

## **CREEKSIDE DEVELOPMENT AGREEMENT**

**THIS CREEKSIDE DEVELOPMENT AGREEMENT** ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and Legacy Frontier, LLC ("Developer"), 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**, Developer is developing a project in the Town known as Creekside ("Property"), a legal description of which Property is attached hereto as Exhibit A and incorporated by reference; and

**WHEREAS**, the Property was rezoned by the Town Council on or about \_\_\_\_\_, 2024, 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 Developer's reasonable investment-backed expectations in said 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. 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. **Maintenance of Landscape Areas.**

A. Developer agrees to maintain all Landscape Areas (including all vegetation) on the Property, as referenced and/or depicted in the applicable zoning ordinance, as amended, free of weeds, tall grass, rubbish, brush and other objectionable, unsightly or unsanitary matter, as defined in Article 6.03 of Chapter 6 of the Town's Code of Ordinances, as amended. Further, Developer agrees that landscape maintenance obligations referenced herein include mulching of Landscape Areas, prompt replacement of dead or dying vegetation with new vegetation, mowing of

Landscape Areas, where required, and other routine and regular maintenance of plants and other vegetation.

B. In the event that any Landscape Area or plants or vegetation is/are not properly maintained in accordance with this Agreement, the Town may give written notice to Developer of such failure to maintain and Developer shall promptly address such failure, taking into account the type(s) and species of such plants and vegetation and applicable planting cycles of same. After such notice, and Developer's failure to address same, Developer agrees and acknowledges that the Town shall have the right to go onto Developer's property and replace, replant or otherwise address such failure to maintain any Landscape Area or plants or vegetation, with an invoice of costs incurred by the Town being promptly provided by the Town to Developer. In the event Developer does not pay such invoice within thirty (30) days of receipt by Developer, the Town may file a lien on the Property for the costs it incurred for the work done, including a reasonable administrative fee. Any failure to maintain any Landscape Area, plants or vegetation shall not be considered a default in accordance with Paragraph 7 of this Agreement, and any obligations referenced in said Paragraph shall not be applicable to this Paragraph 2.

C. Notwithstanding any provision in this Paragraph to the contrary, the Town specifically reserves the right to take enforcement action and/or file a complaint against Developer in the Town's municipal court (or other appropriate forum) relative to weeds, tall grass, rubbish, brush and other objectionable, unsightly or unsanitary matter on the Property, in accordance with Article 6.03 of Chapter 6 of the Town's Code of Ordinances, as amended.

**3. Certain Business Establishments Prohibited.** Developer agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property any of the following business establishments: (1) credit access businesses, as defined in Texas Finance Code § 393.601, as amended, including but not limited to payday lending businesses, "cash for title" lenders, and credit services businesses, as defined in Texas Finance Code § 393.001, as amended); (2) body art facilities; (3) smoke or vape shops; (4) any business entity that sells drug paraphernalia; (5) any business establishment offering gaming or slot machines; (6) sex shops, including but not limited to business entities whose primary purpose is the sale of lewd merchandise; (7) pawn shops; and (8) business entities which primarily utilize outdoor storage or displays. Additionally, Developer agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property a package liquor store, which for purposes of this Agreement is defined as any business entity that is required to obtain a Package Store Permit (P) from the Texas Alcoholic Beverage Commission for the off-premises consumption of alcohol.

**4. 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 Developer 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 Developers of the Property, regardless of whether this Agreement is expressly referenced therein.

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

**6. 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

**7. 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.

**8. 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  
                                  Prosper, Texas 75078  
                                  Attention: Town Manager

If to Developer:       Legacy Frontier, LLC  
                                  9111 Cypress Waters Blvd, Ste. 300  
                                  Coppell, Texas 75019  
                                  Attention: Sivaramaiah Kondru

**9. 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).

**10. 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.

**11. 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.

**12. 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.

**13. 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. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

**14. 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.

**15. 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.

**16. Notification of Sale or Transfer; Assignment of Agreement.** Developer 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. Developer 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 Developer under this Agreement, to any person or entity (an "Assignee") that is or will

become a Developer of any portion of the Property or that is an entity that is controlled by or under common control with Developer. Each assignment shall be in writing executed by Developer 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 Developer 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 Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Developer shall maintain true and correct copies of all assignments made by Developer to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

**17. 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.

**18. 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.

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

**20. 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.

**21. 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 Developer of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

**22. 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.

**23. Waiver of Texas Government Code § 3000.001 et seq.** With respect to any and all Structures to be constructed on the Property pursuant to this Agreement, Developer hereby waives any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005, as amended.

**24. Third-Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any Third-Party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

**25. Rough Proportionality.** Developer hereby agrees that any land or property donated and/or dedicated pursuant to this Agreement, whether in fee simple or otherwise, to the Town relative to any development on the Property is roughly proportional to the need for such land and Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

**26. Exactions/Infrastructure Costs.** Developer has been represented by legal counsel in the negotiation of this Agreement and been advised or has had the opportunity to have legal counsel review this Agreement and advise Developer, regarding Developer's rights under Texas and federal law. Developer hereby waives any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the Town are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Developer specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Developer hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

**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: Mario Canizares

Title: Town Manager, Town of Prosper

**STATE OF TEXAS            )**

**)**

**COUNTY OF COLLIN        )**

        This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2024, by Mario Canizares, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

**DEVELOPER:**

**LEGACY FRONTIER, LLC**

By: \_\_\_\_\_

Name: Sivaramaiah Kondru

Title: \_\_\_\_\_

**STATE OF TEXAS            )**

**)**

**COUNTY OF COLLIN        )**

        This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2024, by Sivaramaiah Kondru on behalf of Legacy Frontier, LLC, 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 Developer.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_



**EXHIBIT A**  
**(Property Description & Depiction)**

**Exhibit A-1: Written Metes and Bounds**  
**ZONE-24-0013**

**120.525 ACRES**

Collin County School Land Survey, Abstract No. 147  
Town of Prosper, Collin County, Texas

DESCRIPTION, of a 120.525-acre (5,250,083-square-foot) tract of land situated in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas; said tract being all of that certain tract of land described in Special Warranty Deed to Legacy Frontier, LLC recorded in Instrument No. 20150203000121210 of the Official Public Records of Collin County, Texas; said 120.525-acre-tract of land being more particularly described by metes and bounds as follows:

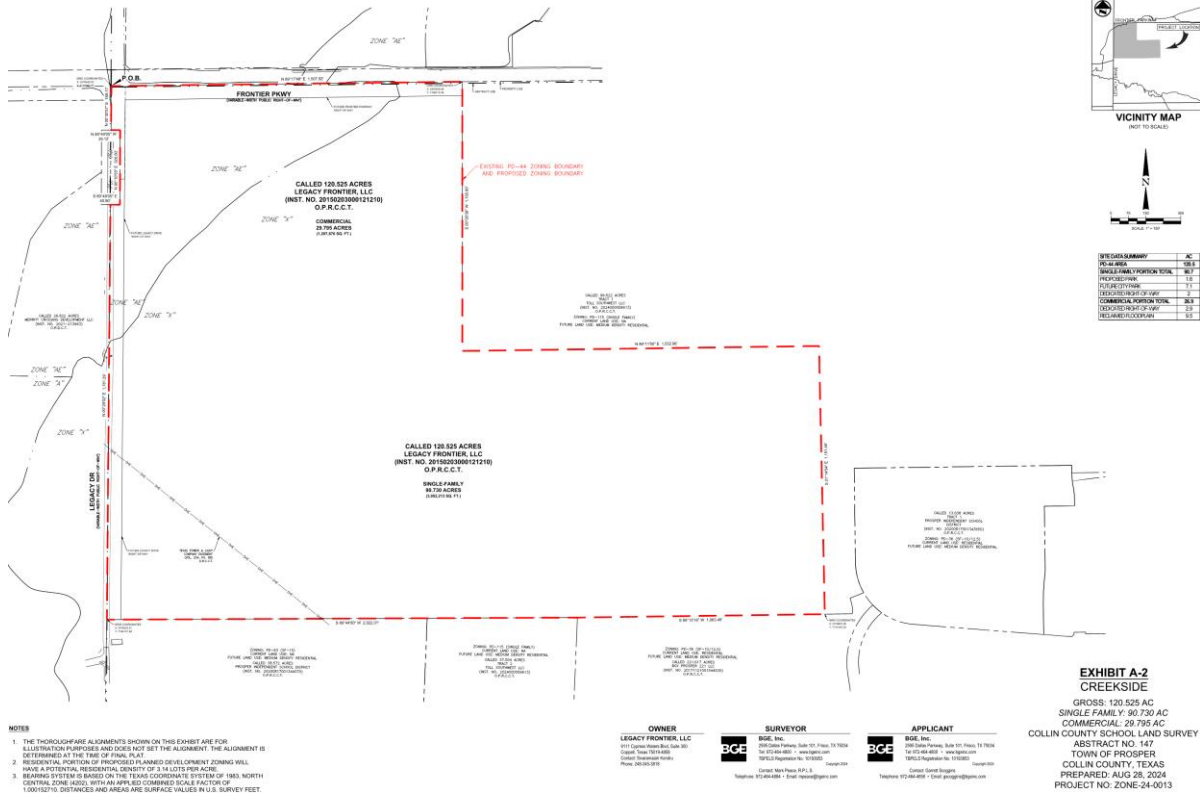
BEGINNING, at a point for corner at the intersection of the apparent centerline of Legacy Drive (a variable-width public right-of-way) and the south right-of-way line of Frontier Parkway (a variable-width public right-of-way); said point being the northwest corner of said Legacy Frontier tract and, the northeast corner of that certain tract of land described in Right-of-Way Warranty Deed to City of Celina recorded in Instrument No. 2022-24205 of the Official Records of Denton County, Texas, and the southeast corner of that certain tract of land described in Right-of-Way Dedication to the City of Celina recorded in Instrument No. 2008-9821 of said Official Records of Denton County;

THENCE, North 89 degrees 17 minutes 48 seconds East, departing the apparent centerline of said Legacy Drive and with the said south right-of-way line of Frontier Parkway, a distance of 1,507.92 feet to a point for corner; said point being a northeast corner of said Legacy Frontier tract and the northwest corner of a called 99.522-acre tract of land described as Tract 1 in Special Warranty Deed to Toll Southwest LLC recorded in Instrument No. 2024000009613 of said Official Public Records of Collin County;

THENCE, South 00 degrees 00 minutes 38 seconds East, departing the said south right-of-way line of Frontier Parkway and with a west line of said Tract 1, a distance of 1,155.80 feet to a point for corner; said point an interior corner of said Legacy Frontier tract and a southwest corner of said Tract 1;

THENCE, North 89 degrees 11 minutes 50 seconds East, with a south line of said Tract 1, a distance of 1,532.96 feet to a point for corner; said point being a northeast corner of said Legacy Frontier tract and an interior corner of said Tract 1;

THENCE, South 01 degrees 14 minutes 54 seconds East, with a west line of said Tract 1, a distance of 1,151.46 feet to a point for corner in the north line of a called 221.617-acre tract of land described in Special Warranty Deed to BGY Prosper 221 LLC in Instrument No. 20171121001544530 of said Official Public Records of Collin County; said point being the southeast corner of said Legacy Frontier tract and the southwest corner of said Tract 1;



**EXHIBIT B**  
**(Building Materials)**

**Residential:**

1. Architectural and Material Standards.

i. Review and Approval Process.

1. The conceptual elevations in Exhibit F are intended to evoke a general look and feel of the architecture of the various house styles. Changes to materials and architectural elements are permitted so long as the building elevations adhere to the design guidelines outlined in the Design Guidelines of this Exhibit C.

ii. Design Guidelines.

1. Masonry is defined as clay fired brick, natural and manufactured stone, granite, marble, stucco, cementitious material, and architectural concrete block. The exterior facade of a main building or structure, excluding glass windows and doors, shall be constructed on one hundred percent (100%) masonry.
2. Stucco on structures shall be traditional 3-coat process cement plaster stucco.
3. Cementitious materials may constitute up to twenty percent (20%) of the area for stories other than the first story.
4. On side and rear elevations, cementitious materials may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story.
5. Any portion of an upper story, excluding windows, that faces a street, public or private open space, public or private parks, or hike and bike trails, shall be one hundred percent (100%) masonry and cementitious fiber board may be used for up to twenty percent (20%).
6. The exterior cladding of chimneys shall be brick, natural or manufactured stone, or stucco.
7. Cementitious materials may be used for architectural features, including window box outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Building Official.

8. EIFS (exterior insulating and finish process) is not allowed on structures.
9. Structures constructed on lots shall have a composition, slate, clay tile, standing seam metal, or cement/concrete tile roof. Wood shingles are prohibited. All roofs shall be guttered.
10. Metal roofs shall be non-reflective colors.
11. A minimum of sixty-five percent (65%) of the surface area of composition roofs shall maintain a minimum roof pitch of eight by twelve (8:12).
12. A minimum of seventy-five percent (75%) of the surface area of clay tile, cement tile, slate or slate products, standing seam metal, or concrete tile shall maintain a minimum roof pitch of three by twelve (3:12).

### **Commercial:**

#### 1. Architectural and Material Standards.

##### i. Review and Approval Process.

1. The applicant shall submit a Façade Plan and Material Sample Board for each structure at the time of Site Plan submission and is subject to the approval of Town Council.

##### ii. Design Guidelines.

1. Permitted primary exterior materials are clay fired brick, natural, precast, and manufactured stone, granite, and marble. Architectural concrete block, split face concrete masonry unit, and architecturally finished concrete tilt wall may be used for big box uses.
2. Secondary materials used on the façade of a building are those that comprise a total of ten (10) percent or less of an elevation area. Permitted secondary materials are all primary materials, aluminum or other metal, cedar or similar quality decorative wood, stucco, and high impact exterior insulation and finish systems (EIFS). Stucco and EIFS are only permitted a minimum of nine (9) feet above grade.
3. All materials and exterior colors shall be compatible with those used throughout the development as determined by the Director of Development Services.





































