

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town") and 55 Prosper, LP and HH Lakewood Drive Development, LP (collectively, "Owner") (individually, a "Party" and collectively, the "Parties") to be effective (the "Effective Date") on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owner is developing an approximate 119.4-acre tract (the "Property"), which includes Tract A, consisting of an approximate 76.145-acre tract, and Tract B, consisting of an approximate 43.284-acre tract, a depiction of which Property is attached hereto as Exhibit A and incorporated by reference, and which depicts both Tract A and Tract B thereof; and

WHEREAS, the foregoing Property was rezoned by the Town Council on or about August 24, 2021, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in the underlying zoning ordinance, as may be amended, and/or this Development Agreement, to recognize Owner's reasonable investment-backed expectations in the Development, as may be amended, and as more fully described herein.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Development Standards. For any structure built on the Property following the Effective Date, it shall comply with the requirements contained in Exhibit B, "Building Materials," attached hereto and incorporated herein. For any single family detached structures built on Tract B following the Effective Date, it shall generally comply with the elevations contained in Exhibit C, attached hereto and incorporated herein. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. Covenant Running with the Land. The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Owner and its heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other owners of the Property, regardless of whether this Agreement is expressly referenced therein.

3. **Applicability of Town Ordinances.** Owner shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

4. **Default.** No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

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

6. **Notice.** Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town: The Town of Prosper
250 W. First Street
P.O. Box 307
Prosper, Texas 75078
Attention: Town Manager

If to Tract A Owner: 55 Prosper, LP
3794 West Highway 67, Unit C
Glen Rose, TX 76043
Attention: BF Hill

If to Tract B Owner: HH Lakewood Drive Development, LP
2200 Ross Avenue, Suite 4200W
Dallas, TX 75201
Attention: Robert Witte

7. **Prevailing Party.** In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable

costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

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

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

10. Binding Agreement. A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein, including without limitation a scanned copy sent via electronic mail by either Party.

11. Authority to Execute. This Agreement shall become a binding obligation on the Parties upon execution by all Parties hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Owner warrants and represents that the individual(s) executing this Agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

12. Filing in Deed Records. This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Collin County, Texas.

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

14. Notification of Sale or Transfer; Assignment of Agreement. Owner shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Owner has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement. A copy of each assignment shall be provided to the Town within ten (10) business days after

execution. Provided that the successor owner assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain true and correct copies of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

15. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

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

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

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

19. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor owner of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

20. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____

Name: Harlan Jefferson

Title: Town Manager, Town of Prosper

STATE OF TEXAS)

)

COUNTY OF COLLIN)

 This instrument was acknowledged before me on the ____ day of _____, 2021, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas

My Commission Expires: _____

OWNER:

55 PROSPER, LP, a Texas limited partnership

By: ONE PROSPER HOLDINGS, L.L.C., a
Texas limited liability company, General
Partner

By: _____

Name: B.F. Hill

Title: President

STATE OF TEXAS)

COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 2021, by B.F. Hill in his capacity as President of One Prosper Holdings, L.L.C., a Texas limited liability company, General Partner, of 55 Prosper, LP, a Texas limited partnership, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

Notary Public, State of Texas

My Commission Expires: _____

OWNER:

HH LAKEWOOD DRIVE DEVELOPMENT LP,
a Texas limited partnership

**By: HH LAKEWOOD DRIVE DEVELOPMENT
GP LLC,** a Delaware limited liability
company, its general partner

By: HH LAKEWOOD DRIVE LLC, a
Delaware limited liability company, its
sole member

**By: HINES LAKEWOOD DRIVE
DEVELOPMENT MM GP LLC,** a
Delaware limited liability company, its
managing member

**By: HINES LAKEWOOD DRIVE
ASSOCIATES LP,** a Texas limited
partnership, its sole member

**By: HINES INVESTMENT
MANAGEMENT HOLDINGS
LIMITED PARTNERSHIP,** a Texas
limited partnership, its general
partner

By: _____

Name: Robert W.Witte

Title: _____

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the ___ day of _____, 2021 by Robert W. Witte, the Senior Managing Director of Hines Investment Management Holdings Limited Partnership, a Texas limited partnership, the general partner of Hines Lakewood Drive Associates LP, a Texas limited partnership, the sole member of Hines Lakewood Drive MM GP LLC, a Delaware limited liability company, the managing member of HH Lakewood Drive LLC, a Delaware limited liability company, the sole member of HH Lakewood Drive Development GP LLC, a Delaware limited liability company, the general partner of HH Lakewood Drive Development LP, a Texas limited partnership, on behalf of said entities and as the act of Owner.

Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A

(Property Depiction)

EXHIBIT B

(Building Materials)

A. Exterior Materials & Detailing (Single Family Detached):

- Exterior materials shall be 100% masonry (brick, cast stone, stone and stucco) on all walls facing any street, and 80% masonry on each (not cumulative) remaining side and rear elevations. All exposed portions of the fire breast, flu and chimney shall be clad in brick, stone, brick and stone or stucco. No Exterior Insulation and Finish Systems (E.I.F.S.) are permitted on any exterior elevation or chimney.
- Each structure shall have a minimum principal plate height of 10 feet on the first floor and a minimum plate height of 9 feet on garages.
- A uniform house number style and house number locations will be selected by the developer.
- Stone shall be either Granbury, Millsap, Leuters, Limestone, a combination of these or as approved by the developer.
- Cast Stone shall be light brown, white or cream in color with or without pitting.
- Any electric meter visible from the street or common area must be screened by solid fencing or landscape material.

B. Roofing (Single Family Detached):

- All roofs shall have a minimum slope of 8:12 roof pitch, or 4:12 roof pitch for clay or tile applications or 4:12 roof pitch for covered rear porches, reverse dormers, or crickets. Architectural designs that warrant roof sections of less pitch will be given consideration by the Developer. Satellite Dishes shall not be installed in locations visible from the street, common areas or other residences. Solar Collectors, if used, must be integrated into the building design, and constructed of materials that minimize their visual impact. Cornice, eave, and architectural details may project up to two feet six inches.
- Roof material shall be standing seam copper, approved standing seam metal, natural slate shingles, approved imitation slate shingles, clay tile, approved imitation clay tile or approved composition 30-year laminated shingles or other approved roof material.
- Roof forms should generally include gables, hip, Dutch hip and/or Dutch gable. Roof forms should be randomly distributed along each street. The Developer will require variation of roof pitch, dormer details, etc. throughout the community.

C. Exterior Façade Building Materials (Townhomes):

- All buildings within a townhouse development shall have front and side elevations consisting of 100% masonry, including stone, stucco, brick, tile, or pre-cast stone, with accents of concrete and glass permitted. Rear elevations may include up to fifty percent (50%) fiber cement siding.

D. Exterior Façade Building Materials (Non-Residential):

- All main buildings shall have an exterior finish of stone, cast stone, stucco, brick, tile, concrete, glass, decorative exterior wood or similar materials or any combination thereof. The use of fiber cement siding as an accent material shall be limited to a maximum of twenty percent (20%) of the total exterior wall surfaces.

EXHIBIT C
(Building Elevations)