

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7482

AUTHORIZING A UTILITY EASEMENT AND AMENDING THE TERMS OF A DISPOSITION AND DEVELOPMENT AGREEMENT TO CONVEY APPROXIMATELY 4.4 ACRES OF PROSPER PORTLAND-OWNED PROPERTY IN THE RIVER DISTRICT TAX INCREMENT FINANCE DISTRICT

WHEREAS, on December 14, 2022, the Prosper Portland Board of Commissioners (“Board”) authorized the sale and disposition of the property at 1362 NW Naito Parkway (“Centennial Mills”, or the “Property”) on the terms described in Resolution No. 7470 and set forth in the Disposition and Development Agreement between Prosper Portland and 1362 Centennial Mills, LLC (“Buyer”), dated December 19, 2022, as amended (the “DDA”);

WHEREAS, PacifiCorp, doing business as Pacific Power (“PacifiCorp”) has requested an easement under the Property for its Willamette River Crossing project, and in accordance with the DDA, Buyer and PacifiCorp have come to an agreement regarding the impact of the requested easement on the Property and on Buyer’s planned development; and

WHEREAS, the terms of the conveyance of the Property to Buyer and of the grant of the easement to PacifiCorp require additional Prosper Portland Board authorization.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is authorized to execute an amendment to the DDA for the conveyance and redevelopment of the Property on the terms and conditions set forth in the DDA, as amended by the draft Fourth Amendment, attached as Exhibit A to this resolution;

BE IT FURTHER RESOLVED, that the Executive Director is authorized to execute and record the PacifiCorp easement against the Property, in the form attached as an exhibit to the Fourth Amendment;

BE IT FURTHER RESOLVED, that the Executive Director is authorized to execute all documents as may be necessary to complete the transactions described in the DDA, as amended by the Fourth Amendment;

BE IT FURTHER RESOLVED, that the Executive Director may approve changes to the terms of the conveyance from the draft Fourth Amendment and to the PacifiCorp easement so long as such changes do not materially increase the risk to Prosper Portland, as determined by the Executive Director in consultation with Prosper Portland’s General Counsel; and

BE IT FURTHER RESOLVED, that with the affirmative vote of no less than four commissioners for this resolution, this resolution shall become effective immediately upon its adoption, and otherwise it will take effect thirty days after adoption.

Adopted by the Prosper Portland Commission on

May 15, 2023



Pam Feigenbutz, Recording Secretary

FOURTH AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT Centennial Mills

EFFECTIVE DATE: May ____, 2023 (the “Effective Date”)

BETWEEN: 1362 Centennial Mills, LLC, an Oregon limited liability company (“Developer”)

AND: Prosper Portland, the economic development and urban renewal agency of the City of Portland (“Prosper Portland”)

RECITALS

A. Prosper Portland and Developer are parties to a Disposition and Development Agreement dated effective December 19, 2022 (the “Original Agreement”), amended by a First Amendment dated effective January 10, 2023, a Second Amendment dated effective February 16, 2023, and a Third Amendment dated effective March 27, 2023 (collectively, the “DDA”), pursuant to which Prosper Portland has agreed to sell and convey to Developer the real property in Portland, Oregon, commonly known as Centennial Mills, and more particularly described in the DDA (the “Property”), and Developer has agreed to purchase and develop the Property, on the terms and conditions set forth in the DDA.

B. The parties have agreed upon terms that would allow Prosper Portland to grant an easement for an underground electric power transmission and communications line under the Property (the “PacifiCorp Easement”), and desire to revise the DDA to reflect the impact of the PacifiCorp Easement on the Property and the future development potential of the Property, on the terms and conditions set forth in this Fourth Amendment to Disposition and Development Agreement (this “Amendment”). Capitalized terms used but not defined in this Amendment have the meanings set forth in the DDA, and the term “DDA,” as used herein, refers to the DDA as amended by this Amendment.

AGREEMENT

In consideration of the foregoing and the mutual covenants of the parties set forth in this Amendment, the parties agree as follows:

1. **Purchase Price; Promissory Note.** Notwithstanding anything to the contrary in Section 2.1 of the Original Agreement, the Purchase Price is One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), which reflects the impact of the PacifiCorp Easement on the value of the Property. At Closing, Developer and Tim R. Ralston, personally, will execute a promissory note, in the form attached as **Exhibit A** to this Amendment, in the amount of the Purchase Price (the “Purchase Money Note”), which Purchase Money Note will be a credit against the Purchase Price.

2. **Earnest Money.** Section 2.2.1, Section 2.2.2, Section 2.2.3.1, and Section 2.2.3.2 of the Original Agreement, and as amended, are hereby deleted and of no force and effect. Provisions of the DDA stating that “the Earnest Money” will be returned to Developer are of no force or effect. The parties agree that the “Title Company” is Fidelity National Title, 900 SW 5th Ave., Attn: Lori Medak, Phone (503) 222-2424. Upon execution of this Amendment, the Note (currently held in escrow by the Title Company) evidencing Developer’s prior earnest money deposit is terminated and the Title Company will return it to Developer.

3. Demolition and Land Use Activities.

3.1. **Demolition Permits.** Notwithstanding Section 2.2.3 of the Original Agreement to the contrary, Developer must apply for permits to demolish the flour mill and the warehouse (application to demolish the horse barn has been submitted) within sixty (60) days after the Effective Date of this Amendment. Prosper Portland will reasonably support Developer's efforts to obtain the necessary approvals to be able to demolish the flour mill and the warehouse, as described in Section 4.2.2 of the Original Agreement. Prosper Portland's obligation in Section 4.2.2 to support obtaining government approvals for the Vertical Projects will survive Closing. Developer will not start any physical work on the Property to demolish the flour mill until after Closing (but may demolish the horse barn and the warehouse under the Permit of Entry, and in accordance with the DDA).

3.2. **Policies Apply.** Prosper Portland's Policies, set forth in Exhibit F to the Original Agreement, and the terms and conditions set forth in Section 6 of Exhibit H of the Original Agreement, apply to the demolition of the horse barn, the warehouse, and the flour mill, both before and after Closing.

3.3. **Land Use Application.** Notwithstanding anything to the contrary in Section 4.2.1 of the Original Agreement, Developer will submit an application to the City for the first Type III Land Use Review for design review for the first Vertical Project by November 1, 2023.

4. **PacifiCorp Easement.** Section 3.2 of the Original Agreement is deleted and of no further force and effect. The parties have entered into a separate agreement with PacifiCorp that requires PacifiCorp to deposit Eight Million Five Hundred Thousand Dollars (\$8,500,000) in an escrow account with the Title Company, plus an additional amount owed to Prosper Portland and Developer for costs incurred in connection with the PacifiCorp Easement (the "Reimbursement Payment"). Prosper Portland and Developer will instruct the Title Company to (a) wire One Million Five Hundred Thousand Dollars (\$1,500,000) to Developer to be used for Developer's predevelopment costs incurred with respect to the Property and the Vertical Project(s) (the "Predevelopment Cost Advance"); (b) wire Seven Million Dollars (\$7,000,000) to Prosper Portland; (c) wire the Reimbursement Payment to Prosper Portland and Developer according to separate joint escrow instructions provided by Prosper Portland and Developer to the Title Company; and (d) record the PacifiCorp Easement against title to the Property, which PacifiCorp Easement must be strictly in the form of easement attached as **Exhibit B** to this Amendment. The PacifiCorp Easement will be deemed a Permitted Exception. Developer is obligated to repay the Predevelopment Cost Advance to Prosper Portland, on the terms set forth in Section 8, below. Developer will have no obligation to provide invoices or accounting to Prosper Portland for the Predevelopment Cost Advance.

5. **Closing.** Notwithstanding anything to the contrary in Section 6.1 of the Original Agreement, subject to the satisfaction or waiver of the conditions set forth in Section 5 of the Original Agreement, as amended, the Closing Date will be the earlier of (a) sixty (60) days after issuance of demolition permits for the horse barn, the warehouse and the flour mill and resolution of any appeals; or (b) December 14, 2024. Section 6.2 of the Original Agreement is deleted and of no force or effect. Provisions of the DDA stating that "the Extension Payments" will be returned to Developer are of no force or effect.

6. **Closing Deposits.** In addition to the items described in Section 6.4 of the Original Agreement, on or prior to Closing, Developer will deliver to the Title Company the Purchase Money Note, executed by Developer and Tim Ralston.

7. **Conditions Precedent.** Section 5.2.1 and Section 5.2.6 of the Original Agreement are deleted and of no force or effect.

8. **Failure to Close; Predevelopment Cost Advance.** Section 8.2 of the Original Agreement is deleted and of no force and effect.

8.1. If Closing and the consummation of the transaction contemplated in the DDA does not occur for any reason, except due to a breach by Prosper Portland, Prosper Portland may terminate the DDA by written notice to Developer.

8.2. If the DDA terminates for any reason, except due to a breach by Prosper Portland, the Predevelopment Cost Advance will be immediately due and payable to Prosper Portland upon such termination. This repayment obligation will survive termination of the DDA. Tim R. Ralston will personally guarantee the repayment of the Predevelopment Cost Advance by executing a Predevelopment Cost Advance guaranty, in the form attached as **Exhibit C** to this Amendment (the “Predevelopment Cost Guaranty”), which Predevelopment Cost Guaranty must be executed concurrently with this Amendment.

8.3. Closing and the consummation of the transaction contemplated in the DDA will extinguish Developer’s obligation to repay the Predevelopment Cost Advance, and the Predevelopment Cost Guaranty will be returned to Developer.

9. **Developer’s Documents.** If this DDA terminates, in addition to the documents and materials set forth in Section 3.4 of the Original Agreement, Developer will provide Prosper Portland all work product prepared in connection with the analysis of the PacifiCorp Easement, as well as any plans, studies, reports, surveys, or other materials prepared with funds from the Predevelopment Cost Advance.

10. **Prosper Portland Representations.** Section 9.1.3 of the Original Agreement excepts any threats by PacifiCorp to condemn the PacifiCorp Easement or the Property.

11. **Effect of Amendment; Authority.** Except as set forth in this Amendment, the DDA remains in full force and effect and the parties hereby ratify the same. The individuals executing this Amendment on behalf of a party individually represent and warrant that they have been authorized to do so and have the power to bind the party for whom they are signing.

[Signatures on next page]

IN WITNESS WHEREOF, Developer and Prosper Portland have executed this Amendment effective as of the Effective Date.

Prosper Portland:

By: _____
Kimberly Branam, Executive Director

Approved as to Form

Prosper Portland Legal Counsel

Developer:

1362 Centennial Mills, LLC, an Oregon limited liability company

By: _____
Tim R. Ralston, Manager

By: _____
Lucas A. Ralston, Manager

Exhibit A – Purchase Money Note

Exhibit B – Form of PacifiCorp Easement

Exhibit C – Predevelopment Cost Guaranty

EXHIBIT A
FORM OF PURCHASE MONEY NOTE

PROMISSORY NOTE
Purchase Money Note

\$1,250,000

Portland, Oregon

1362 CENTENNIAL MILLS, LLC, an Oregon limited liability company, and **TIM R. RALSTON**, an individual (together, jointly and severally, “**Borrower**”), promise to pay to the order of **PROSPER PORTLAND**, the economic development and urban renewal agency of the City of Portland (“**Lender**”), ONE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$1,250,000) (the “**Loan**”).

This promissory note (“**Purchase Money Note**” or “**Note**”) is the Purchase Money Note referenced in the Disposition and Development Agreement, effective December 19, 2022, as amended, between Borrower and Lender (the “**DDA**”).

This Purchase Money Note is due and payable in full (without interest) on or before the earlier of (a) the date that is sixty (60) days after the City of Portland approves Borrower’s application for the first Type III Land Use Review for design review for the first building to be built on the Property (as defined in the DDA), any appeal period has expired, and any appeals are resolved such that the land use application approval is final and binding; or (b) five (5) years after the [*Effective Date of the 4th Amendment; to be inserted at Closing*] (“**Maturity Date**”). No waiver of the terms in this paragraph or this Note will occur unless evidenced in writing.

DEFAULT

Failure to pay the Loan when due constitutes a default of this Purchase Money Note. All rights and remedies are cumulative and in addition to any other remedy Lender may have, at law, or in equity. Partial exercise of any right or remedy will not limit or restrict Lender’s subsequent exercise of such right or remedy nor will it restrict Lender’s contemporaneous or subsequent exercise of any other right or remedy.

PAYMENT

Borrower may prepay principal without penalty. Any prepayment will not change any other condition or requirement of this Note. All payments on the Loan and all other amounts payable hereunder by Borrower to Lender must be made to Lender at:

Prosper Portland
Attn. Loan Servicing
220 NW 2nd Ave., Suite 200
Portland, Oregon 97209

or at such other address as Lender may specify in writing.

DEFAULT INTEREST

Upon any failure to pay this Note on the Maturity Date, the unpaid balance of principal will accrue interest at the rate that is the lesser of: (i) 12 percent per annum and (ii) the highest rate of interest allowed by applicable law (“**Default Rate**”). Lender may charge interest at the Default Rate starting when Lender gives notice of the default to Borrower and continuing until the Note is paid in full.

WAIVERS

With respect to this Note, Borrower, and each endorser, surety and guarantor hereof, if any, and each other person or entity that now is or may hereafter become liable for all or part of the Loan (the “**Obligors**”), jointly and severally waive all applicable exemption rights, whether under any state constitution, homestead laws, or otherwise, and also severally waive valuation and appraisal, presentment, protest, and demand, notice of protest, demand and dishonor and nonpayment of this Note, and expressly agree that the liability of each of them is unconditional, joint and several, without regard to the liability of any other party and will not in any manner be affected by the maturity of this Note, or any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender. Each of the Obligors hereby consents to each such indulgence, extension of time, renewal, waiver, or modification that may be granted by Lender with respect to the payment or other provisions of this Note, and to the release of collateral or any part thereof, with or without substitution, and agree that additional makers, endorsers, guarantors, or sureties may become parties hereto without notice to any Obligor or affecting any Obligor’s liability hereunder.

GOVERNING LAWS

The terms and conditions of this Note is governed by the laws and statutes of the State of Oregon.

NOTICE

Any notice required or permitted under this Note must be in writing to the address below, or the addresses next to the signatures, below, and will be deemed effective (a) when actually delivered in person, (b) one business day after deposit with a commercial courier service for “next day” delivery, or (c) two business days after having been deposited in the United States mail as first class mail, certified or registered mail, postage prepaid.

If to Lender: Prosper Portland
Attn: Loan Servicing
220 NW 2nd Avenue, Suite 200
Portland, OR 97209
Email: lending@prosperportland.us

ATTORNEY FEES

In case suit or action is instituted to collect the Loan or any portion hereof, the prevailing party will receive from the losing party in such suit or action such additional sum as the court may adjudge reasonable as attorneys’ fees, expenses, and costs in said suit or action, or on any appeal therefrom, including, but not limited by, those fees and expenses permitted or defined by statutory law, and including without limitation all fees and expenses incurred at trial, on appeal, on petition for review, arbitration, mediation and in a bankruptcy proceeding. Further, in the event of default, whether or not suit or action is instituted, Borrower promises to pay all reasonable costs of collecting such delinquent payment.

MISCELLANEOUS

Time is of the essence of each provision of this Note. If any provision of this Note is held to be invalid, such event will not affect, in any respect whatsoever, the validity of the remainder of this Note. In construing this Note, it is understood that the references to the undersigned Borrower/Maker, include singular or plural, individual, partnership or corporation, as the case may be.

CO-BORROWER:

1362 CENTENNIAL MILLS,
LLC, an Oregon limited liability
company

By: _____
Tim R. Ralston, Manager

By: _____
Lucas A. Ralston, Manager

Address for Notice:

CO-BORROWER:

TIM R. RALSTON, an individual

Address for Notice:

EXHIBIT B
FORM OF PACIFICORP EASEMENT

Return to: Pacific Power
825 NE Multnomah St. 1700
Portland, OR 97232

Draft as of May 5, 11am (Clean)

**NOTICE AND GRANT OF
UNDERGROUND UTILITY EASEMENT; RESTRICTIVE COVENANT**

In exchange for the payment of consideration set forth on a separate instrument between the parties, ***Prosper Portland*** (“Grantor”), hereby grants to PacifiCorp, an Oregon corporation, its successors and assigns (“Grantee”), a perpetual and exclusive easement in gross in the Easement Area defined below on Grantor’s Property.

The Property: This easement burdens that land described in **Exhibit A** attached to and made a part hereof.

Purpose: This easement allows Grantee the exclusive right to drill, pull casing, conduit and conductors through, otherwise construct, maintain, repair, replace and operate underground electric power and communications facilities (“Utility Facilities”) under the Property through the Easement Area and to establish Locating Monuments associated therewith.

Restrictive Covenant: No penetrating activity or disturbance of any kind shall be allowed in the Easement Area. In addition, Grantor shall not construct or allow to be constructed any high-rise structure (as such term is defined Section 202 of the 2022 Oregon Structural Specialty Code above (i.e., within the horizontal plane of) the Easement Area. These obligations to avoid and not permit ground penetrating activity in, or any high-rise structures over, the Easement Area shall constitute negative covenants with regard to Grantor and any of Grantor’s successors and assigns.

Easement Area: The Easement Area shall run an underground course along the horizontal plane of 29 feet wide as legally described on the attached **Exhibit B-1** and depicted on **Exhibit B-2**, along a vertical plane of 35 feet deep as depicted on **Exhibit B-3**, and with the depth of the Easement Area from the surface of the Property varying as depicted on the attached **Exhibit B-4**. [EXHIBITS NEED TO BE FINALIZED] Except for the placement and maintenance of Locating Monuments, the easement includes no surface rights in Grantee nor restrictions upon Grantor. Except as described above, Grantor and any of Grantor’s successors and assigns shall have unrestricted use of all surface and underground area outside the Easement Area, including but not limited to the installation of soil improvements and other infrastructure necessary for the construction of a building over the Easement Area; provided such activities adjacent to the Easement Area do not disturb any soil within the Easement Area. Grantee shall not take any actions in opposition to or to

prevent the development of the Property and construction of a building over and adjoining the Easement Area except to the extent such development and construction activities are reasonably likely to cause Grantor to violate the restrictive covenants set forth herein or otherwise conflict or interfere with Grantee's rights under this easement. Following the installation of the Utility Facilities in the Easement Area, Grantor and Grantee agree to amend this instrument to reflect the as-built location of the Utility Facilities within the Easement Area. The Easement Area may be adjusted downward or side-to-side to reflect the as-built location of the Utility Facilities, but in no event shall the size of the Easement Area be increased nor shall the Easement Area be shifted or otherwise adjusted upwards closer to the surface. The five-foot wide Buffer around the inside perimeter of the Easement Area and the Tolerance Area around the Utility Casing shall be maintained. Any violation or breach of this provision shall be subject to liquidated damages as provided for herein.

Locating Monuments: Grantee shall have the right to survey, place and maintain permanent Locating Monuments at points where the centerline of the Utility Facilities enters and exits the Property. Said Locating Monuments shall be placed near the Property line boundary and so as to provide notice of the location of the Utility Facilities and their depth/elevation at the point of the monument. Said monuments shall each include as-built information as to the width of the Utility Facilities and the Easement Area as well as reference to the existence of the other Locating Monument. To the extent that a Locating Monument provides more specific information as to the location of the Utility Facilities and the Easement Area than is set forth in this instrument, then such specificity shall control as against that depicted in **Exhibit B**.

Repair: Grantee shall have strict liability for any damage to the Property, including but not limited to damage to the sea wall or the Tanner Creek sewer that occurs during installation or maintenance of the Utility Facilities and such damage is not attributable to acts of nature or other events wholly outside the control of Grantee. In the event Grantee fails to repair any such damage within sixty (60) days after written notice from Grantor to Grantee specifying in reasonable detail the necessary repairs, Grantor may repair such damage, and Grantee will reimburse Grantor for Grantor's actual, reasonable costs to repair such damage. In no event shall Grantee be liable to Grantor for any special or consequential damages, including, without limitation, any loss of use, income, or profit opportunities. In the event that the surface or below-surface activities of Grantor or any of its contractors (of any tier) cause the Easement Area to be encroached or penetrated, thereby causing damage to the Utility Facilities within the Easement Area, Grantor shall be liable for a reasonable and proportionate share of the costs to repair the damaged portion of the Utility Facilities.

Grantee's Indemnity: To the fullest extent permitted by law, Grantee will indemnify Grantor and any of Grantor's successors and assigns, including its officers, directors, employees, agents, lessees and assigns (collectively, "Representatives"), against, and defend and save Grantor and its Representatives harmless from, any and all third-party claims asserting injury to person, damage to property or death, and any and all related judgments, costs, expenses and liabilities (including reasonable attorneys' fees) (collectively, "TP Claims/Losses"), to the extent such TP Claims/Losses are caused by (i) the presence of the Utility Facilities in proximity to tenants or residents of the buildings on the Property, or as (ii) Grantee's negligent acts or omissions or willful misconduct in connection with the installation, operation or maintenance of the Utility Facilities or installation or maintenance of the Locating Monuments, or (iii) Grantee's failure to install, operate and maintain the Utility Facilities in accordance with prudent utility practice and applicable laws and regulations. The foregoing obligation includes without limitation TP Claims/Losses arising from any damage to the sea wall or the Tanner Creek sewer caused by Grantee or its contractors. Notwithstanding the foregoing, Grantee shall have no obligation to indemnify Grantor or its Representatives to the proportionate extent such TP Claims/Losses are caused by (i) the negligent acts or omissions or willful misconduct of Grantor or its contractors (of any tier), including the respective Representatives of each of them, or (ii) any unauthorized entry into or penetration of the exclusive Easement Area. If any action or proceeding is brought against Grantor by reason of any of the foregoing then, upon request of Grantor,

Grantee covenants to defend such action or proceeding by counsel reasonably satisfactory to Grantor. If the parties do not agree on legal representation, then Grantor may retain its own legal counsel and Grantee shall pay reasonable attorney fees incurred by Grantor.

Grantor's Indemnity: To the fullest extent permitted by law, Grantor will indemnify Grantee and its Representatives against, and defend and save Grantee and its Representatives harmless from, any and all TP Claims/Losses to the extent such TP Claims/Losses are caused by (i) the negligent acts or omissions or willful misconduct of Grantor or its contractors (of any tier), including the respective Representatives of each of them, in connection with development activities on the Property, (ii) a failure to design, construct and develop the Property in accordance with prudent industry practice and applicable laws and regulations, or (iii) unauthorized entry into or penetration or disturbance of the Easement Area caused by Grantor or its contractors (of any tier), including the respective Representatives of each of them. Notwithstanding the foregoing, Grantor shall have no obligation to indemnify Grantee and its Representatives to the proportionate extent such TP Claims/Losses are caused by the negligent acts or omissions or willful misconduct, of Grantee or its contractors (of any tier), including the respective Representatives of each of them. If any action or proceeding is brought against Grantee by reason of any of the foregoing then, upon request of Grantee, Grantor covenants to defend such action or proceeding by counsel reasonably satisfactory to Grantee. Counsel appointed by Grantor's insurer shall be deemed to be acceptable to Grantor.

Mandatory Arbitration: Any dispute or claim that arises out of or which relates to this easement, or to the interpretation or breach thereof, or to the existence, scope, or validity of this easement shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

Binding on Successors. The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns and shall run with the land.

SIGNATURES ON FOLLOWING 2 PAGES

Grantor:
Prosper Portland

Name: _____

Title: _____

Date: _____

REPRESENTATIVE ACKNOWLEDGEMENT

State of _____ }
County of _____ } SS.

This instrument was acknowledged before me on this _____ day of _____, 2____,

by _____, as _____,
Name of Representative Title of Representative

of _____.
Name of Entity on behalf of whom this instrument was executed

Notary Public

My commission expires: _____

Grantee:
PacifiCorp dba Pacific Power

Name: _____
Title: _____
Date: _____

REPRESENTATIVE ACKNOWLEDGEMENT

State of _____ }
County of _____ } SS.

This instrument was acknowledged before me on this _____ day of _____, 2____,
by _____, as _____,
Name of Representative Title of Representative
of _____.
Name of Entity on behalf of whom this instrument was executed

Notary Public
My commission expires: _____

EXHIBIT A
PROPERTY

Lots 25 through 37, inclusive, and the Southeasterly 15.79 feet of Lot 38, Block 318, COUCH'S ADDITION TO THE CITY OF PORTLAND, in the City of Portland, County of Multnomah and State of Oregon.

Map and Tax Lot: 1N1E34BB -00100

EXHIBIT B-1

Legal Description – Easement Area Horizontal Plane

POWER TRANSMISSION LINE EASEMENT

A 29.00 FOOT-WIDE STRIP OF LAND BEING A PORTION OF BLOCK 318, COUCH'S ADDITION TO CITY OF PORTLAND, LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, AND THE JOHN H COUCH D.L.C. NO. 52, TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN ,CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON SAID STRIP OF LAND LYING 14.50 FEET, WHEN MEASURED AT RIGHT ANGLES, ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-114883, RECORDS OF MULTNOMAH COUNTY, MARKED BY A 30MM (1-5/32") BERNTSEN COPPER DISC WITH CENTER PUNCH, STAMPED "HHPR INC" SET PER SURVEY NUMBER 66640, SAID POINT LYING NORTH 53°38'41" EAST, 361.90 FEET FROM THE NORTHEAST CORNER OF PINNACLE CONDOMINIUMS, RECORDED IN BOOK 1267, PAGE 39, RECORDS OF MULTNOMAH COUNTY, MARKED BY A BRASS SCREW WITH WASHER STAMPED "OTAK INC"; THENCE ALONG THE NORTHERLY RIGHT OF WAY LINE OF NW NAITO PARKWAY NORTH 48°54'59" WEST, 205.01 FEET TO THE **POINT OF BEGINNING**; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE NORTH 86°08'20" EAST, 289.65 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-114883 TO THE TERMINUS OF THIS DESCRIPTION, SAID POINT BEARS NORTH 41°05'01" EAST, 204.62 FEET FROM THE POINT OF COMMENCEMENT.

THE SIDE LINES OF SAID EASEMENT ARE TO BEGIN AT SAID NORTHERLY RIGHT OF WAY LINE OF NW NAITO PARKWAY AND TERMINATE AT SAID SOUTHEASTERLY LINE OF THAT PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-114883.

THIS EASEMENT CONTAINS 8,400 SQUARE FEET, MORE OR LESS.

BEARINGS BASED ON THE OREGON STATE PLANE COORDINATES SYSTEM, NORTH ZONE. ELEVATIONS ARE BASED UPON THE CITY OF PORTLAND DATUM.

SUBJECT TO EASEMENTS AND ENCUMBRANCES OF RECORD.

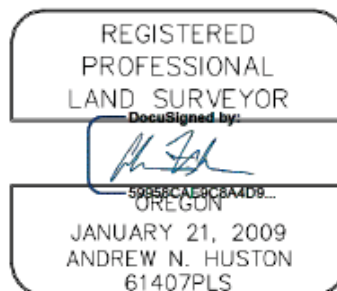


EXHIBIT B-2

Depiction – Easement Area Horizontal Plane

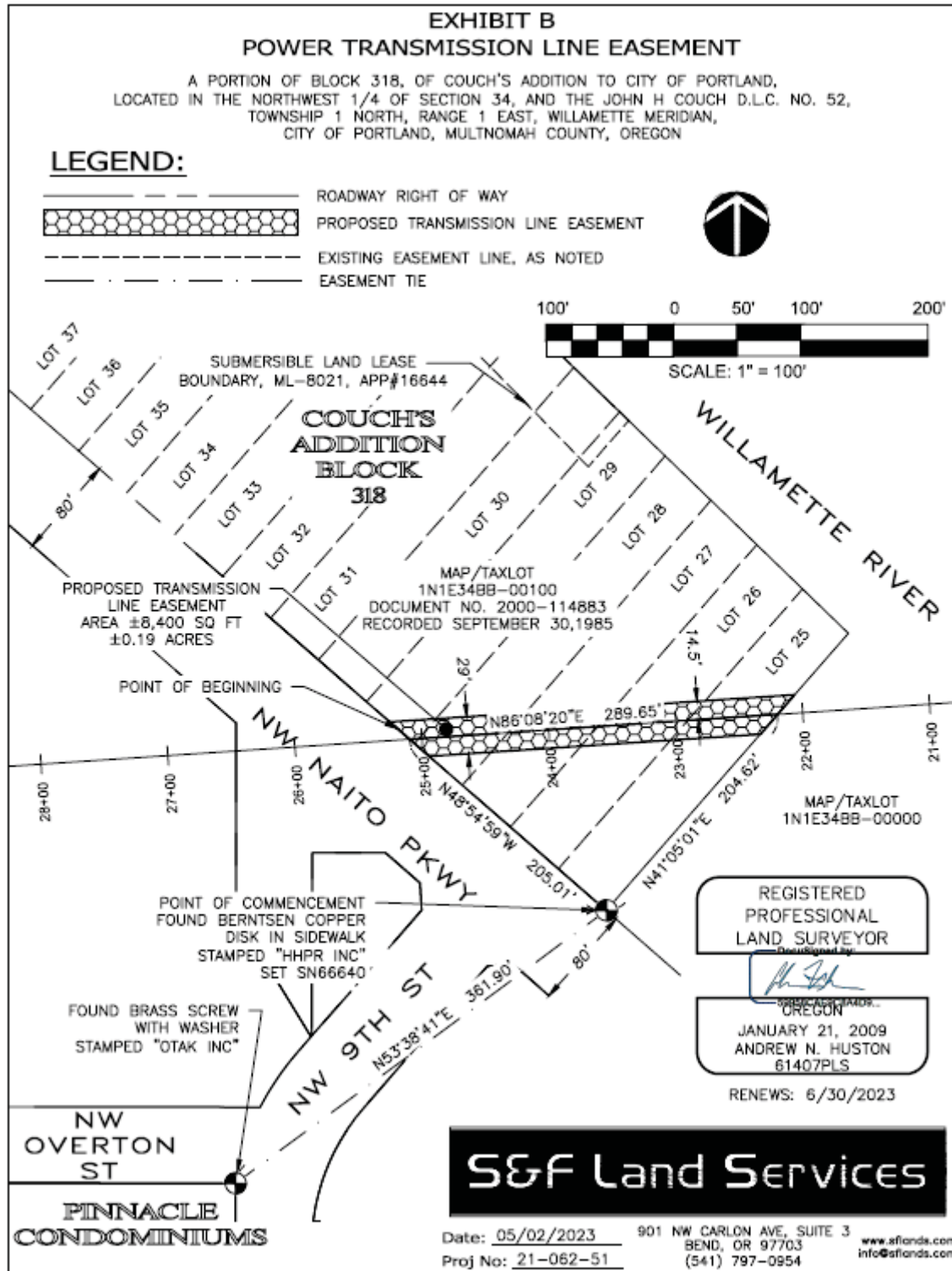


EXHIBIT B-3

Depiction – Easement Area Vertical Plan (Section View)

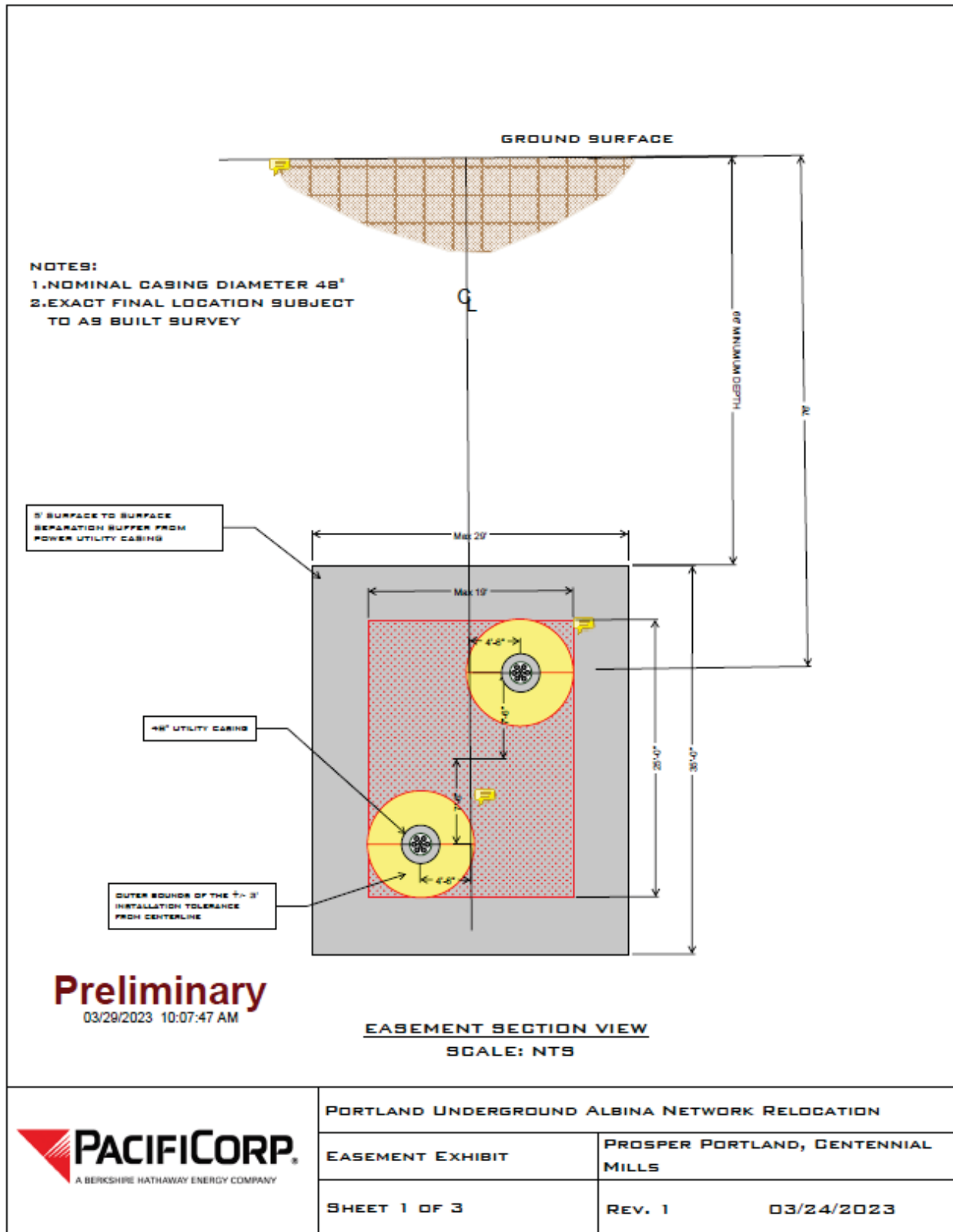


EXHIBIT B-4

Depiction – Easement Area Varying Depth (Side View)

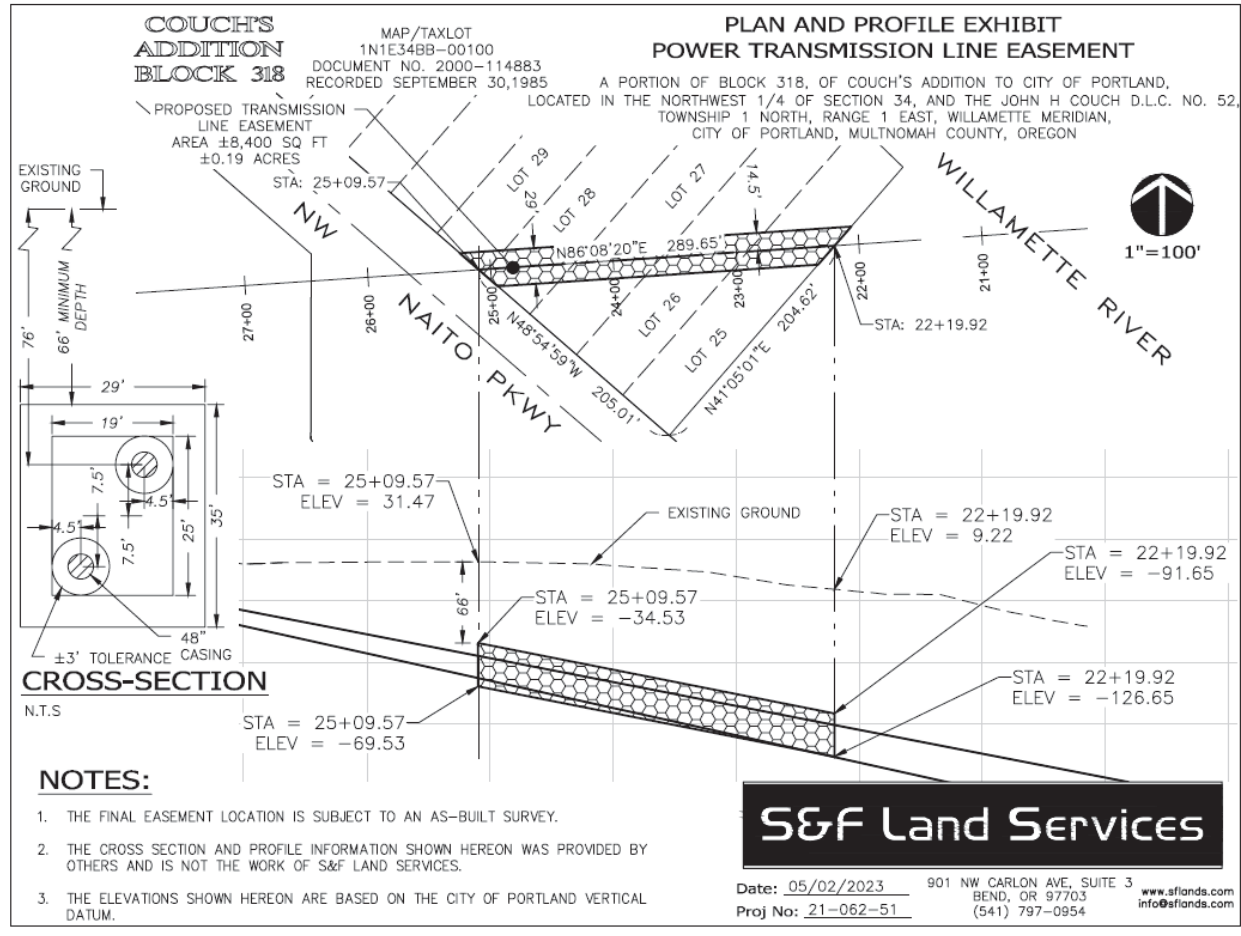


EXHIBIT C

PREDEVELOPMENT COST GUARANTY

PREDEVELOPMENT COST GUARANTY

THIS GUARANTY is given by **TIM R. RALSTON**, individually (“**Guarantor**”) to induce **PROSPER PORTLAND**, the economic development and urban renewal agency of the City of Portland (“**Lender**”), to extend credit to, or otherwise become the creditor of **1362 CENTENNIAL MILLS, LLC**, an Oregon limited liability company (“**Borrower**”). This Guaranty is given as of _____. [*date of 4th Amendment*]

FOR VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, Guarantor hereby absolutely, unconditionally, and irrevocably guarantees to Lender, its successors and assigns, the full, faithful, and timely payment of any and all “indebtedness” of Borrower to Lender.

1. Indebtedness Defined. The word “**indebtedness**” is used herein to refer to the “Predevelopment Cost Advance,” defined in the Disposition and Development Agreement, between Lender and Borrower, dated effective December 19, 2022, as amended (the “DDA”).

2. Nature of Guarantor’s Undertaking. The liability of Guarantor hereunder will be open and continuous for as long as this Guaranty is in force. Guarantor intends to guarantee, at all times, the performance of the obligation of Borrower to Lender to repay the Predevelopment Cost Advance. Thus, no payments made upon Borrower’s indebtedness will be held to discharge or diminish the liability of Guarantor for any and all remaining or succeeding indebtedness of Borrower to Lender. No invalidity, irregularity or unenforceability of all or any part of the DDA (whether as of the date of this Guaranty or as it may be amended), or of any security therefor, will affect, impair, or constitute a defense to this Guaranty. Guarantor will be directly and primarily liable to Lender as provided in this Guaranty, and there will be no requirement that Lender first or simultaneously proceed against Borrower in order for Lender to enforce this Guaranty. This is a guaranty of payment and performance, and not merely a guaranty of collection. Each of the representations, warranties, covenants, and other obligations and agreements contained in this Guaranty will not be diminished or qualified by the death, disability, dissolution, reorganization, insolvency, bankruptcy, custodianship, or receivership of Guarantor, Borrower, or any other person or entity, as applicable, or the inability of any of them to pay debts or perform or otherwise satisfy obligations as they become due for any reason whatsoever.

3. Term. If Borrower or any assignee closes on the purchase of the property as provided in the DDA, then Borrower’s obligation to repay the Predevelopment Cost Advance is terminated and this Guaranty will be null and void. If Borrower fails to close on the purchase of the Property as provided for in the DDA, then the obligation to pay the Predevelopment Cost Advance will not have been extinguished under the terms of the DDA; the liability of Guarantor will continue until payment in full is made of the indebtedness of Borrower to Lender now due or hereinafter to become due, and until payment is made of any loss or damage incurred by Lender with respect to any matter covered by this Guaranty, and until all of the foregoing payments are no longer subject to disgorgement under any applicable state or federal creditor rights or bankruptcy laws. This Guaranty binds the estate of Guarantor.

4. Consent to Lender’s Acts. Guarantor agrees that Lender may deal with Borrower in any manner without the knowledge of consent of Guarantor and without affecting Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor consents, without affecting Guarantor’s liability to Lender hereunder, that Lender may, without notice to or consent of Guarantor, upon such terms as Lender may deem advisable (a) extend, in whole or in part, by renewal or otherwise, the duration or the time of payment of any indebtedness owing by Borrower to Lender, or held by Lender as security for any such obligations; and (b) settle or compromise any claim of Lender against Borrower. Guarantor ratifies and affirms any such extension,

renewal, release, surrender, exchange, modification, impairment, settlement or compromise, and all such actions will be binding upon Guarantor, who hereby waives all defenses, counterclaims, or offsets which Guarantor might have.

5. Waiver. Guarantor hereby expressly waives all suretyship defenses whatsoever with respect to any obligation guaranteed under this Guaranty, including but not limited to presentment, protest, demand, or notice of any kind, including notice of non-payment of any of Borrower's indebtedness and notice of any action or non-action on the part of Borrower, Lender, or any surety, endorser, or other guarantor. Guarantor irrevocably waives, disclaims and relinquishes all claims against Borrower which Guarantor otherwise has or would have by virtue of having executed this Guaranty.

6. Default. Upon default of Borrower on the indebtedness to Lender, Lender may, at its option, then and there demand and be entitled to immediate payment from Guarantor of the full amount or of any part of the amount of Borrower's indebtedness to Lender, within the limitations set forth above, and if Guarantor will not unconditionally pay the sum demanded to Lender, Lender may proceed directly and at once against Guarantor to collect such sum without first proceeding against Borrower, or any surety, endorser, or other Guarantor and without foreclosing upon or selling or otherwise disposing of any collateral it may have as security for any of Borrower's indebtedness. Failure of Lender to make such demand at such time, or so to proceed, will not relieve Guarantor of its obligations hereunder or in any sense be considered a waiver. Lender has the right to demand and collect from Guarantor all or any portion of Borrower's indebtedness and failure of Lender at any time to demand from Guarantor or to proceed to collect from Guarantor the full amount of Borrower's indebtedness from Guarantor will not preclude Lender from later demanding or proceeding to collect from Guarantor any remaining indebtedness from Borrower to Lender covered by this Guaranty. In any action or suit brought by Lender against Guarantor, Guarantor will not assert as a defense any statute of limitations, if at the time the action or suit is commenced, there is outstanding any indebtedness to Lender which is not barred by the statute of limitations applicable under the laws of the State of Oregon. If payment is made by Borrower on a debt guaranteed hereby and thereafter Lender is forced to remit the amount of that payment to Borrower's trustee in bankruptcy or similar person under any federal or state bankruptcy law or law for the relief of debtors, Borrower's debt will be considered unpaid for the purpose of enforcement of this Guaranty.

7. Representations and Warranties of Guarantor. Guarantor makes the following representations and warranties which will survive the execution and delivery of this Guaranty: (a) Guarantor has, and until the indebtedness is paid in full will continue to have, the requisite power to execute, deliver, and perform its obligations under this Guaranty; (b) the execution, delivery, and performance of this Guaranty (i) do not and will not violate, conflict with, result in a breach of, or constitute (with notice, or lapse of time, or both) a violation of default under any provision of law, any order or judgment of any court or governmental authority, or any indenture, agreement, or other instrument to which Guarantor is a party or by which Guarantor or any of Guarantor's assets is or may be bound or affected; (ii) do not and will not result in the creation or imposition of any lien, charge, or encumbrance whatsoever upon any of Guarantor's assets; and (iii) do not and will not require any authorization or license from, or any filing with, any governmental authority or other body; (c) this Guaranty's obligations constitute legal, valid, and binding obligations of Guarantor, and this Guaranty is enforceable against Guarantor in accordance with its terms.

8. Modification. This writing is intended by Lender and Guarantor as a final expression of this Guaranty and is the complete and exclusive statement of the terms of this Guaranty, subject to the terms of the DDA expressly referenced herein. No course of dealing, course of performance or trade usage and no parol evidence will be used to supplement or modify the terms of this Guaranty. There are no conditions to the full effectiveness of this Guaranty. This Guaranty can be modified only by written instrument signed by Lender and Guarantor.

9. Separate Identities. Guarantor further represents and warrants that Guarantor and Borrower are separate and distinct entities with no identity of interest with respect to any indebtedness which may become owed or any payments which may be made hereunder. Borrower is not contractually bound to Guarantor with respect to any payments hereafter made under this Guaranty in any manner which would have the effect of imputing the liability of Guarantor hereunder to Borrower.

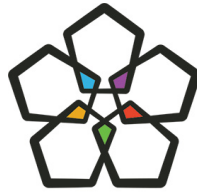
10. Benefit. This Guaranty is delivered and made in and will be construed according to the laws of the State of Oregon, and is binding upon Guarantor and its legal representatives, and inures to the benefit of Lender, its successors and assigns.

11. Attorneys' Fees. If Lender incurs expenses for the hiring of an attorney to enforce this Guaranty, or in case suit or action is instituted to enforce this Guaranty, the prevailing party will receive from the losing party in such suit or action such additional sum as the court may adjudge reasonable as attorneys' fees, expenses, and costs in said suit or action, or on any appeal therefrom, including, but not limited to, those fees and expenses permitted or defined by statutory law, and including without limitation all fees and expenses incurred at trial, on appeal, on petition for review, arbitration, mediation and in a bankruptcy proceeding.

IN WITNESS WHEREOF, Guarantor has signed this Guaranty to be effective as of the date set forth in the first paragraph of page 1:

Tim R. Ralston, individually

ADDRESS FOR NOTICES TO GUARANTOR:



**PROSPER
PORTLAND**
Building an Equitable Economy

RESOLUTION NO. 7482

RESOLUTION TITLE:

AUTHORIZING A UTILITY EASEMENT AND AMENDING THE TERMS OF A DISPOSITION AND DEVELOPMENT AGREEMENT TO CONVEY APPROXIMATELY 4.4 ACRES OF PROSPER PORTLAND-OWNED PROPERTY IN THE RIVER DISTRICT TAX INCREMENT FINANCE DISTRICT


Adopted by the Prosper Portland Commission on May 15, 2023

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Gustavo J. Cruz, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner William Myers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Peter Platt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Sam Rodriguez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Serena Stoudamire Wesley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

CERTIFICATION

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Prosper Portland Commission and as duly recorded in the official minutes of the meeting.

	Date: May 15, 2023
Pam Feigenbutz, Recording Secretary	