

ROADWAY DESIGN, CONSTRUCTION AND REIMBURSEMENT AGREEMENT

THIS ROADWAY DESIGN, CONSTRUCTION AND REIMBURSEMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2025, by and between the Town of Prosper, Texas (the "Town"), the Prosper Economic Development Corporation (the "PEDC") and Blue Star Land L.P. ("Blue Star"), each referred to individually as a "Party," and collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Blue Star is in the process of developing and continuing to develop property in the Town; and

WHEREAS, the Town, the PEDC and Blue Star agree and acknowledge that it is necessary that Godwin Parkway be constructed to accommodate increased traffic related to the foregoing development in the Town; and

WHEREAS, the purpose of this Agreement is to delineate each Party's obligations related to the design and construction of Godwin Parkway, the delineation of which is more fully defined herein; and

WHEREAS, Phases 1 and 2 of Godwin Parkway are located in Tax Increment Reinvestment Zone #1 ("TIRZ #1") in the Town, and the design and construction costs associated with such Phases 1 and 2 are eligible for reimbursement pursuant to the Development and Financing Agreement for TIRZ #1; and

WHEREAS, the Parties have concluded and hereby find that this Agreement clearly promotes economic development in the Town and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, as amended, and further, is in the best interests of the Town, the PEDC and Blue Star; and

WHEREAS, the Texas Development Corporation Act, contained in Chapters 501-505 of the Texas Local Government Code, as amended (the "Act"), authorizes the PEDC to provide economic development grants for the purposes authorized by such Act; and

WHEREAS, the Parties further have determined that this Agreement will further the objectives of the Town and the PEDC, will benefit the Town and the Town's inhabitants, will promote local economic development, will stimulate commercial and business activity, and will generate additional sales tax and will enhance the property tax base and economic vitality of the Town.

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

1. **Phases 1 and 2 of Godwin Parkway Defined**. The Parties agree that for purposes of this Agreement, Phase 1 of Godwin Parkway shall be that portion of Godwin Parkway from the Dallas North Tollway to immediately west of the future BNSF Overpass, and Phase 2 shall be that portion of Godwin Parkway from the end of Phase 1 to immediately west of Bravo Way which includes the BNSF Overpass, as such phases are more fully depicted in Exhibit A, attached hereto.

2. **Design of Phases 1 and 2; Commencement of Design**. Blue Star shall design four (4) lanes of Godwin Parkway for both Phase 1 and Phase 2. "Design" shall include all engineering design of both Phases and shall be subject to the Town Engineer's approval, such approval not to be unreasonably withheld. Design shall include the preparation of plans, specifications and estimates, as well as related information to support the Godwin Parkway's maintenance and operation. The Design of Phases 1 and 2 of Godwin Parkway shall commence upon execution of this Agreement.

3. **Completion of Construction of Phase 1 of Godwin Parkway**. Blue Star agrees and acknowledges that it shall commence construction of the Phase 1 portion of Godwin Parkway immediately upon receipt of a set of construction plans approved for construction by the Town of Prosper. Blue Star further agrees that it shall proceed with construction working diligently in an effort to complete the Phase 1 portion of Godwin Parkway no later than one (1) year from the date of execution of this Agreement. The date of completion of construction shall be the date on which the Town accepts Phase 1.

4. **Completion of Construction of Phase 2 of Godwin Parkway**. Blue Star agrees and acknowledges that it shall proceed with design and permitting efforts for Phase 2 of Godwin Parkway, which includes the BNSF Overpass, however, due to factors beyond their control Blue Star will not be under any time constraint for the completion of construction.

5. **Town Partial Reimbursement to Blue Star for Design and Construction Costs for Phase 1**. On a monthly basis, the Town agrees to reimburse Blue Star for one half of the approved construction costs for that month up until the Town's maximum contribution of \$1,000,000.00 has been reached. Such reimbursement shall be made to Blue Star within thirty (30) days of the Town's receipt of such reimbursement request from Blue Star. Blue Star agrees that it shall promptly provide the Town any documentation requested by the Town to review the design and/or construction costs incurred by Blue Star. The Town further agrees that it shall be responsible for any non-recoverable costs that are incurred by Blue Star due to the redesign of the construction plans to avoid the proposed lowering of the existing 42 inch water line east of the Dallas North Tollway. Any such costs shall be in addition to the previously mentioned \$1,000,000.00, currently

estimated at \$250,000.00, and to be paid within thirty (30) days of the Town's receipt and approval of such reimbursement request from Blue Star.

6. PEDC Partial Reimbursement to Blue Star for Design and Construction Costs for Phase 1. Upon the Town's acceptance of Phase 1 of Godwin Parkway, the PEDC shall reimburse Blue Star \$1,000,000.00 for design and construction costs incurred by Blue Star. The reimbursement by the PEDC shall not be applied to the Maximum Construction Costs Reimbursement pursuant to TIRZ #1's Development and Financing Agreement, as may be amended. Such reimbursement shall be made to Blue Star within thirty (30) days of the PEDC's receipt of such reimbursement request from Blue Star. Blue Star agrees that it shall promptly provide the PEDC any documentation requested by the PEDC to review the design and/or construction costs incurred by Blue Star.

7. Eligible Costs from TIRZ #1-Eligible Infrastructure Projects Funds. The Parties agree and acknowledge that the Town's reimbursement amount of \$1,000,000.00 shall be treated as TIRZ #1-eligible costs to be applied to the Maximum Construction Costs Reimbursement pursuant to TIRZ #1's Development and Financing Agreement, as may be amended. The reimbursements by the Town shall be applied to the Maximum Construction Costs Reimbursement prior to crediting any such costs incurred by Blue Star to the Maximum Construction Costs Reimbursement.

8. Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties.

9. Limitation on Liability. It is understood and agreed between the Parties that Blue Star in satisfying the conditions of this Agreement has acted independently, and the Town and the PEDC assume no responsibilities or liabilities to third parties in connection with Blue Star's actions. Further, Blue Star agrees to indemnify and hold harmless the Town and the PEDC from all claims, suits, demands, and causes of actions by a third party arising out of Blue Star's actions and performance under this Agreement, as hereinafter referenced.

10. No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

11. Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

12. Right of Access. Blue Star further agrees that the Town, its agents and employees, shall have a reasonable right to access the Property and any improvements thereon to inspect same in order to ensure that the construction of the improvements is in

accordance with this Agreement and/or all applicable federal, state and local laws, ordinances and regulations.

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

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

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| If to the Town: | Town of Prosper, Texas P.O. Box 307 Prosper, Texas 75078 Att'n: Mario Canizares, Town Manager |
| If to the PEDC | Prosper Economic Development Corporation P.O. Box 1060 Prosper, Texas 75078 Att'n: President |
| If to Blue Star: | Blue Star Land, L.P. 8000 Warren Parkway Building 1, Suite 100 Frisco, Texas 75034 Att'n: Joe Hickman |

15. Attorney's Fees to 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).

16. Entire Agreement; Binding Effect of Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof.

17. Invalidation. Invalidation of any one of the provisions of this Agreement by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

18. **Facsimile.** 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.

19. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, this 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.

20. **Authority to Execute Agreement.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories 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. The PEDC warrants and represents that the individual executing this Agreement on behalf of the PEDC has full authority to execute this Agreement and bind the PEDC to the same. Blue Star warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Blue Star to same.

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

22. **Compliance with Chapter 2264, Texas Government Code.** Blue Star certifies that it does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the term of this Agreement, Blue Star, or its successors, heirs, assigns, grantees, trustees, representatives, and all others holding any interest in the Property now or in the future, is convicted of a violation under 8 U.S.C. § 1324a(f), Blue Star shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120th day after the date the Town notifies Blue Star of the violation.

23. **Form 1295 Certificate.** Blue Star agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, Blue Star agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

24. **Non-Boycott of Israel Provision.** In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement

contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2271 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Blue Star is not subject to Chapter 2271 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Blue Star verifies that Blue Star does not boycott Israel and will not boycott Israel during the Term of this Agreement.

25. Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Blue Star is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

26. Report Agreement to Comptroller's Office. The Town covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Government Code, as amended.

27. Verification Against Discrimination of Firearm or Ammunition Industries. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if Blue Star employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000.00 that is paid wholly or partly from public funds of the Town, Blue Star represents that: (1) Blue Star does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) Blue Star will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

28. Verification Blue Star Does Not Boycott Energy Companies. Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if Blue Star employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000.00 that is paid wholly or partly from public funds of the Town, Blue Star represents that: (1) Blue Star does not boycott energy companies; and (2) Blue Star will not boycott energy companies during the Term of this Agreement.

29. 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

30. Amendment. This Agreement may only be amended by a written agreement executed by the Parties.

31. Recitals. The recitals in this Agreement are true and correct, represent representations and warranties of the Parties, and are incorporated as part of this Agreement for all purposes.

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

33. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

34. Survival of Covenants. Any covenants of the Parties that are to be performed after termination of this Agreement shall survive termination of this Agreement.

35. Assignment. This Agreement may not be assigned by Blue Star, in whole or in part, without the prior written consent of the Town and the PEDC. Any attempted assignment by Blue Star in violation of the terms and provisions of this section shall be void.

36. Sovereign Immunity. No party hereto waives any statutory or common law right to sovereign immunity by virtue of its execution of this Agreement.

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

THE TOWN OF PROSPER, TEXAS

By: _____

Name: _____

Title: _____

PROSPER ECONOMIC DEVELOPMENT
CORPORATION

By: R. Chad Gilliland

Name: R. Chad Gilliland

Title: VP Board of Directors

BLUE STAR LAND L.P.,
a Texas limited partnership

By: Blue Star Investments, Inc.,
its general partner

By: _____
Name: Tom Walker
Title: Treasurer
Date: _____

EXHIBIT A
(Phase 1 and Phase 2 Roadway Depiction)

