Government Code | |



EXHIBIT A

GENERAL CONTRACTS FOR SERVICES

For the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance which shall protect CONTRACTOR, its subcontractors, its sub-consultants and CITY from claims for injuries, including accidental death, as well as from claims for property damage which may arise from the performance of work under this Agreement.

A. Workers' Compensation and Employer's Liability Insurance:

| | |
|-----------------------|-----------------------------------|
| Workers' Compensation | Texas Statutory |
| Employer's Liability | \$500,000 injury - each accident |
| | \$500,000 disease - each employee |
| | \$500,000 disease - policy limit |

B. Commercial General Liability:

On an "occurrence" basis, including, property damage, bodily injury, products and completed operations and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

C. Automobile Liability:

Covering any auto, or if CONTRACTOR has no owned autos, covering hired and non-owned autos with a Combined Single Limit no less than \$1,000,000 per accident for bodily injury and property damage.

Insurance limits can be met with a combination of primary and excess/umbrella coverage.

The CITY, its officers, officials and employees are to be covered as "Additional Insured" on the commercial general liability and automobile liability policies as respects liability arising out of activities performed by or on behalf of the CONTRACTOR.

A waiver of subrogation in favor of the CITY, its officers, officials and employees shall be contained in the Workers' Compensation insurance policy.

Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to CITY.

All insurance shall be issued by responsible insurance companies eligible to do business in the State of Texas and having an A.M. Best Financial rating of A- VI or better.

CONTRACTOR shall furnish the CITY certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be submitted on a form approved by the Texas Department of Insurance.

Payment and Maintenance Bonds (if applicable): CONTRACTOR shall procure Payment and Maintenance Bonds as applicable and in accordance with Chapter 2253 of the Texas Government Code.



EXHIBIT B

PROFESSIONAL SERVICES

For the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance which shall protect CONTRACTOR, its subcontractors, its sub-consultants and CITY from claims for injuries, including accidental death, as well as from claims for property damage which may arise from the performance of work under this Agreement.

A. Workers' Compensation and Employer's Liability Insurance:

| | |
|-----------------------|-----------------------------------|
| Workers' Compensation | Texas Statutory |
| Employer's Liability | \$500,000 injury - each accident |
| | \$500,000 disease - each employee |
| | \$500,000 disease - policy limit |

B. Commercial General Liability:

On an "occurrence" basis, including, property damage, bodily injury, products and completed operations and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

C. Automobile Liability:

Covering any auto, or if CONTRACTOR has no owned autos, covering hired and non-owned autos with a Combined Single Limit no less than \$1,000,000 per accident for bodily injury and property damage.

D. Professional Liability (Errors and Omissions)

CONTRACTOR shall maintain Professional Liability (or equivalent) errors and omissions insurance appropriate to the CONTRACTOR'S profession, [enter description of Contractor's profession], with a limit no less than \$1,000,000 per occurrence or claim.

Insurance limits can be met with a combination of primary and excess/umbrella coverage.

The CITY, its officers, officials and employees are to be covered as "Additional Insured" on the commercial general liability and automobile liability policies as respects liability arising out of activities performed by or on behalf of the CONTRACTOR.

A waiver of subrogation in favor of the CITY, its officers, officials and employees shall be contained in the Workers' Compensation insurance policy.

Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to CITY.

All insurance shall be issued by responsible insurance companies eligible to do business in the State of Texas and having an A.M. Best Financial rating of A- VI or better.

CONTRACTOR shall furnish the CITY certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be submitted on a form approved by the Texas Department of Insurance.



EXHIBIT C

CONSTRUCTION

For the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance which shall protect CONTRACTOR, its subcontractors, its sub-consultants and CITY from claims for injuries, including accidental death, as well as from claims for property damage which may arise from the performance of work under this Agreement.

A. Workers' Compensation and Employer's Liability Insurance:

| | |
|-----------------------|-----------------------------------|
| Workers' Compensation | Texas Statutory |
| Employer's Liability | \$500,000 injury - each accident |
| | \$500,000 disease - each employee |
| | \$500,000 disease - policy limit |

B. Commercial General Liability:

On an "occurrence" basis, including, property damage, bodily injury, products and completed operations and personal & advertising injury with limits no less than \$2,000,000 per occurrence and \$4,000,000 aggregate.

C. Automobile Liability:

Covering any auto, or if CONTRACTOR has no owned autos, covering hired and non-owned autos with a Combined Single Limit no less than \$1,000,000 per accident for bodily injury and property damage.

D. Professional Liability (if contract involves design work)

CONTRACTOR shall maintain Professional Liability (or equivalent) errors and omissions insurance appropriate to the CONTRACTOR'S profession, [enter description of Contractor's profession], with a limit no less than \$1,000,000 per occurrence or claim

E. Builder's Risk

CONTRACTOR shall maintain Builder's Risk Insurance providing All-Risk (Special Perils) coverage in an amount equal to one hundred percent (100%) of the completed value of the project in question and no coinsurance penalty provisions. The policy shall list the CITY as loss payee as their interests may appear.

Insurance limits can be met with a combination of primary and excess/umbrella coverage.

The CITY, its officers, officials and employees are to be covered as "Additional Insured" on the commercial general liability and automobile liability policies as respects liability arising out of activities performed by or on behalf of the CONTRACTOR.

A waiver of subrogation in favor of the CITY, its officers, officials and employees shall be contained in the Workers' Compensation insurance policy.

Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to CITY.

All insurance shall be issued by responsible insurance companies eligible to do business in the State of Texas and having an A.M. Best Financial rating of A- VI or better.

CONTRACTOR shall furnish the CITY certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be submitted on a form approved by the Texas Department of Insurance.

Payment and Maintenance Bonds (if applicable): CONTRACTOR shall procure Payment and Maintenance Bonds as applicable and in accordance with Chapter 2253 of the Texas Government Code.



EXHIBIT D

INFORMATION TECHNOLOGY/NETWORK ACCESS SERVICES

For the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance which shall protect CONTRACTOR, its subcontractors, its sub-consultants and CITY from claims for injuries, including accidental death, as well as from claims for property damage which may arise from the performance of work under this Agreement.

A. Workers' Compensation and Employer's Liability Insurance:

| | |
|-----------------------|-----------------------------------|
| Workers' Compensation | Texas Statutory |
| Employer's Liability | \$500,000 injury - each accident |
| | \$500,000 disease - each employee |
| | \$500,000 disease - policy limit |

B. Commercial General Liability:

On an "occurrence" basis, including, property damage, bodily injury, products and completed operations and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

C. Automobile Liability:

Covering any auto, or if CONTRACTOR has no owned autos, covering hired and non-owned autos with a Combined Single Limit no less than \$1,000,000 per accident for bodily injury and property damage.

D. Professional Liability (Errors and Omissions)

If appropriate for CONTRACTOR'S work, CONTRACTOR shall maintain Professional Liability (or equivalent) errors and omissions insurance appropriate to the CONTRACTOR'S profession, [enter description of Contractor's profession], with a limit no less than \$1,000,000 per occurrence or claim.

E. Cyber Liability

CONTRACTOR shall maintain cyber liability (or equivalent) insurance. Such insurance shall provide limits of no less than \$1,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as undertaken by the CONTRACTOR.

Insurance limits can be met with a combination of primary and excess/umbrella coverage.

The CITY, its officers, officials and employees are to be covered as "Additional Insured" on the commercial general liability and automobile liability policies as respects liability arising out of activities performed by or on behalf of the CONTRACTOR.

A waiver of subrogation in favor of the CITY, its officers, officials and employees shall be contained in the Workers' Compensation insurance policy.

Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to CITY.

All insurance shall be issued by responsible insurance companies eligible to do business in the State of Texas and having an A.M. Best Financial rating of A- VI or better.

CONTRACTOR shall furnish the CITY certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be submitted on a form approved by the Texas Department of Insurance.

Other Insurance Requirements - To Be Included As Applicable

CONTRACTORS who serve or distribute liquor:

Liquor Legal Liability - CONTRACTOR shall maintain Liquor Legal Liability coverage covering the selling, serving, or furnishing of any alcoholic beverage performed by CONTRACTOR, or on its behalf. Such insurance shall provide limits of no less than \$1,000,000.00 per occurrence.

CONTRACTORS who hold long-term leases:

Property Insurance – LESSEE shall maintain Property Insurance against all risks of loss to any improvements or betterments, at full replacement cost with no coinsurance penalty provision. The CITY shall be added as a Loss Payee to the policy as interests may appear.

CONTRACTOR’S whose work involves chemicals or otherwise has a pollution exposure:

Contractors’ Pollution Liability (or equivalent) – CONTRACTOR shall maintain Contractors’ Pollution Liability with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000 policy aggregate.

CONTRACTORS who take possession of City or public vehicles (e.g., parking lots operators, auto repair shops):

Garage Keepers Liability (or equivalent) – CONTRACTOR shall maintain Garage Keepers Liability or equivalent coverage for applicable property while in the CONTRACTOR’S care, custody or control. Coverage must include Comprehensive and Collision coverage. Such insurance shall provide limits equal to no less than the total value of CITY or public property in the CONTRACTOR’S care, custody and control at any one time.

CONTRACTORS who own and operate unmanned aircraft (drones):

UAS Liability (or equivalent) - CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the ownership, maintenance or use of Unmanned Aerial Systems (Drones). Coverage must include limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

A PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE OF INSURANCE.

EXHIBIT "C"
OWNER'S SPECIFICATIONS AND PROSLIDE RESPONSE



NRH20
TEXAS, USA
2023 PROSLIDE WATER RIDE ATTRACTIONS
PRELIMINARY BUDGET ESTIMATE TABLE
(\$US FIGURES)

| PROSLIDE WATER RIDES | DESIGN DATA | | PROSLIDE SCOPE PRICING | | | | NOTES |
|-----------------------------|------------------------|---------------------|--|--|---|--|---|
| | RISE ELEVATION (ft) | RISE LENGTH (ft) | PROSLIDE MATERIAL & SERVICES (Design and Engineering Services, Fiberglass, and Freight (D.D.P.)) | PROSLIDE STRUCTURAL STEEL SUPPORTS (Structural Steel Ride Supports, and Freight (D.D.P.)) | PROSLIDE EVAC MATERIALS (Evac Materials, and Freight (D.D.P.)) | PROSLIDE INSTALLATION (Installation Services and Equipment) | |
| ProSlide Complex # 1 | | | | | | | |
| 1 | Dueling PIPELINE BLAST | +/- 66.3 | +/- 599.9 (Per Lane) | \$2,390,200 | \$257,200 | \$96,900 | \$1,055,900 |
| ProSlide Services | | | | | | | |
| Bonding Services | | | TBD | | | | Contingent Upon North Richland Hills Requirements |

Notes to Estimate:

ROM (Rough Order Of Magnitude) Pricing is in US currency, and is valid for (60) days from the date issued by ProSlide Estimating Team. Estimate is based on a flat site, with no known topography and is subject to change with any modification to the design length and height described above. This ROM is based on ProSlide standard Terms and Conditions and may be revised if supplemental contractual terms or responsibilities are agreed upon.

Estimate assumes the following project milestones:

- Purchase Agreement signing & receipt of down payment: 60 days from Initial Estimate Issue Date
- Confirmation of fiberglass colors: (TBD) months from Initial Estimate Issue Date
- Initiation of fiberglass production: (TBD) months from Initial Estimate Issue Date
- Completion of Site Acceptance Testing/ Ride Verification: (TBD) months from Initial Estimate Issue Date

If the above milestones are delayed by more than 3 months, ProSlide may revise this Estimate to reflect any increased costs.

ProSlide Water Ride Includes (as Applicable):

Water Ride Design and Engineering Services;
All Water Ride fiberglass (including nuts, bolts and sealant);
Structural Steel Ride Supports (hot-dipped galvanized steel);
Evac Materials (based on ProSlide outdoor specifications);
Water Ride Special Effects;
Weight Scale;
Slide Monitoring Systems;
Material delivery D.D.P. to site;
and ProSlide Installation Services and Equipment (assumes non-union labor rates or prevailing wage).

Customer Responsibilities include the Following:

- Pre-assembly space inside the park as defined by ProSlide;
- Coordination with adjacent trades and integration with other equipment;
- Local storage facilities as follows:
 - Lay-down area outside the park (sand, gravel or asphalt);
 - Lay-down (sand, gravel or asphalt) and suitable work area near ride;
 - Security for storage areas.
- Responsible for resources including qualified labor, technical trades and professional services for all items outside of ProSlide Scope of Work.

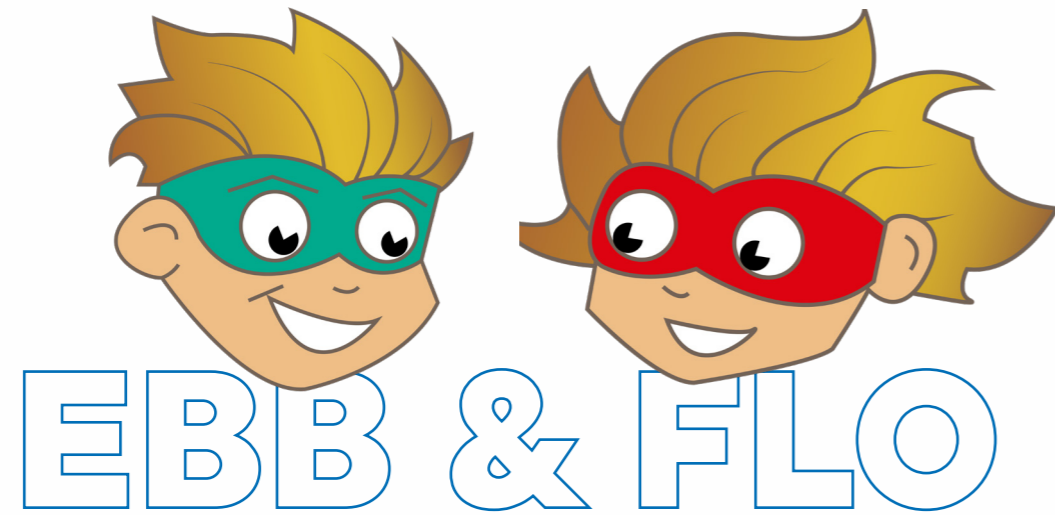
Pricing Excludes: Federal, State, or Local Sales and Use Tax, Value Added Tax, With-holding Tax, Performance Bonds, Surety Bonds, Guarantees, Any required building/work permits, Conveyor materials, Tower Materials, Pool(s), Pumps and Piping, Mechanical Equipment of Any Kind, Mechanical and Electrical Engineering, Including supply & installation of the conduits and cabling for power and control for Ride Dispatch or Lighting System, Clearing & Grading, Decks, Walkways & Landings, Concrete foundations and material, Grouting, Painting for steel supports and tower materials, Water Ride Vehicles, Third Party Additional costs for F.A.T. and or Audits, Other Site Specific Utilities, Transportation Detention Costs, Any other items not specifically listed above.

Date issued: May 30, 2023

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NOT FOR DISTRIBUTION

Dueling PIPElineBLAST™ / FlyingSAUCER® 20

NRH2O WATERPARK



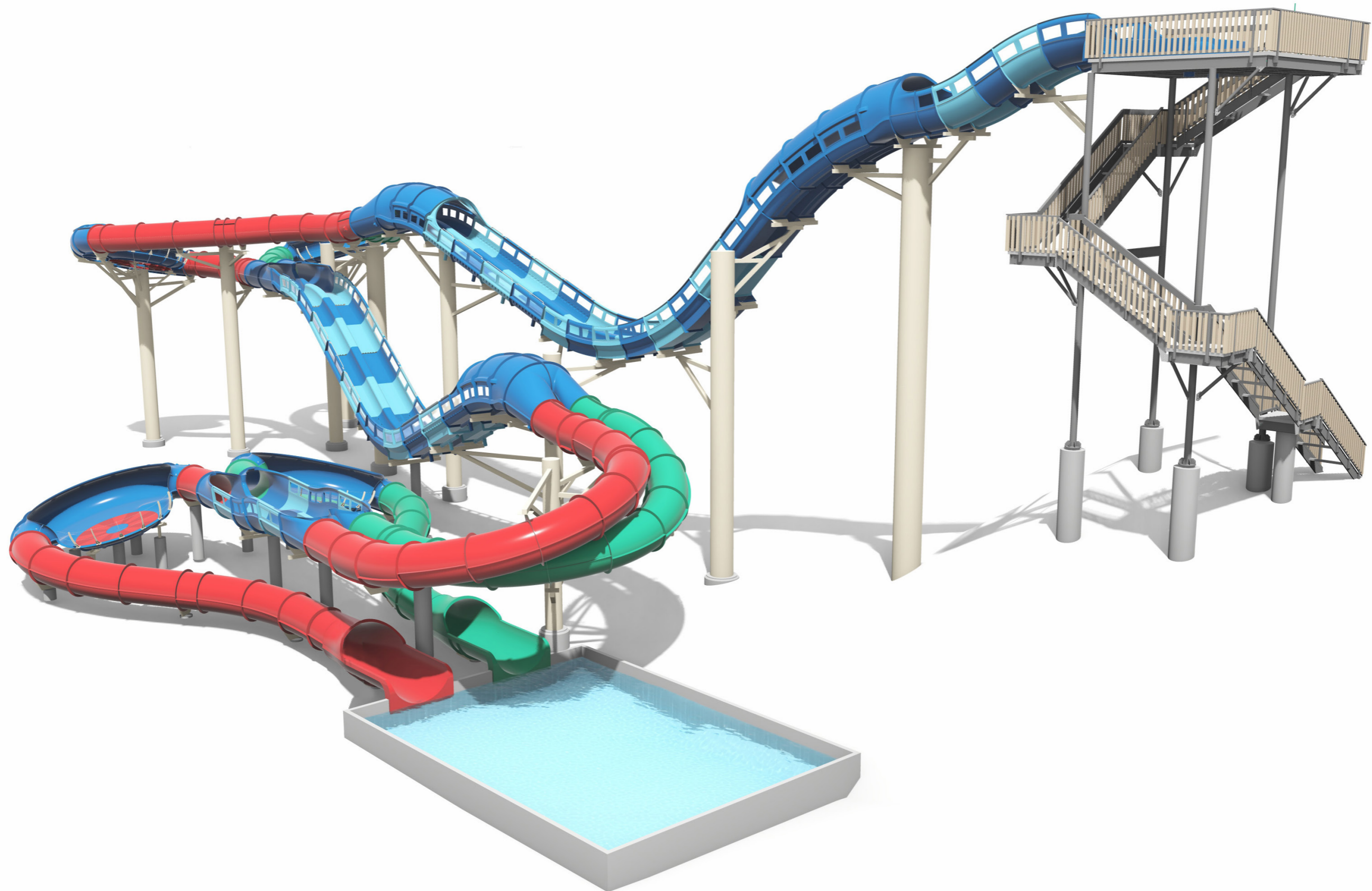
Dueling PIPElineBLAST™ / FlyingSAUCER® 20

NRH2O WATERPARK



Dueling PIPElineBLAST™ / FlyingSAUCER® 20

NRH2O WATERPARK



DESIGN DATA

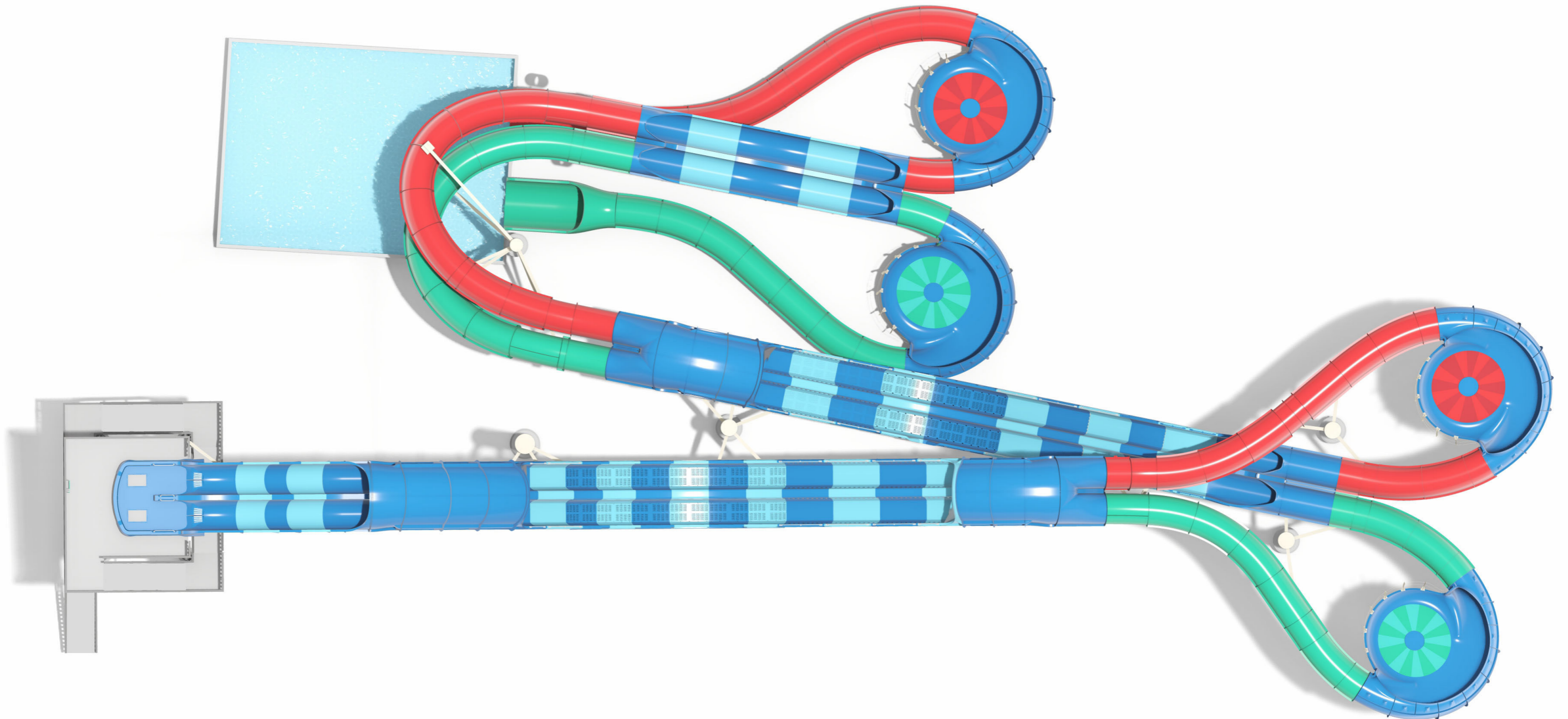
NRH2O WATERPARK

Dueling PIPElineBLAST™/ FlyingSAUCER® 20 (Per Lane)

Length: +/- 599.61'/182.76m **Drop:** +/- 64.7'/19.7m **Grade:** Varies

 ~360pph
2-Person Max THRC

The Water Ride length and Water Ride drop for the conceptual Water Ride design are preliminary and are subject to change as necessitated by technical advancements or site conditions to maintain optimal ride performance and safety. The Maximum Theoretical Hourly Ride Capacity (THRC) is dependant on design features and operational procedures.



Maximum Theoretical Capacity: ~720pph

EXHIBIT "D"
PAYMENT AND PERFORMANCE BOND FORMS

EXHIBIT "D" - BOND FORMS

Bond No. _____

PERFORMANCE BOND

STATE OF TEXAS §
COUNTY OF TARRANT § **KNOW ALL MEN BY THESE PRESENTS:**

THAT _____, a corporation organized and existing under the laws of the State of _____, and fully authorized to transact business in the State of Texas, whose address is _____ of the City of _____, County of _____, and State of _____, (hereinafter referred to as "Principal"), and _____

_____ (hereinafter referred to as "Surety"), a corporation organized under the laws of the State of _____ and authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto THE CITY OF NORTH RICHLAND HILLS (hereinafter referred to as "Owner") in the penal sum _____ **DOLLARS AND** _____ **CENTS** (\$XXX,XXX.00) [not less than 100% of the approximate total amount of the contract as evidenced in the bid proposal] in lawful money of the United States, for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written Contract with the Owner, dated the _____ day of _____, 20____, to which said Contract is hereby referred to and made a part hereof and as fully and to the same extent as if copied at length herein for the construction of:

Water Coaster Water Ride at NRH20 Family Water Park in the city of North Richland Hills, Tarrant County, Texas, dated as of _____, 20__.

NOW, THEREFORE, the condition of this obligation is such, that if the said Principal fully and faithfully executes the work and performance of the Contract in accordance with the plans, specifications and Contract Documents, including any extensions thereof which may be granted with our without notice to Surety, during the original term thereof, and during the life of any guaranty required under the Contract, and according to the true intent and meaning of said Contract and the plans and specifications hereto annexed, if the Principal shall repair and/or replace all defects due to faulty materials or workmanship that appear within a period of two years 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 Owner from all costs and damages which Owner may suffer by reason of failure to so perform herein and shall fully reimburse and repay Owner all outlay and expense which the Owner may incur in making good any default or deficiency, then this obligation shall be void; otherwise, to remain in full force and effect; and in case said contractor shall fail to do so, it is agreed that the Owner may do said work and supply such materials and charge the same against said contractor and Surety on this obligation.

In the event that the Principal is declared in default under the said Contract by Owner, the Surety will within fifteen (15) days of Owner's declaration of such default take all action necessary to take over the project from Contractor and assume completion of said Contract. The Surety shall become entitled to the payment of the balance of the Contract Price upon the Surety's faithful performance of its obligations under this bond.

The Surety agrees to pay to Owner, upon demand, all loss and expense, including reasonable attorney's fees, incurred by Owner by reason of or on account of any breach of this obligation by the Surety.

Provided further, that if any legal action be filed on this Bond, venue shall lie in Tarrant County, Texas.

PROVIDED, HOWEVER, that this Bond is executed pursuant to the provisions of Texas Government Code, Chapter 2253, as amended, and Article 7.19-1 of the Insurance Code, as amended, and all liabilities on this Bond shall be determined in accordance with the provisions of said articles to the same extent as if they were fully copied at length herein.

Surety, for value received, stipulates and agrees that the Bond shall automatically be increased by the amount of any Change Order or supplemental agreement with increases the Contract price with or without notice to the Surety, but in no event shall a Change Order or supplemental agreement which reduces the Contract price decrease the penal sum of this Bond. And further 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, or drawings accompanying the 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.

Surety agrees that this Bond provides for the repairs and/or replacement of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of completion and acceptance of the improvement by the Owner.

The undersigned and designated agent is hereby designated by Surety herein as the agent resident to whom any requisite notice may be delivered and on whom service of process may be had in matters arising out of such suretyship.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument on this the _____ day of _____, 20__.

| | |
|---|--|
| _____ <i>(Company Name of Principal)</i> | _____ <i>(Company Name of Surety)</i> |
| _____ <i>(Signature)</i> | _____ <i>(Signature)</i> |
| _____ <i>(Printed Name)</i> | _____ <i>(Printed Name)</i> |
| _____ <i>(Title)</i> | _____ <i>(Title)</i> |
| _____ <i>(Address Line 1)</i> | _____ <i>(Address Line 1)</i> |
| _____ <i>(Address Line 2)</i> | _____ <i>(Address Line 2)</i> |
| _____ <i>(City, State and Zip Code)</i> | _____ <i>(City, State and Zip Code)</i> |
| _____ <i>(Witness)</i> | _____ <i>(Witness)</i> |

The name and address of the Resident Agent of Surety is:

| | |
|--|------------------------------|
| _____ <i>(Name)</i> | |
| _____ <i>(Address Line 1)</i> | |
| _____ <i>(Address Line 2)</i> | |
| _____ <i>(City, State and Zip Code)</i> | |
| _____ <i>(Telephone Number)</i> | _____ <i>(Fax Number)</i> |

Bond No. _____

PAYMENT BOND

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

KNOW ALL MEN BY THESE PRESENTS:

THAT _____, a corporation organized and existing under the laws of the State of _____, and fully authorized to transact business in the State of Texas, whose address is _____ of the City of _____, County of _____, and State of _____, (hereinafter referred to as "Principal"), and _____ (hereinafter referred to as "Surety"), a corporation organized under the laws of the State of _____ and authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto THE CITY OF NORTH RICHLAND HILLS (hereinafter referred to as "Owner") and unto all persons, firms and corporations who may furnish materials for or perform labor upon the buildings, structures or improvements referred to in the attached Contract, in the penal sum _____ **DOLLARS AND CENTS** (\$XXX,XXX.00) [not less than 100% of the approximate total amount of the Contract as evidenced in the bid proposal] in lawful money of the United States, for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written Contract with the Owner, dated the _____ day of _____, 20___, to which said Contract is hereby referred to and made a part hereof and as fully and to the same extent as if copied at length herein for the construction of:

Water Coaster Water Ride at NRH20 Family Water Park in the city of North Richland Hills, Tarrant County, Texas, dated as of _____, 20___.

NOW, THEREFORE, the condition of this obligation is such, that the Bond guarantees the full and proper protection of all claimants supplying labor and material in the prosecution of the work provided for in said Contract and for the use of each claimant, and that conversely should the Principal faithfully perform said Contract and in all respects duly and faithfully observe and perform all and singular the covenants, conditions, and agreements in and by said Contract, agreed to by the Principal, and according to the true intent and meaning of said Contract and the claims and specifications hereto annexed, and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to Surety being hereby waived, then this obligation shall be void; otherwise, to remain in full force and effect. Provided further, that if any legal action be filed on this Bond, venue shall lie in Tarrant County, Texas.

PROVIDED, HOWEVER, that this Bond is executed pursuant to the provisions of Texas Government Code, Chapter 2253, as amended, and Article 7.19-1 of the Insurance Code, as amended, and all liabilities on this Bond shall be determined in accordance with the provisions of said articles to the same extent as if they were fully copied at length herein.

Surety, for value received, stipulates and agrees that the Bond shall automatically be increased by the amount of any Change Order or supplemental agreement with increases to the Contract price with or without notice to the Surety and 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, or drawings accompanying the 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 herein as the agent resident to whom any requisite notice may be delivered and on whom service of process may be had in matters arising out of such suretyship.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument on this the _____ day of _____, 20__.

| | |
|---|--|
| _____ <i>(Company Name of Principal)</i> | _____ <i>(Company Name of Surety)</i> |
| _____ <i>(Signature)</i> | _____ <i>(Signature)</i> |
| _____ <i>(Printed Name)</i> | _____ <i>(Printed Name)</i> |
| _____ <i>(Title)</i> | _____ <i>(Title)</i> |
| _____ <i>(Address Line 1)</i> | _____ <i>(Address Line 1)</i> |
| _____ <i>(Address Line 2)</i> | _____ <i>(Address Line 2)</i> |
| _____ <i>(City, State and Zip Code)</i> | _____ <i>(City, State and Zip Code)</i> |
| _____ <i>(Witness)</i> | _____ <i>(Witness)</i> |

The name and address of the Resident Agent of Surety is:

| | |
|--|------------------------------|
| _____ <i>(Name)</i> | |
| _____ <i>(Address Line 1)</i> | |
| _____ <i>(Address Line 2)</i> | |
| _____ <i>(City, State and Zip Code)</i> | |
| _____ <i>(Telephone Number)</i> | _____ <i>(Fax Number)</i> |

