

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7501

**AUTHORIZING ISSUANCE OF A USE PERMIT TO THE CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION FOR USE OF A STORAGE CLOSET
AT THE NICK FISH**

WHEREAS, in 2001, the Prosper Portland Board of Commissioners (“Board”) approved, and the Portland City Council adopted, the Gateway Regional Center Urban Renewal Plan (the “Gateway UR Plan”);

WHEREAS, pursuant to an Intergovernmental Agreement authorized by the Prosper Portland Board of Commissioners (“Board”) through Resolution No. 6641 on November 12, 2008, Prosper Portland and the City of Portland Bureau of Parks and Recreation (“PP&R”) jointly acquired approximately 4.2 acres of property at NE Halsey Street and NE 106th Avenue (the “Property”);

WHEREAS, pursuant to an Intergovernmental Agreement authorized by the Prosper Portland Board through Resolution No. 7077 on October 29, 2014, and through Resolution No. 7254 on November 8, 2017, Prosper Portland contributed \$1,200,000 to PP&R to facilitate the development of three acres of the Property into Gateway Discovery Park, which opened in summer 2018;

WHEREAS, to facilitate the development of the Gateway Discovery Park and a mixed-use, mixed-income project at Halsey 106 (“The Nick Fish”), PP&R and Prosper Portland mutually conveyed deeds such that Prosper Portland is the sole owner of the property at The Nick Fish which is under long term lease, and PP&R is the sole owner of Gateway Discovery Park;

WHEREAS, The Nick Fish is a mixed-use project providing 75 units of mixed-income housing, an office and services center for Our Just Future, and 11,000 square feet of ground floor commercial space owned by Prosper Portland for affordable commercial space;

WHEREAS, PP&R intends to utilize a 237-square foot storage closet within the Prosper Portland ground floor space for storage and other uses consistent with operation and maintenance of Gateway Discovery Park;

WHEREAS, Prosper Portland has long partnered with PP&R to support Gateway Discover Park and intends to authorize issuance of a use permit (“Use Permit”) to PP&R for use of the storage closet with a five-year term and optional five-year extension; and

WHEREAS, Prosper Portland’s Disposition and Leasing of Real Property, which was adopted by the Prosper Portland Board on February 13, 2019, through Resolution 7301, provides the authority for the

Executive Director to execute use permits up to two years; given the term of this Use Permit with PP&R, Prosper Portland Board approval is required.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to enter into and execute a Use Permit to PP&R substantially in the form as attached in Exhibit A for use of the storage closet located in The Nick Fish building for an initial period of five years, with an automatic renewal for an additional five years, if PP&R is not in default of the agreement;

BE IT FURTHER RESOLVED, that in connection with Halsey 106, the Executive Director is hereby authorized to execute any amendments, change orders, or other modifications to the Memorandum of Understanding and the Use Permit, so long as the terms of the same do not materially increase Prosper Portland's obligations or risks, 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 will become effective immediately upon its adoption, and otherwise it will take effect thirty days after adoption.

Adopted by the Prosper Portland Commission on September 27, 2023



Pam Feigenbutz, Recording Secretary

USE PERMIT
**STORAGE SPACE WITHIN THE NICK FISH / HALSEY 106 DEVELOPMENT AT 10550 NE
HALSEY ST., PORTLAND, OR 97220**

THIS USE PERMIT (“Use Permit”) is granted by **Prosper Portland** to **City of Portland, Bureau of Parks and Recreation** (“Permittee”) for the use of certain identified space within Prosper Portland property, commonly referred to as 10550 NE Halsey Street, Portland, OR 97220 (the “Building”) for the purpose of storage associated with Permittee’s operation of Gateway Discovery Park, as further described below, subject to the following terms and conditions:

SECTION 1. LOCATION, ACTIVITIES AND MAINTENANCE OF PROPERTY

1.1 For the term set forth in Section 3.1, below, Prosper Portland grants to Permittee an exclusive license to enter upon and use approximately 237 square feet of space within the Building identified on Exhibit A (*Ground Floor Depiction*) as “Park Storage” (the “Property”).

1.2 Permittee may use the Property for storing equipment and supplies used by Permittee in connection with the operation of Gateway Discovery Park, subject to applicable laws and the requirements of the Declaration Submitting Halsey 106 Condominiums to Condominium Ownership and the condominium bylaws referenced therein, copies of which have been provided to Permittee (the “Condominium Documents”).

1.3 Permittee will keep and maintain the Property in a reasonably clean and orderly condition at all times during the term of this Use Permit. Without Prosper Portland’s prior written consent, Permittee will not make any alterations of the Property whatsoever.

1.4 Upon termination of this Use Permit, Permittee will restore the Property to the same or better condition, other than ordinary wear and tear, as that condition existing immediately prior to Permittee’s entry upon and use of the Property or such other condition as Prosper Portland may reasonably approve in writing. If restoration is impossible or in lieu of restoration, at Prosper Portland’s discretion, upon request, Permittee will compensate Prosper Portland for any physical damage to the Property in the amount Prosper Portland may reasonably determine.

1.5 Prosper Portland, its agents, employees and representatives may at any reasonable time, enter into or upon the Property for the purposes of examining the condition thereof, or for any other lawful purpose.

SECTION 2. RESTRICTIONS ON USE AND HAZARDOUS SUBSTANCES

2.1 Permittee will observe all rules, regulations, and laws in effect by any municipality, county, state or federal authority having jurisdiction over the Property, as they relate to the use of the Property. Permittee is solely responsible for obtaining any additional permits or approvals as may be necessary for the use of the Property, as contemplated in this Use Permit, including any required City of Portland business license. Permittee may use electrical utilities within the Property, but Permittee acknowledges and agrees that no other utilities are available within the Property (i.e., it is unheated / cooled, there is no water or sewer).

2.2 Permittee may not allow any lien of any kind, type or description to be placed or imposed upon the Property or upon any improvements on the Property (if any).

2.3 The following activities or materials are prohibited on the Property: any type of fireworks, explosives, or highly flammable material; any open fires or bonfires; any overnight camping or lodging; and, any food or beverage, including alcohol.

2.4 Permittee will not cause or permit to occur the use, generation, release, manufacture, handling, processing, storage, disposal or improper use of any hazardous substance, pollutant, or contaminant, on, under, or about the Property or the transportation to or from the Property of any hazardous substance. Hazardous substances are substances regulated under any environmental law or regulation now or hereafter enacted by any federal, state or local authority.

2.5 Permittee will assume liability for its use of the Property subject to Section 4 of this Permit.

2.6 Permittee will keep the Property as secure as possible from the unauthorized entry of other persons during the term of this Use Permit. Except to the extent caused by the negligence or willful misconduct of Prosper Portland, its officers, agents or employees, Permittee is solely responsible for any theft, damage or destruction to any materials, equipment or any other property of Permittee, or anyone acting on behalf of Permittee in connection with or incidental to this Use Permit.

2.7 The Use Permit is personal to Permittee and is not transferable or assignable to any other party or entity without the prior written approval of Prosper Portland. Permittee and Permittee's employees alone, and not Permittee's agents, contractors, or subcontractors, are authorized to use the Property pursuant to this Use Permit, except as may be expressly consented to by Prosper Portland in writing on a case-by-case basis.

SECTION 3. FEE, SECURITY DEPOSIT, TERM

3.1 . Permittee will pay an annual fee of \$10/square foot for use of the Property, which includes all Prosper Portland operating costs for the space. As the Property is 237 square feet in size, this results in an annual fee of \$2370 which will be paid on the effective date of this Permit and each anniversary thereof.

3.2 The Permit is effective on _____. The Permit will initially have a term of five years and will automatically renew for an additional five (5) year term unless Permittee is in default at the time of renewal.

SECTION 4. INSURANCE AND INDEMNIFICATION

4.1 Permittee will obtain, maintain, and keep during the term of this Use Permit an insurance policy or self-insurance with the following limits:

4.1.1 Comprehensive general liability insurance written on an "occurrence" basis. Such insurance will be in the amount of not less than \$1,000,000 combined single limit for liability with a \$2,000,000 aggregate insuring bodily and/or personal injury, including death and disease, and property damages. Permittee's insurance will be primary insurance and any insurance or self-insurance maintained by Prosper Portland will not contribute to it.

4.1.2 For automobiles that Permittee uses in association with its business, an automobile liability insurance policy covering owned (if used for Permittee's business), non-owned, and hired vehicles with a combined single limit bodily injury and property damage limit of not less than One Million Dollars (\$1,000,000).

4.2 On or prior to the date this Use Permit is signed by both parties, Permittee will provide a Certificate of Insurance or Certificate of Self Insurance naming **Prosper Portland, its commissioners, officers, agents and employees as additional insureds**. The certificate will provide that coverage afforded and may not be canceled or amended without prior written notice to Prosper Portland.

4.3 To the extent permitted by Oregon Law and subject to the limitation of the Oregon Constitution, Article XI, Section 9, and the Oregon Tort Claims Act (ORS 30.260 to 30.300), Permittee will indemnify, hold harmless

and at Prosper Portland’s request, defend Prosper Portland and the City of Portland and its commissioners, officers, agents and employees from and against any and all liability or alleged liability, all suits, legal proceedings, claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or in connection with or incidental to Permittee’s use of the Property, Permittee’s breach of this Use Permit, or any error or omission of Permittee or anyone acting on behalf of Permittee in connection with or incidental to this Permit; provided however, that nothing herein will be construed to require indemnification of Prosper Portland for liability attributable to Prosper Portland’s negligence, nor claims for damage to the Property exceeding the limits of the Permittee’s Insurance, described above.

SECTION 5. TERMINATION, NOTICE AND AMENDMENTS

5.1 This Use Permit may be terminated for any reason whatsoever by Permittee at any time by written notice to Prosper Portland.

5.2 This Use Permit may be terminated by Prosper Portland for cause as follows:

5.2.1 if Permittee has violated a condition of this Use Permit, Prosper Portland may send a notice to Permittee describing such breach and demanding that the breach be cured within a reasonable time period.

5.2.2 if Permittee has not fully effectuated a cure of the breach within the time period set forth in Prosper Portland’s notice, Prosper Portland may then terminate this Use Permit with a subsequent notice to Permittee, effective five (5) days from delivery of such notice.

5.3 Notices under this Use Permit must be made in writing by U.S. Mail or electronic mail to:

PERMITTEE	PROSPER PORTLAND
Portland Parks & Recreation Attn: Property Manager 1120 SW 5 th Ave., Rm 858 Portland, OR 97204	Prosper Portland Attn: Real Estate Services 220 NW Second Avenue, Second Floor Portland, OR 97209
Tel: 503-823-5229 Email: dylan.paul@portlandoregon.gov	Tel: 503.823.3208 Email: breckenridgee@prosperportland.us

5.4 The parties agree that any amendments to this Use Permit must be made in writing and will become effective only upon execution by both parties.

[Signature Page Follows]

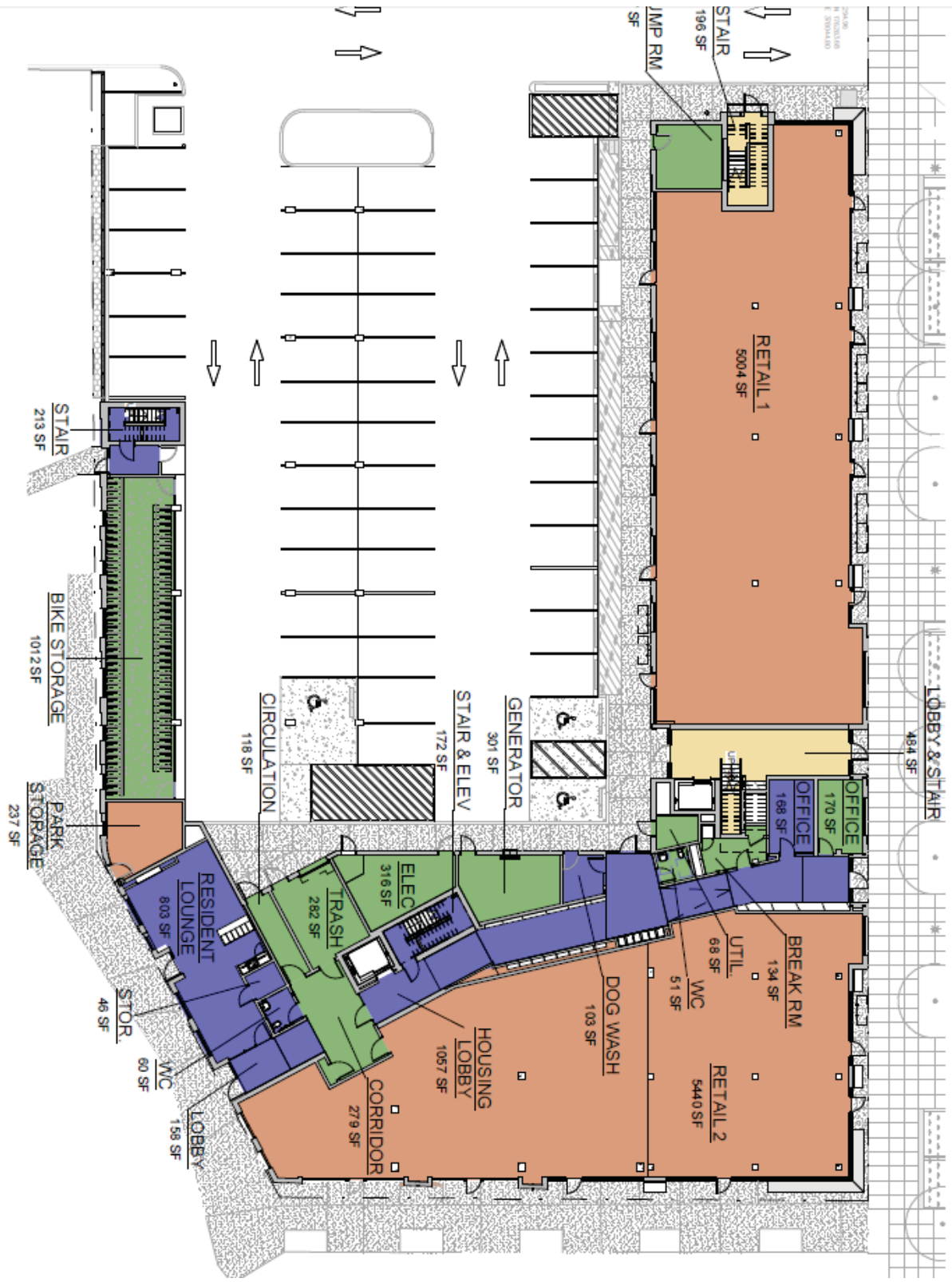
ALL TERMS AND CONDITIONS OF THIS USE PERMIT ARE HEREBY ACCEPTED:

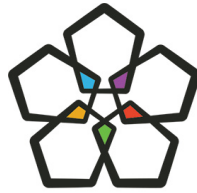
PERMITTEE		OWNER	
City of Portland, Bureau of Parks & Recreation 1120 SW 5 th Ave, Rm 858 Portland, OR 97204		Prosper Portland 220 NW Second Avenue, Second Floor Portland, OR 97209	
_____ Authorized Signature	_____ Date	_____ Authorized Signature	_____ Date
Adena Long, Director _____ Written Name	_____ Title	_____ Written Name	_____ Title

ATTACHMENT: Exhibit "A" Ground Floor Depiction

EXHIBIT A

Ground Floor Depiction





**PROSPER
PORTLAND**
Building an Equitable Economy

RESOLUTION NO. 7501

RESOLUTION TITLE:

AUTHORIZING ISSUANCE OF A USE PERMIT TO THE CITY OF PORTLAND BUREAU OF PARKS AND RECREATION FOR USE OF A STORAGE CLOSET AT THE NICK FISH


Adopted by the Prosper Portland Commission on September 27, 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 Marcelino J. Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner William Myers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Michi Slick	<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 checked="" type="checkbox"/> Consent Agenda <input 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.

	<p>Date:</p> <p>October 5, 2023</p>
<p>Pam Feigenbutz, Recording Secretary</p>	