

LICENSE, MAINTENANCE & HOLD HARMLESS AGREEMENT

THIS LICENSE, MAINTENANCE & HOLD HARMLESS AGREEMENT (“Agreement”), dated _____, 2023 (the “Effective Date”) is made by and between 390 West Broadway LLC, a Texas Limited Liability Company (“Developer”), and the Town of Prosper, Texas, a Texas home-rule municipality (“Town”), and is made with reference to the recitals set forth below concerning certain Town right-of-way consisting of a portion of McKinley Street at 390 West Broadway in Downtown Prosper (“Downtown”), (the relevant portion of McKinley Street is hereinafter referred to as the “Property”), as depicted in Exhibit A, attached hereto and incorporated by reference.

WHEREAS, Developer is the owner of the proposed Blackhawk Brewery (“Brewery”), located at 390 West Broadway in Downtown; and

WHEREAS, McKinley Street is a public roadway in Downtown that is adjacent to the Brewery; and

WHEREAS, Developer has requested that the Brewery be allowed to use the Property for an extension of a patio, as depicted in Exhibit A and in accordance with said Exhibit A; and

WHEREAS, the Town has agreed to allow the use of the Property by the Brewery for an extension of a patio, subject to the terms and conditions contained herein; and

WHEREAS, Developer acknowledges and agrees that, at its sole cost and expense, it, whether Developer or Brewery, shall construct and maintain the patio area to be located on the Property.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **License**. Subject to the terms and conditions of this Agreement, and to the extent of the right, title, and interest of the Town, and without any express or implied warranties, the Town grants to Developer permission to construct and maintain a patio on the Property, as referenced and depicted in attached Exhibit A. Further, Developer agrees that the patio it constructs shall fully comply with all Town ordinances, requirements, and regulations, including all building and construction codes.
2. **Agreements Regarding the Property**. Developer and the Town agree and acknowledge that the Town does not and shall not abandon any of its right-of-way on the Property;
3. **Binding Effect**. This Agreement shall inure to and bind the heirs, personal representatives, successors and assigns of the parties hereto.
4. **Severability**. If any provision in this Agreement be held to be void or unenforceable under the laws of any place governing its construction or enforcement, this Agreement shall not be void, but shall be construed to be in force with the same effect as though such provision were omitted.

5. Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and is specifically performable in Denton County, Texas.

6. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

7. 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: Town of Prosper
 250 W. First Street
 P.O. Box 307
 Prosper, Texas 75078
 Attention: Town Manager

If to Developer: 390 West Broadway LLC
 2750 S Preston Rd, STE 116-314
 Celina, Texas 75009
 Attention: Daniel Hawkins

If to Brewery: Black Hawk Brewery LLC
 390 West Broadway
 Prosper, Texas 75078
 Attention: Daniel Hawkins

8. Incorporation of Recitals. The recitals set forth above are incorporated herein as if repeated verbatim.

9. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties.

10. Attorney's Fees. Developer agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, legal review and revision of this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$1,000.00 within ten (10) days upon receipt of an invoice of same from Prosper.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be signed as of the date first above written.

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 _____, 2023, 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: _____

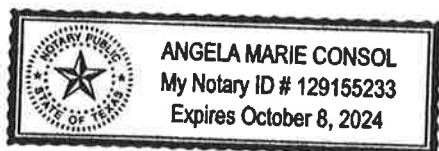
DEVELOPER:

390 West Broadway LLC

By: [Signature]
Name: Daniel Hawkins
Title: Manager

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the 2 day of October, 2023, by Daniel Hawkins, in his capacity as Manager of 390 West Broadway LLC, a Texas Limited Liability Company 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.



Angela Consol
Notary Public, State of Texas
My Commission Expires: October 8, 2024

(Property Depiction)



CLAY MOORE
ENGINEERING