

## **PARK DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into between US Alliance Prominence Venture, LLC, a Delaware limited liability company (the "Developer") and the City of Denton, a Texas home-rule municipal corporation (the "City") as of the Effective Date as provided below.

### Introductory Provisions

Developer is the owner of and is currently developing a portion of a 22.608-acre, more or less, tract of land for residential use known as Prose Prominence which is located in the WM LLOYD Survey, Abstract 0774, City of Denton, Denton County, Texas (the "Project"). This Project consists of three hundred-sixty (360) multi-family units, and one (1) park land dedication lot totaling 6.745 acres. The 6.745 acre park land dedication lot is labeled Lot 2, Block A ("Park Land Lot") on Exhibit A, attached hereto; and

Developer will dedicate the Park Land Lot as park land for public use. The Park Land Lot will be dedicated as park land by Final Plat and Special Warranty Deed and shall be recorded in the Plat Records of Denton County, Texas upon approval by the City of Denton; and

Park Land Lot is more particularly depicted as Lot 2, Block A on Exhibit A attached to this Agreement and incorporated herein by reference; and

The amount of park land dedication required by Chapter 22, Article III, Section 22-37 of the City's Code of Ordinances for the Project is 1.62 non flood plain acres or 4.86 flood plain acres (the "Park Land Dedication Requirement"); and

The park development fees required by Chapter 22, Article III, Section 22-39 of the City's Code of Ordinances for the Project total \$67,320 (the "Park Development Fees Requirement"); and

Developer intends to dedicate the Park Land Lot to the City to satisfy the Park Land Dedication Requirement and Developer intends to satisfy the Park Development Fees Requirement; and

Developer and the City enter into this Agreement to confirm their agreement concerning (a) the Developer's dedication of the Park Land Lot to the City, (b) the City's acceptance of the Park Land Lot, subject to compliance with conditions herein, and (c) the City's acceptance of the Park Land Lot to satisfy the Park Land Dedication Requirement in Chapter 22, Article III, Section 22-37 of the City's Code of Ordinances.

## A. Agreements

For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Dedication of the Park Land Lot. Developer will dedicate the Park Land Lot shown as Lot 2 Block A on Page 1 of Exhibit A, to the City. The City and the Developer will work cooperatively to process Developer's dedication of the Park Land Lot. The drainage easement located in the Park Dedication Lot will not be maintained by the City of Denton.

Instruments of dedication shall be by Special Warranty Deed and by Final Plat. The City and Developer shall prepare, execute, and record all documents related to the dedication and conveyance of the Park Land Lot at the Developer's sole expense. The dedication of the Park Land Lot fulfills Developer's total Park Land Dedication Requirements for the Project, in satisfaction of Chapter 22, Article III, Section 22-37 of the City's Code of Ordinances.

Upon recording of the Final Plat in the Plat Records of Denton County, Texas, the Developer shall complete the Special Warranty Deed attached hereto as Exhibit "B", by filling in the document number of the recorded Final Plat, signing, notarizing, and returning to City of Denton Real Estate at 401 N. Elm Street, Denton, TX 76201.

The Developer's dedication of the Park Land Lot under this Agreement is based on the type of development (multi-family) and the anticipated number of residential units to be developed on the Project. The Park dedication required by this Agreement for the Project was determined with the formula 2.5 acres x 360 units x 1.8 persons divided by 1,000 for 1.62 acres of land for residential property. Floodplain acreage can be dedicated at a three to one ratio (3:1). The total park land dedication is 6.745 acres, of which 1.0844 acres are non-floodplain, and 5.6606 acres are within the floodplain.

The City recognizes that the value of the Park Land Lot in excess of the required land dedication and accepts the additional 5.125 acres in lieu of fees in satisfaction of the Park Dedication fees required for the Project, in accordance with Chapter 22, Article III, Section 22-39 of the City's Code of Ordinances. Developer expressly acknowledges and agrees that both the execution of this Agreement and the transfer of the Park Land Lot is made voluntarily by the Developer and not as a requirement of the City under its Code of Ordinances, and Developer waives any claim related thereto that it may have under any theory of law against the City.

2. Park Development Fees. Park development fees for the Project amount to \$67,320 for 360 units at \$187.00 per multi-family unit in order to satisfy the Park Development Fees Requirement of Chapter 22, Article III, Section 22-39 of the City's Code of Ordinances. Park development fees shall be imposed at the time of building permit application and shall be paid prior to issuance of building permits.

3. Park Name. Naming of the Park will be directed by Resolution Number R20-1001, as amended, which outlines the naming policy guidelines for City buildings, facilities, land, or any portion thereof.
4. Waivers. The parties hereby agree:
  - a) Nothing in this Agreement shall be considered an illegal impact fee or exaction. The Developer agrees and stipulates that all terms of Local Government Code Section 212.904 have been met by the City and that the requirement for Developer to dedicate the Park has been satisfied.
  - b) Developer and its related entities, successors, and assigns release and discharge the City, its past and present employees, officers, council members, attorneys, and other agents, contractors, and representatives from any and all claims, demands, controversies, and causes of action for breach of contract, takings, exactions, claims under Texas Local Government Code Chapter 395, and claims under the Private Real Property Rights Preservation Act, Texas Government Code Chapter 2007, and all claims for reimbursements and monies that relate to this Agreement.
  - c) Developer waives any right to appeal the requirement to construct and dedicate the Park in accordance with the terms of this Agreement pursuant to Section 22-42 of the City's Code of Ordinances.
5. **Indemnification. DEVELOPER SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST: (I) ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING BY ANY GOVERNMENTAL AUTHORITY DIRECTLY OR INDIRECTLY RELATED TO A CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, ARISING FROM DEVELOPER'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER; (II) ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION WHICH DIRECTLY OR INDIRECTLY CONTESTS OR CHALLENGES THE LEGAL AUTHORITY OF DEVELOPER TO ENTER INTO THIS AGREEMENT; (III) ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION BROUGHT BY AN ASSIGNEE OF DEVELOPER RELATED TO APPROVAL OF AN ASSIGNMENT BEING WITHHELD BY THE CITY; AND (IV) ANY AND ALL LIABILITIES, LOSSES, COSTS, OR EXPENSES (INCLUDING ATTORNEY'S FEES AND DISBURSEMENTS) THAT ANY INDEMNITEES SUFFER OR INCUR AS A RESULT OF ANY ACTION OR OMISSION OF INDEMNITEES PURSUANT TO THIS AGREEMENT; PROVIDED, HOWEVER, THAT DEVELOPER SHALL HAVE NO OBLIGATION UNDER THIS PARAGRAPH TO THE CITY WITH RESPECT TO ANY OF THE FOREGOING ARISING OUT OF THE (A) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE OR (B) BREACH BY THE CITY OF THIS AGREEMENT.**

## B. Miscellaneous

1. This Agreement contains the full and complete agreement of the parties hereto, and all prior negotiations and agreements pertaining to the subject matter hereof, are expressly merged in this Agreement. Each party hereto disclaims any reliance on any facts, promises, undertakings, or representations (oral or written) made by any other party, or his agent or attorneys, prior to or contemporaneous to the date of execution of this Agreement.
2. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
3. All parties acknowledge that this Agreement is the result of substantial negotiation between the parties. All parties further acknowledge that each party and its legal counsel have reviewed, revised, and contributed to this Agreement; so that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement, nor any amendments or exhibits thereto.
4. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
5. All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the addresses shown below. Any party may change its address for notices under this Agreement by giving written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, each party agrees to keep the other informed at all times of its current address.

### To City:

City Manager  
City of Denton  
City Hall  
215 E. McKinney  
Denton, Texas 76201

### To Developer:

Chad Jackson  
US Alliance Prominence Venture, LLC  
4925 Greenville Ave., Suite 1270  
Dallas, TX 75206

6. This Agreement shall be construed under the laws of the State of Texas and is fully performable in Denton County, Texas. Exclusive venue for any suit to enforce the terms and conditions of this Agreement shall be a court of competent jurisdiction in Denton County, Texas.
7. This Agreement may be executed in multiple counterparts, by one or more signatories, separately and each of such counterparts shall be deemed an original for all purposes, and all such signed counterparts shall constitute but one and the same instrument.

Signed to be effective the \_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date").

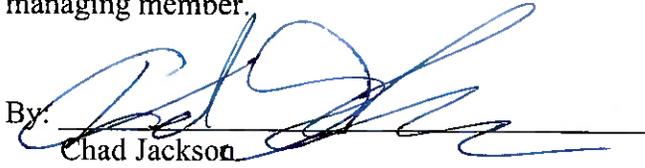
*[signatures on following page]*

DEVELOPER:

US Alliance Prominence Venture, LLC

By: US Alliance Prominence MM, LLC, a Delaware limited liability company

By: Prose Prominence Alliance, LLC, a Delaware limited liability company, its managing member.

By: 

Chad Jackson

Title: Member

CITY OF DENTON:

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

Sara Hensley  
Interim City Manager  
215 E. McKinney  
Denton, Texas 76201

ATTEST:

ROSA RIOS, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:

MACK REINWALD, CITY ATTORNEY

By: 

THIS AGREEMENT HAS BEEN  
BOTH REVIEWED AND APPROVED  
as to financial and operational obligations  
and business terms.

  
SIGNATURE

Gary Packan  
PRINTED NAME

Director  
TITLE

Parks and Recreation  
DEPARTMENT

ACKNOWLEDGMENTS

STATE OF TEXAS }

COUNTY OF DENTON }

The foregoing Development Agreement was executed before me on the \_\_\_ day of \_\_\_\_\_, 2022 by Sara Hensley, Interim City Manager of the City of Denton, a Texas home-rule municipal corporation, on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name  
My commission expires: \_\_\_\_\_  
My commission is in \_\_\_\_\_ County.

STATE OF TEXAS }

COUNTY OF Dallas }

The foregoing Development Agreement was executed before me on the 7<sup>th</sup> day of February, 2022 by Chad Jackson, Member of Prose Prominence Alliance, LLC, a Delaware limited liability company, as managing member of US Alliance Prominence MM, LLC, a Delaware limited liability company, as managing member of US Alliance Prominence Venture, LLC, a Delaware limited liability company, on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

Debra K. Gomez  
Notary Public



DEBRA K Gomez  
Printed Name  
My commission expires: 4/4/23  
My commission is in Dallas County.

**EXHIBIT "A"**  
**PROSE PROMINENCE FINAL PLAT**





**EXHIBIT "B"**

**SPECIAL WARRANTY DEED**

EXHIBIT "B"

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED**

**STATE OF TEXAS           §**

**COUNTY OF DENTON   §       KNOW ALL MEN BY THESE PRESENTS**

That US ALLIANCE PROMINENCE VENTURE, LLC, a Delaware limited liability company (herein called "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration to Grantor in hand paid by the City of Denton, a Texas Home Rule Municipal Corporation (herein called "Grantee"), 215 E. McKinney, Denton, Texas 76201, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY, unto Grantee all of that certain approximate 6.745 acre tract or parcel of real property, together with appurtenances thereon and improvements thereto, including all right, title and interest in all adjacent public streets and public rights-of-way (if any), more particularly described as:

Lot 2, Block A, of the Prose Prominence Addition, according to the final plat thereof recorded as Document No. 2022-XX, Plat Records of Denton County, Texas (the "Property").

Grantor, subject to the limitation of such reservation made herein, reserves, for themselves, their heirs, devisees, successors, and assigns all oil, gas, and other minerals in, on, and under and that may be produced from the Property. Grantor, their heirs, devisees, successors, and assigns shall not have the right to use or access the surface of the Property, in any way, manner, or form, in connection with or related to the reserved oil, gas, and other minerals, and/or related to exploration and/or production of the oil, gas and other minerals reserved herein, including without limitation, use or access of the surface of the Property for the location of any well or drill sites, well bores, whether vertical or any deviation from vertical, water wells, pit areas, seismic activities, tanks or tank batteries, pipelines, roads, electricity or other utility infrastructure, and/or for subjacent or lateral support for any surface facilities or well bores, or any other infrastructure or improvement of any kind or type in connection with or related to the reserved oil, gas, and other minerals, and/or related to the exploration or production of same.

As used herein, the term "other minerals" shall include oil, gas, and all associated hydrocarbons and shall exclude (i) all substances that any reasonable extraction, mining, or other exploration and/or production method, operation, process, or procedure would consume, deplete, or destroy the surface of the Property; and (ii) all substances which are at or near the surface of the

Property. The intent of the parties hereto is that the meaning of the term "other minerals" as utilized herein, shall be in accordance with that set forth in *Reed v. Wylie*, 597 S.W.2d 743 (Tex. 1980).

As used herein, the term "surface of the Property" shall include the area from the surface of the earth to a depth of five hundred feet (500') below the surface of the earth and all areas above the surface of the earth.

Grantor hereby assigns to Grantee, without recourse or representation, any and all claims and causes of action that Grantor may have for or related to any defects in, or injury to, the Property.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, though, or under Grantor but not otherwise.

EXECUTED the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

US ALLIANCE PROMINENCE VENTURE, LLC,  
a Delaware limited liability company

By: US Alliance Prominence MM, LLC,  
a Delaware limited liability company,  
its managing member

By: Prose Prominence Alliance, LLC,  
a Delaware limited liability company,  
its managing member

By:   
Name: Chad Jackson  
Title: Member

**ACKNOWLEDGMENT**

STATE OF TEXAS            }

COUNTY OF Dallas        }

The foregoing Development Agreement was executed before me on the 7<sup>th</sup> day of February, 2022 by Chad Jackson, Member of Prose Prominence Alliance, LLC, a Delaware limited liability company, as managing member of US Alliance Prominence MM, LLC, a Delaware limited liability company, as managing member of US Alliance Prominence Venture, LLC, a Delaware limited liability company, on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.



Debra K Gomez  
Notary Public  
DEBRA K. GOMEZ  
Printed Name  
My commission expires: 4/4/23

Upon Filing Return To:  
City of Denton  
Capital Projects – Real Estate  
401 N. Elm St.  
Denton, TX 76201

Property Tax Bills To:  
City of Denton Finance Department  
215 E. McKinney Street  
Denton, Texas 76201