

MEMORANDUM OF AGREEMENT FOR CONSTRUCTION OF UTILITIES AND ROADWAY IMPROVEMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This Memorandum of Agreement for Construction of Utilities and Roadway Improvements (this "*Memorandum*") is executed this 9 day of February, 2023 (the "*Effective Date*"), by and between MSW PROSPER 380, LP, a Texas limited partnership, and MSW PROSPER 380 II, LP, a Texas limited partnership (together, jointly and severally, "*MSW*"), and SC TW-380, LLC, a Delaware limited liability company ("*SC*").

RECITALS

WHEREAS, MSW is the owner of that certain 20.598 acre tract of land located in the Town of Prosper, Collin County, Texas, more particularly described in Exhibit A attached hereto and made a part of this Memorandum (the "*MSW Tract*");

WHEREAS, SC is the owner of that certain 60.914 acre tract of land located in the Town of Prosper, Collin County, Texas, more particularly described in Exhibit B attached hereto and made a part of this Memorandum (the "*SC Tract*");

WHEREAS, MSW and SC's predecessor-in-interest have entered into that certain Development Agreement, dated January 11, 2013 (the "*Development Agreement*"). Unless otherwise defined herein, capitalized terms shall have the meanings assigned to them in the Development Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MSW and SC hereby acknowledge the following:

BASIC TERMS

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.

2. Constructing Party. MSW will be the Constructing Party, as defined in Section 2 of the Development Agreement, solely for the construction of the Approved Plans, as defined in Section 3 of this Agreement.

3. Approved Plans. Parties have agreed that for the purposes of this Memorandum, the Approved Plans, as defined in Section 2(A) of the Development Agreement and the Approved Roadway Plans, as defined in Section 3(A) of the Development Agreement, is that certain Civil Construction Plan for Mahard Parkway to Prairie Drive and ± 1020 Linear Feet

Prairie Drive East of Mahard Parkway, dated January 29, 2022, prepared by Kimley-Horn and Associates, Inc.

4. **Reimbursement.** Within 30 days of the Effective Date, MSW shall reimburse SC \$223,212.11 for all approved actual and documented costs incurred by SC in connection with the design of the Approved Plans and Approved Roadway Plans

5. **Commencement of Construction.** MSW shall begin construction in accordance with the Approved Plans and Approved Roadway Plans before the earlier of (a) six (6) months from the date the Town of Prosper issues all required building permits or (b) December 31, 2022.

6. **Completion of Construction.** MSW shall use commercially reasonable efforts to complete construction in accordance with the Approved Plans and Approved Roadway Plans no later than December 31, 2023.

7. **Subsequent Improvements.** The parties will use commercially reasonable efforts to fully cooperate with each other on any subsequent improvements in a timely manner. MSW, as owner of the MSW Tract, shall assume all obligations per the Development Agreement and be solely responsible for one hundred percent (100%) of the Roadway Costs for any such subsequent improvements as defined in Section 3(F)(1) of the Development Agreement. Insofar as SC is the Constructing Party, SC shall be responsible for the Approved Shared Utilities Costs, as defined in Section 2(A) of the Development Agreement, and MSW shall reimburse SC for their Prorata Share, not to exceed 44.40%, of the Approved Shared Utility Costs in accordance with Section 2(D)(4) of the Development Agreement. With regard to the roadways detailed in Exhibit C of this Agreement, MSW shall have the right to review and approve final design of the roadways, with such approval not to be unreasonably withheld, conditioned or delayed.

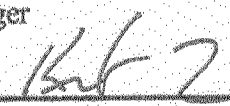
8. **Payment Responsibility.** MSW acknowledges that they shall be responsible for one hundred percent (100%) of the Roadway Costs, as defined in Section 3(F)(1) of the Development Agreement. Insofar as MSW is the Constructing Party, MSW shall be responsible for the Approved Shared Utilities Costs, as defined in Section 2(A) of the Development Agreement, and SC shall reimburse MSW for their Prorata Share, not to exceed 55.60%, of the Approved Shared Utility Costs in accordance with Section 2(D)(4) of the Development Agreement.

Signature Page Follows.

MSW PROSPER 380, LP,
a Texas limited partnership

By: **MSW Prosper 380 GP, LLC,**
a Texas limited liability company
its General Partner

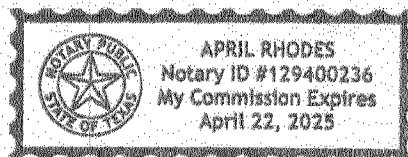
By: **Matthews Holdings Southwest, Inc.**
a Texas corporation
its Manager

By: 
Kristian T. Teleki
Senior Vice President

STATE OF TEXAS)
)
COUNTY OF Denton)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Kristian T. Teleki, as Senior Vice President of Matthews Holdings Southwest, a Texas corporation and the Manager of MSW Prosper 380 GP, LLC, a Texas limited liability company, the General Partner of **MSW PROSPER 380, LP**, a Texas limited partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Senior Vice President and with full authority, executed the same voluntarily for and as the act of said company and partnership.

GIVEN under my hand and seal, this 22nd day of February, 2023.



AFFIX SEAL


Notary Public

MSW PROSPER 380 II, LP,
a Texas limited partnership

[By: MSW Prosper 380 GP, LLC,
a Texas limited liability company
its General Partner

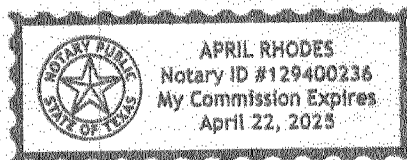
By: Matthews Holdings Southwest, Inc.
a Texas corporation
its Manager

By: *Kristian T. Teleki*
Kristian T. Teleki
Senior Vice President

STATE OF TEXAS)
)
COUNTY OF Denton)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Kristian T. Teleki, as Senior Vice President of Matthews Holdings Southwest, a Texas corporation and the Manager of MSW Prosper 380 GP, LLC, a Texas limited liability company, the General Partner of **MSW PROSPER 380 II, LP**, a Texas limited partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Senior Vice President and with full authority, executed the same voluntarily for and as the act of said company and partnership.

GIVEN under my hand and seal, this 22nd day of February, 2023.



April Rhodes
Notary Public

SC TW-380, LLC,
a Delaware limited liability company

By: 


Stacy O. Standridge, Manager

STATE OF TEXAS)

COUNTY OF DALLAS)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Stacy O. Standridge, as Manager of SC TW-380, LLC, a Texas limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said company.

GIVEN under my hand and seal, this 10 day of February, 2023.


Notary Public

AFFIX SEAL

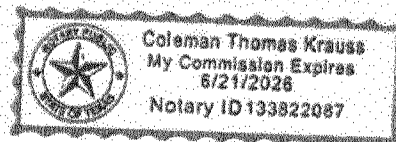


EXHIBIT A**Legal Description**

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas, and being all of the remainder of a called 34.2419 acre tract of land described as Parcel 4 in a deed to MSW Prosper II LP, recorded in Instrument No. 20190418000418860 of the Official Public Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod with plastic cap stamped "KHA" found for the northeast corner of said Parcel 4, common to the southeast corner of a called 60.914 acre tract of land described in a deed to SC TW-380, LLC, recorded in Instrument No. 20190724000876240 of the Official Public Records of Collin County, Texas, same also being the northwest corner of a called 72.2412 acre tract of land described in a deed to Children's Health System of Texas, recorded in Instrument No. 20190418000418890 of the Official Public Records of Collin County, Texas and the southwest corner of a called 23.9975 acre tract of land described in a deed to EGL Prosper LP, recorded in Instrument No. 20190206000128160 of the Official Public Records of Collin County, Texas, corrected by Instrument No. 20190207000131970 of the Official Public Records of Collin County, Texas;

THENCE South 00°23'52" West, along the easterly line of said Parcel 4 and along the westerly line of said 72.2412 acre tract, a distance of 325.51 feet to a 1 inch iron pipe found for the northwest corner of Lot 1, Block A, Y-C Nurseries Addition, Lot 1, Block A, (hereinafter referred to as Y-C Nurseries Addition), an addition to the Town of Prosper, Collin County, Texas, according to the Final Plat thereof recorded in Volume 2021, Page 171 of the Plat Records of Collin County, Texas, common to the northernmost southwest corner of said 72.2412 acre tract;

THENCE South 00°09'57" West, continuing along the easterly line of said Parcel 4 and along the westerly line of said Y-C Nurseries Addition, a distance of 734.12 feet to a 5/8 inch iron rod with plastic cap stamped "WEBB 4125" found for the northwest corner of Lot 1, Block A, U-Haul 380 Addition, Lot 1, Block A, (hereinafter referred to as U-Haul 380 Addition), an addition to the Town of Prosper, Collin County, Texas, according to the Final Plat thereof recorded in Volume 2009, Page 223 of the Plat Records of Collin County, Texas, same being the northernmost southwest corner of said Y-C Nurseries Addition;

THENCE South 00°11'33" West, continuing along the easterly line of said Parcel 4, and along the westerly line of said U-Haul 380 Addition, a distance of 250.15 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" found for the southeast corner of said Parcel 4, common to the northeast corner of a called 4.143 acre tract of land described in a deed to Texas Health Resources, recorded in Instrument No. 20181212001513610 of the Official Public Records of Collin County, Texas;

THENCE South 89°55'55" West, departing the westerly line of said U-Haul 380 Addition, along the southerly line of said Parcel 4, the northerly line of said 4.143 acre tract, and along the northerly line of Lot 1, Block A, TXHR Addition, Block A Lot 1, (hereinafter referred to as TXHR Addition), an addition to the Town of Prosper, Collin County, Texas, according to the Final Plat thereof recorded in Volume 2017, Page 88 of the Plat Records of Collin County, Texas, a distance of 356.05 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of a called 7.772 acre tract of land described in a deed to Encompass Health Texas Real Estate, LLC, recorded in Instrument No. 20211005002042300 of the Official Public Records of Collin County, Texas;

THENCE North 00°26'57" East, departing the southerly line of said Parcel 4 and the northerly line of said TXHR Addition, along the easterly line of said 7.772 acre tract, the easterly line of a called 4.126

acre tract of land described in a deed to Peach Tree Group of Investment Inc., recorded in Instrument No. 20220329000498590 of the Official Public Records of Collin County, Texas, corrected by Instrument No. 2022000101825 of the Official Public Records of Collin County, Texas, the easterly line of a called 0.993 acre tract of land described in a deed to Peach Tree Group of Investment Inc., recorded in Instrument No. 2022000072416 of the Official Public Records of Collin County, Texas, and the easterly line of a called 0.801 acre tract of land described in a deed to Peach Tree Group of Investment Inc., recorded in Instrument No. 2022000152235 of the Official Public Records of Collin County, Texas, a distance of 800.67 feet to the northeast corner of said 0.801 acre tract, from which, a 1/2 inch iron rod with plastic cap stamped "Peiser & Mankin" found for witness bears South 50°20' East, 0.26 feet;

THENCE North 89°33'00" West, along the northerly line of said 0.801 acre tract, a distance of 697.53 feet to the northwest corner of said 0.801 acre tract;

THENCE South 00°27'17" West, along the westerly line of said 0.801 acre tract, the westerly line of said 0.993 acre tract, and the westerly line of said 4.126 acre tract, a distance of 403.95 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said 4.126 acre tract, same being on the northerly line of said 7.772 acre tract;

THENCE North 89°33'13" West, along the northerly line of said 7.772 acre tract, a distance of 89.94 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said 7.772 acre tract, being on the westerly line of said Parcel 4, same also being on the easterly line of a called 2.501 acre right-of-way dedication, dedicated to the Town of Prosper in fee simple, according to the Revised Conveyance Plat thereof recorded in Volume 2019, Page 773 of the Plat records of Collin County, Texas;

THENCE North 00°26'47" East, along the westerly line of said Parcel 4, the easterly line of said right-of-way dedication, along the easterly line of Lot 2, Block B, Prosper Center, Block B, Lot 2, (hereinafter referred to as Lot 2, Block B), an addition to the Town of Prosper, Collin County, Texas, according to the Revised Conveyance Plat thereof recorded in Volume 2016, Page 400 of the Plat Records of Collin County, Texas, of a distance of 906.47 feet to a 1/2 inch iron rod with plastic cap stamped "BOHLER" found for the northwest corner of said Parcel 4, common to the southwest corner of aforementioned 60.914 acre tract;

THENCE North 89°57'25" East, departing the easterly line of said Lot 2, Block B, along the northerly line of said Parcel 4 and along the southerly line of said 60.914 acre tract, a distance of 1,138.59 feet to the **POINT OF BEGINNING** and containing 20.598 acres (897,245 square feet) of land, more or less.

EXHIBIT B**Legal Description**

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas, the subject tract being a portion of 2 tracts conveyed to 110 Prosper Property, L.P. according to the deeds recorded in Document Nos. 20091221001521410 and 20091218001516510 of the Deed Records, Collin County, Texas (DRCCT), with the subject tract being more particularly described as follows:

BEGINNING at a 3/4" iron pipe found for the northeast corner of Lot 2, Block B, Prosper Center, an addition recorded in Cabinet 2016, Page 400, Plat Records, Collin County, Texas;

THENCE N 89°25'08" W, 426.27 feet to a 1/2" iron rod with plastic cap found for the southeast corner of a tract conveyed to Blue Star Allen Land, L.P. recorded in Document No. 20110630000676920 DRCCT;

THENCE N 00°05'38" E, 1241.69 feet along the common line thereof to a 1/2" iron rod found for the southwest corner of a tract conveyed to Nathan Bontke and Richard J. Bontke, trustee of The Richard J. and Sandra Sue Bontke Revocable Trust, recorded in Document No. 20160311000294980 DRCCT, from which a 1/2" found a the northwest corner of the same bears N 00°06'27" E, 1422.66 feet;

THENCE N 89°27'14" E, 1529.41 feet along the common line thereof to a 1/2" iron rod found at the northeast corner of the subject tract and the southeast corner of said Bontke tract, from which a 1/2" iron rod found for the northwest corner of a tract of land conveyed to William R. Weinberg, Esq., Trustee for M.A.H.G. Partnership, recorded in Document No. 20100601000545080 DRCCT, bears N 00°12' 23" W, a distance of 1422.92 feet;

THENCE S 00°13'08" W, passing at 565.50 feet and S 86°45'02" W, 2.54 the northwest corner of a tract conveyed to EGL Prosper LP, recorded in Document No. 20190207000131970 DRCCT, a 5/8" iron rod with plastic cap found and continuing a total distance of 1260.83 feet to a 1/2" iron rod with plastic cap found, and from which a 5/8" iron rod with plastic cap found, bears N 38°37'56" E, 0.33 feet;

THENCE S 89°32'42" E, 38.04 feet to a 1/2" iron rod found from which a 5/8" iron rod with plastic cap found, bears N 75°49'59" E, 0.21 feet;

THENCE S 00°28'11" W, 335.89 feet along the east line of the subject tract and the west line of said EGL tract to a 3/8" iron rod found;

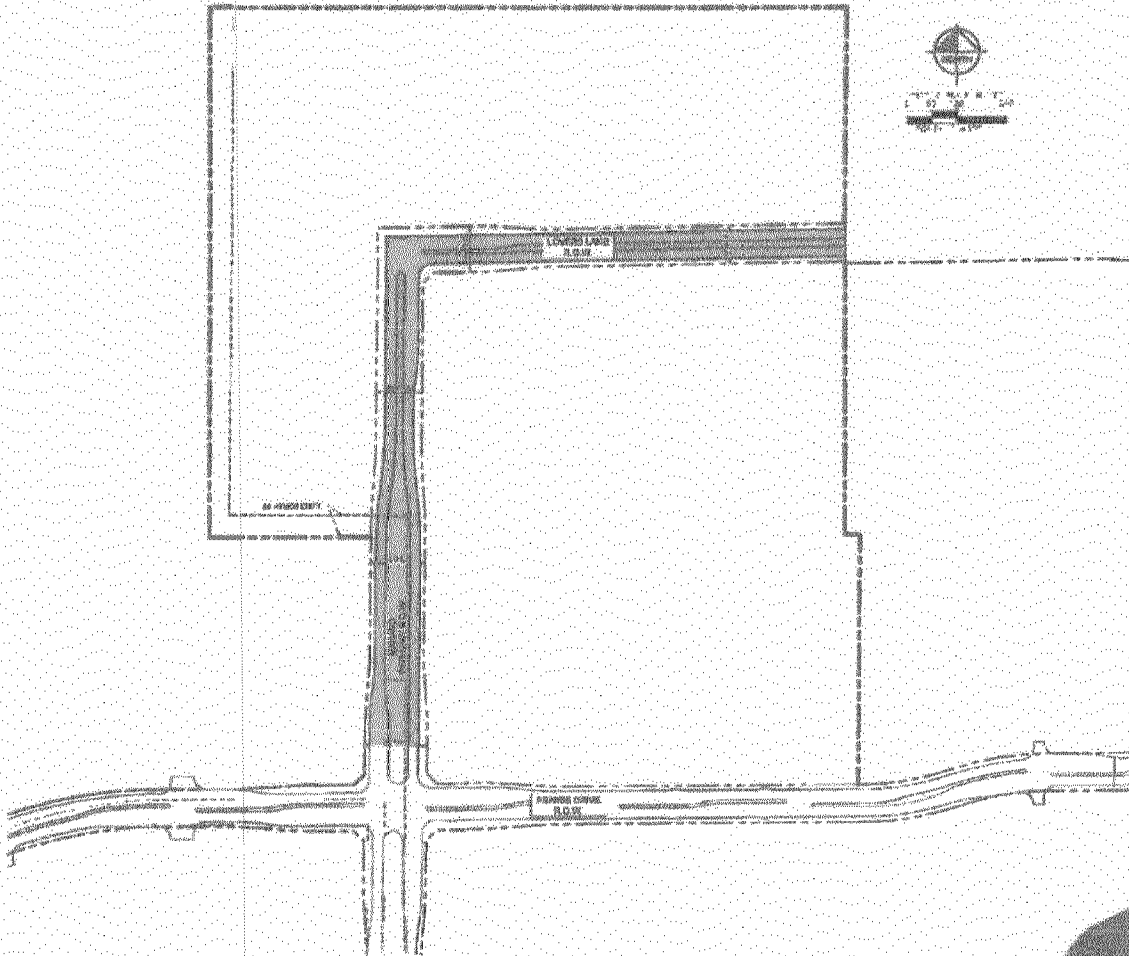
THENCE S 00°23'22" W, 312.66 feet continuing along the common line thereof to a 5/8" iron rod with plastic cap found for the northeast corner of a tract conveyed to MSW Prosper 380 II LP, recorded in Document No. 20190418000418860 DRRCT and the southwest corner of said EGL tract;

THENCE S 89°56'56" W, 1138.45 feet along the common line thereof to a 1/2" iron rod with plastic cap found on the east line of said Lot 2;

THENCE N 00°26'20" E, 650.09 feet along the common line thereof to the POINT OF BEGINNING with the subject tract containing 2,653,420 square feet or 60.914 acres of land.

EXHIBIT C

Subsequent Improvements



Prosper Roadways
Acreage Exhibit

Prosper, Texas
January 24, 2023

Kimley-Horn

10000 N. Central Expressway, Suite 100
Dallas, Texas 75243
Tel: 214.440.1234
Fax: 214.440.1235
www.kimley-horn.com

**Collin County
Honorable Stacey Kemp
Collin County Clerk**

Instrument Number: 2023000018059

eRecording - Real Property

MEMORANDUM

Recorded On: February 23, 2023 05:01 PM

Number of Pages: 10

" Examined and Charged as Follows: "

Total Recording: \$58.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2023000018059
Receipt Number: 20230223000398
Recorded Date/Time: February 23, 2023 05:01 PM
User: Amanda J
Station: Station 9

Record and Return To:

EPN



**STATE OF TEXAS
COUNTY OF COLLIN**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Public Records of Collin County, Texas.

Honorable Stacey Kemp
Collin County Clerk
Collin County, TX