

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7526

**AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT TO
CONVEY APPROXIMATELY 33,071 SQUARE FEET OF PROSPER
PORTLAND-OWNED PROPERTY IN THE LENTS TOWN CENTER TAX
INCREMENT FINANCE DISTRICT**

WHEREAS, on August 19, 1998, through Resolution No. 5157, the Prosper Portland Board of Commissioners (the “Board”) approved the Lents Town Center Urban Renewal Plan (the “Plan”);

WHEREAS, on September 9, 1998, through Ordinance No. 172371, the City Council of the City of Portland (the “City”) adopted the Plan;

WHEREAS, on December 18, 2008, through Resolution No. 6654, the Prosper Portland authorized the acquisition of an approximately 33,071 square foot, two parcel real property in area located within the Plan boundaries and commonly known as 9231 SE Foster Road (“Property”);

WHEREAS, in June 2022, Prosper Portland listed the Property for sale through a Request for Offers (“RFO”) process and Palindrome Communities, LLC (“Palindrome”) was the sole respondent to the RFO; and

WHEREAS, Palindrome has expressed interest to Prosper Portland in purchasing the Property from Prosper Portland in order to develop a mixed use/mixed income project including market rate rental housing, commercial, and hospitality uses on the Property and on adjacent land already owned by Palindrome (the “Project”).

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to execute an agreement for the conveyance and redevelopment of the Property on the terms and conditions set forth in the draft Disposition and Development Agreement (“DDA”) attached hereto as Exhibit A, with the buyers identified therein (or their assignees);

BE IT FURTHER RESOLVED, that the Executive Director is authorized to execute all documents as may be necessary to complete this transaction;

BE IT FURTHER RESOLVED, that the Executive Director may approve changes to the terms of the conveyance from the draft DDA 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.

AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY

IN THE LENTS TOWN CENTER URBAN RENEWAL AREA

LOCATED AT

9231 SE FOSTER ROAD, PORTLAND, OREGON

BY AND BETWEEN

PROSPER PORTLAND

AND

PALINDROME PROPERTIES GROUP, LLC

DRAFT

DISPOSITION AND DEVELOPMENT AGREEMENT

This **DISPOSITION AND DEVELOPMENT AGREEMENT** (this “**Agreement**”) is made and entered as of the last date of signature below (the “**Effective Date**”), by and between the CITY OF PORTLAND, acting by and through PROSPER PORTLAND, the economic development and urban renewal agency of the City of Portland (the City so acting through it, and the agency itself, collectively “**Prosper Portland**”) and PALINDROME PROPERTIES GROUP, LLC, a Nevada limited liability company (“**Developer**”). Prosper Portland and Developer may be referred to jointly in this Agreement as the “**Parties**” and individually as a “**Party**.”

RECITALS

A. On August 19, 1998, through Resolution No. 5157, the Prosper Portland Board of Commissioners (the “**Board**”) approved the Lents Town Center Urban Renewal Plan (the “**Plan**”), and on September 9, 1998, through Ordinance No. 172371, the City Council of the City of Portland (the “**City**”) adopted the Plan.

B. On or about December 18, 2008, Prosper Portland, then the Portland Development Commission (PDC), purchased certain property approximately 33,071 square feet in area located within the Plan boundaries and commonly known as 9231 SE Foster Road.

C. Developer has expressed interest to Prosper Portland in purchasing such property from Prosper Portland in order to develop a mixed use/mixed income project including market rate rental housing, commercial, and hospitality uses on the Property and on adjacent land already owned by Developer (the “**Project**”). In furtherance of such efforts, Developer’s parent company Palindrome Properties Group, LLC, by its Vice President, Robert Gibson, delivered to Prosper Portland that certain term sheet dated September 1, 2022 (the “**Term Sheet**”).

D. On March 13, 2024, the Board approved Resolution No. 7526 authorizing the disposition of the Property to Developer consistent with the Term Sheet and on the terms and conditions as set forth in this Agreement.

AGREEMENT

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

SECTION 1 GENERAL TERMS OF DISPOSITION

1.1 **Agreement for Disposition and Development.** Prosper Portland agrees to sell and convey the Property to Developer, and Developer agrees to purchase the Property from Prosper Portland and to develop the Property in accordance with the terms and conditions set forth in this Agreement.

1.2 **Description of the Property.** The Property includes the land legally described on **Exhibit A** attached to this Agreement (the “**Land**”), together with (i) all rights, privileges, licenses, and easements appurtenant to the Land owned by Prosper Portland; and (ii) all improvements, equipment, fixtures and other personal property of every kind located on the Land. The Land, together with the elements described above in (i) and (ii), is collectively referred to in this Agreement as the “**Property**.”

1.3 **Purchase Price.** The purchase price for the Property (the “**Purchase Price**”) is \$1,755,000.00. At the Closing (defined in Section 6.2, below), Developer will pay the Purchase Price in cash.

1.4 **Earnest Money.** On or before the date that is 10 days immediately after the Effective Date, Developer must deposit cash in the amount of \$100,000.00 (the “**Earnest Money**”) with Lawyers Title (the “**Title Company**”), 1455 SW Broadway, Ste 1400, Portland, OR 97201, Attention: Peggy Neikirk, Phone: 503-553-5664. The Earnest Money will be nonrefundable on the date Developer delivers its waiver, in writing, of the Due Diligence Contingencies (as defined in Section 3.4 below). The Title Company will deposit the Earnest Money into a federally insured account. At Closing, the Earnest Money will be credited against the Purchase Price.

1.5 **AS IS.** Prior to the Due Diligence Deadline Date, Developer will have examined and investigated or will have had the opportunity to examine and investigate the Property to its own satisfaction and will have formed its own opinion as to the condition (including environmental condition) and value thereof. Developer has not relied on any statements or representations from Prosper Portland or any person acting on behalf of Prosper Portland concerning any of the following: (i) the size or area of the Property; (ii) the location of corners or boundaries of the Property; (iii) the condition of the Property, including but not limited to, physical or geotechnical properties above or below the surface of the Property or the environmental condition adjacent, above or below the surface of the Property (including without limitation releases or threatened releases of hazardous or regulated substances) or compliance with Environmental Laws¹ and other governmental requirements; (iv) the availability of services to the Property; or (v) the ability of Developer to use the Property or any portion thereof for any intended purpose. Developer is acquiring its interest in the Property, in the condition existing at the time of the Closing, AS IS, with all defects, if any. Developer waives, releases, and forever discharges Prosper Portland and the City of Portland, and each of their successors and assigns, of and from all claims, actions, causes of action, fines, penalties, damages (including consequential, incidental, and special damages), costs (including the cost of complying with any judicial or governmental order), and expenses (including attorneys’ fees), direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way growing out of or in connection with any physical characteristic or condition of the Property, including any surface or subsurface condition, or any law, rule, or regulation applicable to the Property.

1.6 **Environmental Reports.** Developer acknowledges receipt of copies of the Environmental Reports set forth in **Exhibit B** (List of Environmental Reports). To Prosper Portland’s knowledge, there are no environmental reports about the Property, other than those disclosed above, that affect the Property. As used herein, the term “Prosper Portland’s knowledge” means the actual knowledge of Colin Polk, Environmental Coordinator, the employee of Prosper Portland with the greatest familiarity with the Property’s environmental condition. Developer accepts the Property, and its environmental condition, AS IS as described in Section 1.5, and is responsible, at Developer’s sole cost, for complying with all environmental laws, regulations, and requirements applicable to the Property.

1.7 **Title Insurance.** Prosper Portland, at its expense, will order that the Title Company provide to Developer, at Closing, a standard coverage owner’s policy of title insurance, insuring

¹ “**Environmental Laws**” means all present or future federal, state, and local laws or regulations related to the protection of health or the environment, including the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC § 6901 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC § 9601 et seq.), the Toxic Substances Control Act (15 USC § 2601 et seq.), the Federal Water Pollution Control Act (the Clean Water Act) (33 USC § 1251 et seq.), the Clean Air Act (42 USC § 7401 et seq.), amendments to the foregoing, and any rules and regulations promulgated thereunder.

Developer's title to the Property free and clear of encumbrances except for the Permitted Exceptions (a "**Title Policy**"). Developer, at its option and its expense, may elect to obtain extended coverage under such policy of title insurance, and Prosper Portland agrees to execute any affidavits or other documents reasonably required by the Escrow Agent to enable Developer to obtain such coverage. Since Prosper Portland is relying on the Title Report to determine the state of title, the Title Company's refusal to issue a Title Policy at Closing will be deemed a failure of a condition of Closing, but it will not be deemed a breach of contract by Prosper Portland.

SECTION 2 Due Diligence Deliveries.

2.1 **Title Report.** Within 10 days following the Effective Date, Prosper Portland will provide Developer a preliminary title report for the Property (the "**Title Report**") from the Title Company. Within 30 days after Developer's receipt of the Title Report, Developer may disapprove of any exception listed in the Title Report by delivering written notice to Prosper Portland ("**Developer's Title Notice**") specifying each title defect or matter for which Developer is requesting a cure by Prosper Portland ("**Title Defect**"). Developer's failure to deliver Developer's Title Notice to Prosper Portland within the time period specified above will be a conclusive presumption that Developer has approved the Title Report; provided, however, Prosper Portland will be obligated to release the liens of any deeds of trusts or mortgages encumbering the Property by the Closing Date. Within 15 days after receiving Developer's Title Notice, Prosper Portland will deliver to Developer written notice ("**Prosper Portland's Title Notice**") of those Title Defects which Prosper Portland covenants and agrees to either eliminate or cure by the Closing Date. Prosper Portland's failure to deliver Prosper Portland's Title Notice to Developer within this time period will be deemed to constitute Prosper Portland's election not to eliminate or cure any such Title Defect. If Prosper Portland elects (or is deemed to have elected) not to eliminate or cure any Title Defects, Developer will have the right, by written notice delivered to Prosper Portland within 15 days after delivery of Prosper Portland's Title Notice or within 15 days after the expiration of the time period during which Prosper Portland is entitled to deliver Prosper Portland's Title Notice, whichever occurs first, to either: (a) waive in writing its prior notice as to the Title Defects which Prosper Portland has elected not to cure, or (b) terminate this Agreement, in which case the Earnest Money will be returned to Developer. Developer's failure to deliver any written notice within such 15-day period will be a conclusive presumption that Developer has approved the Title Defects that Prosper Portland has elected (or deemed to have elected) not to cure, and this Agreement will remain in full force and effect. All title and survey matters approved or deemed approved by Developer are referred to in this Agreement as the "**Permitted Exceptions.**"

2.2 **Delivery of Documents.** Developer acknowledges receipt of the due diligence documents listed on the attached **Exhibit C**. Although Prosper Portland has agreed to make available to Developer this information regarding the Property, Prosper Portland and its agents will have no responsibility or liability for the completeness or accuracy of such information. Prosper Portland is making no representation with respect to such documents and information. Developer assumes and accepts the entire responsibility for interpreting and assessing the information provided, and Developer will rely solely on Developer's own judgment in making Developer's decision to purchase the Property.

2.3 **Developer's Due Diligence Documents.** If this Agreement terminates, Developer will promptly deliver to Prosper Portland all environmental studies, geologic reports, engineering analyses, and surveys Developer has received, prepared, or obtained pertaining to the Property.

SECTION 3 Due Diligence; Environmental Condition; Land Use Approvals.

3.1 **Permit of Entry.** Prior to Developer or its authorized agents and representatives entering upon the Property to make any investigations or studies, as Developer deems necessary or advisable to

plan the Project, Developer will execute and return to Prosper Portland the Revocable Permit of Entry attached to this Agreement as **Exhibit D**.

3.2 **Maintenance of the Property.** Until the Closing or the escrow is terminated, whichever comes earlier, Prosper Portland will operate and maintain the Property in a manner consistent with Prosper Portland’s past practices.

3.3 **Land Use Approvals.** If Developer (a) enters into discussions and negotiations regarding the development of the Property with governmental authorities having jurisdiction, or (b) applies for, prosecutes, participates in, or causes to be issued and finally approved any permit, variance, site plan, or other approval which may be required as part of the Project, such approvals must (i) not be binding on or effective until Developer has taken title to the Property; (ii) be consistent with the terms of this Agreement; and (iii) be capable of being withdrawn if Closing does not occur. Prosper Portland (at no cost, expense, or liability to Prosper Portland other than as specifically provided elsewhere in this Agreement) will reasonably cooperate with Developer in all respects in connection with obtaining governmental approvals for the Project, which cooperation may include the execution and delivery of any applications, agreements, approvals, licenses, plans, permits, and other instruments and assurances as may be requested by Developer. At Prosper Portland’s request, Developer will participate in introductory meetings with key stakeholders designated by Prosper Portland.

3.4 **Due Diligence Contingencies.** Developer’s obligation to close the transaction is subject to Developer’s satisfaction or waiver, in its sole and absolute discretion, of the access, utilities, zoning, permitting requirements and the physical and environmental condition of the Property (the “**Due Diligence Contingencies**”) on or before the date that is 120 days after the Effective Date (the “**Due Diligence Deadline Date**”). If Developer does not deliver to Prosper Portland a written notice approving the Due Diligence Contingencies on or before the Due Diligence Deadline Date, then this Agreement will terminate, and the Earnest Money will be returned to Developer.

SECTION 4 Risk of Loss.

4.1 **Damage.** If, prior to the Closing Date, the Property is destroyed or suffers damage in excess of ten percent of the Purchase Price, Developer will have the right, exercisable by giving written notice of such decision to Prosper Portland within ten business days after receiving written notice of such damage or destruction, to terminate this Agreement, in which event the Earnest Money and any Extension Payments will be returned to Developer and neither Party will have any further obligation under this Agreement (except those obligations that survive termination of this Agreement). For purposes of this Section 4.1, damage does not include the diminution in value of any improvements that Developer does not intend to retain through completion of the Project. If the damage is less than ten percent of the Purchase Price, or if Developer does not timely elect to terminate this Agreement, Developer will be deemed to accept the Property in its then condition, and all proceeds of insurance awards payable to Prosper Portland by reason of such damage or destruction will be paid or assigned to Developer.

4.2 **Condemnation.** If, after the Effective Date, and prior to the Closing Date, all or any substantial portion of the Property (where the value of the condemned Property is in excess of ten percent of the Purchase Price), is subjected to a bona fide threat of condemnation by a body having the power of eminent domain, or is taken by eminent domain or condemnation (or sale in lieu thereof), Developer may by written notice to Prosper Portland within ten business days after receiving notice of such event, elect to cancel this Agreement prior to the Closing Date, in which event the Earnest Money and any Extension Payments will be returned to Developer and neither Party will have any further obligation under this Agreement (except those obligations that survive termination of this Agreement). If no such election is made, this Agreement will remain in full force and effect and at Closing, the purchase contemplated by

this Agreement, less any interest taken by eminent domain or condemnation, will be completed, and the Purchase Price for the Property will not be reduced by the amount of any awards that have been or that may thereafter be made for the taking of the Property (and any condemnation award will be paid to Developer).

SECTION 5 Conditions Precedent to Closing.

5.1 **General.** The Party benefited by a condition may not unreasonably withhold, condition, or delay acknowledgment that the condition has been satisfied.

5.2 **Mutual Conditions Precedent to Closing.** Developer and Prosper Portland are not obligated to proceed with Closing unless the following conditions are met, to the Parties' reasonable satisfaction, on or prior to the Closing Date:

5.2.1 No litigation is pending that prevents Prosper Portland or Developer from performing their respective obligations under this Agreement.

5.2.2 Title Company is prepared to issue to Developer the Title Policy and to issue a corresponding seller's policy of title insurance to Prosper Portland.

5.3 **Developer's Conditions Precedent.** Developer is not obligated to proceed with Closing unless the following conditions are met, to Developer's reasonable satisfaction, on or prior to the Closing Date.

5.3.1 Satisfaction or waiver of the Due Diligence Contingencies.

5.3.2 Title Company is prepared to issue to Developer title insurance in the form required by Developer, subject only to the Permitted Exceptions.

5.3.3 No material adverse change in the physical or legal condition of the Property has occurred that has not been resolved in accordance with this Agreement.

5.3.4 Prosper Portland will have timely delivered each item to be delivered by Prosper Portland pursuant to this Agreement, including (without limitation) the documents and materials described in Section 6.4, below.

5.4 **Prosper Portland's Conditions Precedent.** Prosper Portland is not obligated to proceed with Closing unless the following conditions are met, to Prosper Portland's reasonable satisfaction, on or prior to the Closing Date.

5.4.1 Developer has provided to Prosper Portland documentation that Developer is a limited liability company or other business entity qualified to do business in the state of Oregon.

5.4.2 Developer is not in Default under this Agreement, and no event has occurred that, with notice or passage of time, or both notice and passage of time, would constitute a Default of Developer under this Agreement.

5.4.3 Developer will have timely delivered each item to be delivered by Developer pursuant to this Agreement, including (without limitation) the documents and materials described in Section 6.5, below.

5.5 **Elections upon Non-Satisfaction of Conditions.** If any condition is not fulfilled to the satisfaction of the benefited Party or Parties as of the Closing Date, then such benefited Party or Parties may elect to:

5.5.1 Terminate this Agreement by and effective upon written notice to the other Party pursuant to Section 5.6, below; or

5.5.2 Waive in writing the benefit of that condition and proceed in accordance with the terms of this Agreement; or

5.5.3 Designate in writing a later date for Closing, to allow additional time for the condition to be satisfied, if the condition can be satisfied and the other Party agrees in writing to the later date.

5.6 **Final Termination Date.** If all of the conditions precedent to Closing set forth in this SECTION 5 have not been satisfied or waived by the later of (a) the Closing Date or (b) such later date, if any, designated pursuant to Section 5.5.3, then this Agreement will terminate five business days after written notice from the Party seeking termination unless the specified condition has been satisfied or waived in writing and the Closing has occurred within such five-day period.

SECTION 6 Closing.

6.1 **Manner of Closing; General.** The disposition and purchase of the Property will be closed in escrow at the Title Company (the “**Closing**”), which escrow is to be administered by an escrow agent of the Title Company (the “**Escrow Agent**”). Prior to the Closing, the Parties agree to provide the Escrow Agent with escrow instructions consistent with the terms of this Agreement.

6.2 **Closing Date.** The Closing will occur on the date that is 90 days immediately after the date on which Developer delivers written notice approving the Due Diligence Contingencies as provided in Section 3.4 (the “**Closing Date**”). The Closing Date may not be extended without the prior written agreement of both Parties.

6.3 **Extension of Closing Date.** Developer may, in its sole and absolute discretion, elect to extend the Closing Date for up to two periods of 30 days (each, a “**Closing Extension Option**”), provided that Developer must provide Prosper Portland with written notice of its election to exercise a Closing Extension Option no later than the original Closing Date or the first extended Closing Date, as applicable. If Developer elects to exercise a Closing Extension Option, then simultaneous with its election notice and as a condition precedent to the effectiveness thereof, Developer must deliver to the Title Company an additional cash payment in the amount of \$10,000.00 (each, an “**Extension Payment**”). The first and the second Extension Payments, once made, will be immediately nonrefundable to Developer. At Closing, all Extension Payments, together with the Earnest Money, will be credited against the Purchase Price.

6.4 **Documents to Be Deposited into Escrow by Prosper Portland.** On or before the Closing Date, Prosper Portland will deposit into escrow the following:

6.4.1 A duly executed and acknowledged statutory special warranty deed (the “**Deed**”) conveying fee simple title to the Land to Developer, subject only to the Permitted Exceptions.

6.4.2 An original certificate of non-foreign person duly executed by Prosper Portland and notarized.

6.4.3 Such documents as the Escrow Agent may require to establish the authority of Prosper Portland to complete the sale of the Property as contemplated by this Agreement, and to issue the Title Policy.

6.5 **Documents and Sums to Be Deposited into Escrow by Developer.** On or before the Closing Date, Developer:

6.5.1 Must deposit into escrow such funds (by wire transfer) as are necessary to pay the Purchase Price less any credits to Developer pursuant to this Agreement, and such additional funds as necessary to pay Developer's portion of the Closing costs.

6.5.2 Will deposit into escrow such documents as the Title Company may require to establish the authority of Developer to acquire the Property and to issue title insurance in the form required by Developer.

6.5.3 Will deposit into escrow all documents the Escrow Agent may require to complete the transaction contemplated by this Agreement, or as otherwise may be required at Closing pursuant to this Agreement.

6.6 **Prorations and Costs.**

6.6.1 **Closing Costs.** Each Party will pay one-half (1/2) of any escrow fees charged by the Escrow Agent. The cost of the Title Policy and the seller's policy of title insurance will be paid by Prosper Portland. Developer will pay for any upgrades to the Title Policy such as to provide extended coverage or title endorsements. The costs for recording and all other Closing costs will be paid by Developer.

6.6.2 **Property Taxes.** Prosper Portland is exempt from property taxes. Thus, no property taxes are anticipated to be due as of Closing. Developer will pay all taxes accruing to the Property as a result of the transfer of the Property from public ownership, if any. Developer will pay property taxes with respect to the Property from and after the Closing.

6.6.3 **Utilities.** Prosper Portland will cause all meters for electricity, gas, water, sewer, or other utility usage at the Property, if any, to be read on the Closing Date, and Prosper Portland will pay all such utility charges which have accrued on or prior to the Closing Date. If the utility companies are unable or refuse to read the meters on the Closing Date, all utility charges to the extent unpaid will be prorated and adjusted as of the Closing Date based on the most recent billings.

6.6.4 **Other Prorations and Costs.** Except as otherwise provided in this Agreement, all other items to be prorated, including rents, operating expenses, revenues, and other income, if any, will be prorated as of the Closing Date. Developer and Prosper Portland will each pay their own legal and professional fees respectively incurred by Developer and Prosper Portland.

6.7 **Deliveries to Developer at Closing.** Prosper Portland will deliver to Developer exclusive possession of the Property at Closing, subject only to the Permitted Exceptions, and keys to all improvements located on the Property, to the extent in Prosper Portland's possession.

6.8 **Memorandum of Agreement.** At Closing, each Party will execute a memorandum of this Agreement (the "**Memorandum of Agreement**"), substantially in the form of **Exhibit F**. Either

Party may cause the Memorandum of Agreement to be recorded promptly thereafter, with costs thereof to Developer. The Memorandum of Agreement will be a Permitted Exception.

SECTION 7 Development.

7.1 Prosper Portland Policies.

7.1.1 Policies Apply. The Project is and will be subject to Prosper Portland’s Construction Business and Workforce Equity Policy and to its Green Building Policy, in place at the time the Board approved the Term Sheet, together with any applicable specifications (copies of which are attached as **Exhibits E-1, E-2, and E-3** to this Agreement (collectively, the “**Policies**”).

7.1.2 Developer’s Compliance with Policies. Prior to hiring a general contractor or commencing any bidding for construction of the Project, Developer must consult with Prosper Portland’s compliance personnel to ensure compliance with the Policies. Developer must comply with the provisions of the Policies’ specifications set forth in the Exhibits. In addition, with respect to the Green Building Policy, Developer will:

7.1.2.1 Design the Project to achieve at least LEED Gold certification incorporating Green Building, energy efficiency and sustainability practices and designs consistent with Prosper Portland’s Green Building Policy.

7.1.2.2 Provide Prosper Portland with proof of project registration with the Green Building Certification Institute <https://www.usgbc.org/leedonline>;

7.1.2.3 Once construction has commenced, and until obtaining a certificate of occupancy, provide quarterly updates to Prosper Portland that include a LEED Project Checklist and written description that includes likelihood that requirements will be met or exceeded and any issues or circumstances that may prevent the Project from attaining LEED Gold certification; and

7.1.2.4 Following completion the Project, provide Prosper Portland proof of project LEED Gold certification within five business days of receipt. If the project certification is denied, Developer must immediately contact Prosper Portland to discuss the reason for denial and whether a waiver of the Green Building Policy by the Board is warranted.

7.1.3 Compliance Reporting. Developer will provide Prosper Portland a report confirming compliance with the Policies within 90 days after issuance of a certificate of occupancy for the Project.

7.2 Failure to Comply with Policies; Liquidated Damages. Prosper Portland is a public entity that directs its resources, in part, to projects that will also advance important social benefits including equitable employment and the construction of buildings that are least impactful to the environment. If Prosper Portland reasonably determines that Developer has failed to comply with any or all of the Policies, Prosper Portland will give written notice of such failure to Developer specifying with reasonable particularity the alleged failure to comply. Developer will have a period of 30 days after receipt of such notice to cure the alleged failure (whether or not such failure is susceptible to a cure),

provided, however, if Developer has commenced but not completed such a cure and is working in good faith to diligently complete such cure then Developer will have an additional 60 days to complete such cure. The parties agree that Prosper Portland would suffer actual harm if Developer fails to aid in the advancement of these social benefits by failing to comply with the Policies. The parties agree that Developer's failure to comply with any one of the Policies after the expiration of the cure period will give rise to liquidated damages in the amount of \$150,000.00 for each Policy with which Developer fails to comply (or such greater amount as may be provided for by calculation of hours-worked damages in the Workforce Equity Policy). The parties agree that this amount is, and it is hereby deemed, the best estimate of cost that Prosper Portland would face to promote equitable employment or to incentivize green building techniques on the Project. Upon receipt, Prosper Portland may apply such liquidated damages to other projects in order to achieve its social benefit goals and to compensate for the failure to achieve such goals on the Project. Prosper Portland may in the event of such Default after the expiration of such cure period, in the alternative, bring an action to enjoin Developer to comply with the Policies or seek other remedies permitted by this Agreement.

7.3 Affordable Housing. If the Project includes multi-family residential, then Developer will satisfy the City's residential building code and inclusionary housing requirements applicable to such residential development with affordable units provided on the Property, either in a mixed-income building or a stand-alone structure.

7.4 Diligent Commencement and Completion of Project.

7.4.1 Developer must Commence Construction of the Project in substantial accordance with all designs submitted to and approved by the City, on or before the date that is 48 months immediately after the Closing Date (the "**Construction Commencement Deadline**"), and thereafter diligently pursue completion of the Project and complete the Project on or before the date that is 60 months immediately after the Closing Date. "**Commence Construction**" means that major site excavation is occurring on the Property, for which all necessary case excavation, shoring, foundation, and other permits must have been duly obtained.

7.4.2 Developer will keep Prosper Portland informed of its progress with respect to development of the Project during construction, with periodic reports to be provided to Prosper Portland no less frequently than once a quarter. In addition, Developer must promptly respond to any Prosper Portland inquiries regarding Project status.

7.5 Remedies for Failure to Commence Construction or Complete Construction.

7.5.1 The Parties agree that Developer's failure to timely Commence Construction in accordance with Section 7.4.1, or its failure to timely complete the Project as required by Section 7.41, shall give rise to liquidated damages in the amount of \$100,000.00 for each such failure, in the maximum of \$200,000.00 in the aggregate. This liquidated damages amount is deemed to be the best estimate of cost that Prosper Portland would face to promote other development in the Plan area. Upon receipt, Prosper Portland may apply such liquidated damages to other projects in order to achieve its social benefit goals and to compensate for the failure to achieve such goals on the Project.

7.6 Covenants Running with the Land. Developer and Prosper Portland hereby declare and agree that the covenants set forth in this Section 7 will survive Closing, be deemed covenants running with the land, will pass to and be binding upon Developer's successors in interest, including, without limitation, any Mortgagee, grantee, lessee, or assignee of any portion of the Property and any other person or entity having any right, title, or interest in the Property. At Developer's request, following initial

completion the Project in compliance with this Section 7, if requested by Developer, Prosper Portland will promptly execute a recordable instrument confirming compliance with this Section 7 in a form reasonably acceptable to Prosper Portland, which Developer may record at Developer's expense.

SECTION 8 Default; Remedies.

8.1 **Default and Cure.** As used in this Agreement, a “**Default**” means a breach by a Party of a material provision of this Agreement, whether by action or inaction, where such breach continues and is not remedied within 30 days after the breaching Party receives written notice from the other Party describing the breach. In the case of a breach that cannot with prompt and reasonable action be cured within 30 days, a Default will arise if and when such Party does not (a) provide a written response of its intent to cure, and commence to cure, the breach within 30 days after receiving written notice from the other Party of the breach, and (b) thereafter diligently prosecute to completion such cure within 90 days.

8.2 **Immediate Default.** Notwithstanding the foregoing, Developer will be in Default without the benefit of any cure period upon any attempted Transfer in violation of Section 10.17.

8.3 **Developer's Failure to Close.** If the Closing does not occur by reason of any Default of Developer, and Developer fails to complete the purchase of the Property, Prosper Portland may terminate this Agreement by written notice to Developer. Developer and Prosper Portland agree that it would be impractical and extremely difficult to estimate the damages suffered by Prosper Portland as a result of Developer's failure to complete the purchase of the Property pursuant to this Agreement, and that, under the circumstances existing as of the date of this Agreement, the liquidated damages provided for in this Section 8.3 represent a reasonable estimate of the damages which Prosper Portland will incur as a result of such failure. THEREFORE, DEVELOPER AND PROSPER PORTLAND HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL DAMAGES THAT PROSPER PORTLAND WOULD SUFFER IN THE EVENT THAT DEVELOPER DEFAULTS AND FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY IS AN AMOUNT EQUAL TO THE ALL OF THE EARNEST MONEY INCLUDING ALL EXTENSION PAYMENTS. SUCH AMOUNT WILL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY DEVELOPER, AND AFTER PAYMENT THEREOF TO PROSPER PORTLAND, NEITHER PARTY WILL HAVE ANY FURTHER OBLIGATION TO OR RIGHTS AGAINST THE OTHER (EXCEPT THOSE OBLIGATIONS THAT SURVIVE TERMINATION OF THIS AGREEMENT).

8.4 Prosper Portland's Post-Closing Remedies.

8.4.1 If Developer breaches its obligation to comply with the Policies, Prosper Portland has the remedies described in Section 7.2 of this Agreement.

8.4.2 If Developer breaches its obligations to timely Commence Construction or to timely complete the Project, Prosper Portland will have the remedies described in Section 7.4 of this Agreement.

8.4.3 If Developer makes a material change to the Project design, as described in Section 7.4, without the written consent of Prosper Portland, Prosper Portland does not have an adequate remedy at law. As such, it is agreed that Prosper Portland may obtain equitable remedies including the obtaining of temporary and permanent injunctions against developing the Property in violation of these sections, and/or specific performance.

8.4.4 For all other breaches, Prosper Portland will have all remedies available at law and in equity.

8.5 **Developer’s Remedies.** If Prosper Portland wrongfully fails to proceed with Closing, Developer may, at its option: (i) terminate this Agreement by written notice to Prosper Portland without waiving any cause of action for return of any Earnest Money that Developer may have against Prosper Portland, or (ii) specifically enforce Prosper Portland’s obligation to convey title to the Property in accordance with the terms of this Agreement. Developer may not seek monetary damages against Prosper Portland for such Defaults, other than its reasonable attorneys’ fees and costs of litigation.

8.4 **Nonexclusive Remedies.** The rights and remedies provided by this Agreement are not exclusive, except where otherwise indicated, and will be in addition to any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of one or more of such remedies will not preclude the exercise by it, at the same or different times, of any other such remedies for the same Default or of any of its remedies for any other Default by the other Party, including, without limitation, the right to compel specific performance.

8.5 **Unavoidable Delay.**

8.5.1 Neither a Party nor a Party’s successor in interest will be considered in breach of or in Default with respect to any obligation under this Agreement if the delay in performance of such obligation (“**Unavoidable Delay**”) is a result of conditions unforeseeable, beyond the Party’s reasonable control, and without the Party’s fault or negligence, including, without limitation, events such as natural disasters (fire, flood, earthquake, storm, hurricane, or unusually severe weather), war, invasion, hostilities, terrorist activities, epidemic, quarantine, blockage, embargo, strike, malicious mischief, or explosion. A material change in the financial markets alone will not be deemed an Unavoidable Delay.

8.5.2 A Party asserting an Unavoidable Delay as an excuse for failure to perform the Party’s obligation must, within 30 days after the Party becomes aware of the causes of any such Unavoidable Delay, notify the other Party in writing of the cause or causes of the delay and estimated time of correction. The Party must thereafter make all commercially reasonable efforts to resume performance of the delayed obligation.

8.5.3 Unavoidable Delay will extend the time or times for performance of the Party’s obligation for the period of the Unavoidable Delay, except in no event will the time for performance be extended for more than 180 days without the prior written consent of the other Party.

SECTION 9 Mortgagee Protection Provisions.

9.1 **Right to Mortgage.** On or after Closing, Developer will have the right, at any time and from time to time, to grant a mortgage, deed of trust or other security instrument encumbering all or a portion of Developer’s ownership interest in all or a portion of the Property, for the benefit of its holder (each, a “**Mortgagee**”), as security for one or more loans related to the Property made by the Mortgagee to Developer in order to pay or reimburse costs incurred in connection with obligations under this Agreement (each, a “**Mortgage**”). Any such Mortgage will be deemed a Permitted Exception. A Mortgagee may transfer all or any part of or interest in any Mortgage without the consent of or notice to any party; provided, however, that Prosper Portland will have no obligations under this Agreement to a Mortgagee unless Prosper Portland is notified of such Mortgagee.

9.2 **Mortgagee Not Obligated to Construct.** Notwithstanding any other provision of this Agreement, no Mortgagee will in any way be obligated by the provisions of this Agreement to construct or complete the Project, or any portion thereof, or to guarantee such construction or completion, unless

and until such Mortgagee forecloses its Mortgage and acquires title to all or a portion of the Property pursuant to Section 9.5, below.

9.3 Copy of Notice of Default to Mortgagee. If Prosper Portland delivers a notice or demand to Developer with respect to Developer’s breach of this Agreement, Prosper Portland will at the same time send a copy of such notice or demand to each Mortgagee that has previously made a written request to Prosper Portland for a copy of such notices, at the address of such Mortgagee specified by such Mortgagee in its most recent notice to Prosper Portland. If such breach remains after any cure period permitted under this Agreement has expired, Prosper Portland will deliver notice of the Default to each such Mortgagee at such applicable address. Failure of Prosper Portland to send a notice or demand to a Mortgagee will not create any liability for Prosper Portland but a delay or failure by Prosper Portland to provide the notice of Default as required by this Section will extend, for the number of days until notice is given, the time allowed for the Mortgagee to cure the Default pursuant to Section 9.4, below.

9.4 Mortgagee’s Options to Cure Defaults. Before or after receiving any notice of a breach or of a Default, pursuant to Section 9.3, above, each Mortgagee will have the right (but not the obligation), at its option, to commence within the same period as Developer to cure or cause to be cured any breach, plus an additional period of (a) 30 days to cure a monetary Default and (b) 60 days to cure a non-monetary Default that is susceptible of cure by the Mortgagee without obtaining title to the Property. If a Default is not cured within the applicable cure period (or cannot be cured by the Mortgagee without obtaining title to the Property), Prosper Portland will refrain from exercising its remedies for the Default and will permit the cure by Mortgagee of such Default if, within the Mortgagee’s applicable cure period: (i) the Mortgagee notifies Prosper Portland in writing that the Mortgagee intends to proceed promptly and without delay to foreclose the Mortgage or otherwise obtain title to all or a portion of the Property; (ii) the Mortgagee commences foreclosure proceedings within 60 days after giving such notice to Prosper Portland, and diligently pursues the foreclosure to completion; and (iii) after obtaining title or possession of the Property, the Mortgagee diligently proceeds to cure the Default within the time periods set forth in subsections (a) and (b), above. If a Mortgagee does cure or remedy the Default, the Mortgagee may add the cost thereof to the Mortgage debt and the lien of its Mortgage, if permitted by its loan documents.

9.5 Mortgagee’s Obligations with Respect to the Property. A Mortgagee that acquires title to all or a portion of the Property (the “**Foreclosed Property**”) will take title (a “**Mortgagee Acquisition**”) subject to all of the terms and conditions of this Agreement to the extent applicable to the Foreclosed Property, including any claims for payment or performance of obligations that are due as a condition to enjoying the benefits under this Agreement from and after the Mortgagee Acquisition. Upon completion of a Mortgagee Acquisition, Prosper Portland will recognize the Mortgagee as Developer’s successor under this Agreement with respect to the Foreclosed Property.

9.6 Amendments Requested by Mortgagee. Prosper Portland will execute amendments to this Agreement or separate agreements to the extent reasonably requested by a Mortgagee proposing to make a loan to Developer secured by a security interest in all or any portion the Property; provided, however, that such proposed amendments or other agreements do not materially and adversely affect the rights of Prosper Portland under this Agreement as reasonably determined by Prosper Portland. Notwithstanding anything to the contrary, Prosper Portland will not be required to suffer, incur, accept, or assume any liability pursuant to this section, and any such documents must expressly exculpate Prosper Portland from and against any and all such liability.

SECTION 10 General Provisions.

10.1 Notices and Communications. Any notice or communication under this Agreement by either Party to the other will be deemed given and delivered (a) 48 hours after being dispatched by

registered or certified U.S. mail, postage prepaid, return receipt requested, (b) when received if personally delivered, or (c) if sent by e-mail or other form of electronic transmission, with receipt of written reply confirmation from the recipient that such transmission has been received:

In the case of a notice or communication to Developer, addressed as follows:

Palindrome Properties Group, LLC
412 NW 5th Ave., Suite 200
Portland, OR 97209
Attn: Robert Gibson

In the case of a notice or communication to Prosper Portland, addressed as follows:

Prosper Portland
Attn: Windol Cador
220 NW Second Avenue, Suite 200
Portland, OR 97209

with a copy to:
Prosper Portland
Attn: General Counsel
220 NW Second Avenue, Suite 200
Portland, OR 97209

or addressed in such other way in respect to either Party as that Party may, from time to time, designate in writing dispatched as provided in this section. Notice given in any other manner will be effective upon receipt by the Party for whom the same is intended.

10.2 **Covenants Run with the Land.** This Agreement runs with the land as to all property benefited and burdened thereby, including any partition or division of such property. The rights, covenants, and obligations contained in this Agreement bind, burden, and benefit Prosper Portland and Developer and their respective successors, assigns, lessees, mortgagees, and beneficiaries under any deeds of trust, subject to the terms and conditions of this Agreement regarding Transfers.

10.3 **No Waiver.** No waiver made by either party with respect to the performance, or manner or time thereof, of any obligation of the other party or any condition inuring to its benefit under this Agreement will be considered a waiver of any other rights of the party making the waiver. No waiver by Prosper Portland or Developer of any provision of this Agreement or any breach thereof, will be of any force or effect unless in writing and no such waiver will be construed to be a continuing waiver.

10.4 **Joint and Several.** If the term “Developer” includes more than one individual or entity, then the obligations of Developer under this Agreement are joint and several as to all such individuals or entities.

10.5 **Compliance with Law.** The Parties agree to comply promptly and fully with (a) all laws, ordinances, notices, orders, rules, regulations, and requirements of all federal, state, and municipal governments and all departments, commissions, boards, and officers thereof (collectively, “**Legal Requirements**”) in all cases in which such Legal Requirements relate to any or all of the Property, or the use or manner of use thereof, whether any of the foregoing are foreseen or unforeseen, or are ordinary or extraordinary.

10.6 **Merger.** None of the provisions of this Agreement are intended to or will be merged by reason of any deed transferring title to the Property, and such transfer will not be deemed to affect or impair the provisions and covenants of this Agreement, but will be deemed made pursuant to this Agreement. The provisions of this Agreement intended by their terms or their nature to survive Closing will not be merged into the Deed transferring title the Property from Prosper Portland to Developer.

10.7 **Headings.** Titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.

10.8 **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed to be an original, and such counterparts, when taken together, will constitute one and the same instrument. Electronic signatures will be valid for all purposes. However, upon request and within a reasonable time period, a party will deliver an original signature to the other party.

10.9 **Attorneys' Fees.** If a suit, action, arbitration, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party will be entitled to recover from the losing or Defaulting party its reasonable attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge at trial or on any appeal in addition to all other amounts provided by law. This provision will cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts, including those related to issues unique to bankruptcy law.

10.10 **Governing Law; Venue; Consent to Jurisdiction.** This Agreement will be governed by Oregon law, without regard to principles of conflicts of law. Any action or suit to enforce or construe any provision of this Agreement by any Party must be brought in the Circuit Court of the State of Oregon for Multnomah County or, if the action or suit must be brought in a federal forum, the United States District Court for the District of Oregon in Portland, Oregon. Each Party, by execution of this Agreement, hereby consents to the *in personam* jurisdiction of said courts.

10.11 **Calculation of Time.** All periods of time referred to herein will include Saturdays, Sundays, and legal holidays in the state of Oregon, except that if the last day of any period falls on any Saturday, Sunday or legal holiday, the period will be extended to include the next day which is not a Saturday, Sunday or legal holiday. Business days refers to all days except Saturdays, Sundays, and legal holidays in the state of Oregon and the City of Portland.

10.12 **Time of Essence.** Time is of the essence of this Agreement.

10.13 **Construction.** In construing this Agreement, singular pronouns will be taken to mean and include the plural. "Including" means "including without limitation." "Will" and "shall" are synonymous and mean mandatory and imperative.

10.14 **Severability.** If any term of this Agreement is held to be illegal, invalid or unenforceable, it will not affect the remainder of this Agreement, which will be construed as if the illegal, invalid, or unenforceable term had never been contained in this Agreement. Notwithstanding the foregoing, if an essential purpose of this Agreement would be defeated by the loss of the illegal, invalid, or unenforceable term, then the Parties will seek in good faith to agree on replacing the removed term or condition with a valid provision that will most nearly and fairly approach the effect of the removed term and the intent of the Parties in entering into this Agreement. If the Parties cannot reach agreement on a replacement for the

illegal, invalid, or unenforceable provision, the Agreement will terminate upon written notice delivered by one party to the other.

10.15 Incorporation; Entire Agreement. The exhibits attached to this Agreement are incorporated into and made a part of this Agreement. This Agreement and the exhibits attached hereto are the entire agreement between the Parties regarding the disposition and development of the Property. There is no other oral or written agreement between the Parties regarding its subject matter. There are no oral or written representations or warranties made by either party, implied or express, other than those contained in this Agreement.

10.16 Amendments and Modifications. Any modifications to this Agreement must be made in writing and executed by both Parties, with the approval of the Board, if required. Notwithstanding this general requirement, the Prosper Portland Executive Director may approve minor modifications to this Agreement without Board approval. Changes to the Project Schedule that do not exceed 90 days are considered minor modifications. Any modifications to this Agreement made without the approval of the Board must include an acknowledgement by Prosper Portland’s General Counsel that such approval is not necessary.

10.17 Successors and Assigns; Limitation on Transfer by Developer. Subject to the limitations of this Agreement including in this Section 10.17, the benefits conferred by this Agreement, and the obligations assumed hereunder, will inure to the benefit of and bind the successors and permitted assigns of the Parties. Developer may not, prior to Developer taking title to the Property, Transfer this Agreement without the prior written consent of Prosper Portland, not to be unreasonably withheld, conditioned, or delayed.

10.17.1 **“Transfer”** means (a) to make, permit, or attempt any voluntary or involuntary total or partial sale, lease, assignment, conveyance, mortgage, pledge, encumbrance, or other transfer of this Agreement or any of the rights, interests, or obligations either under this Agreement or in all or any portion of the Property; or (b) a Change in Control.

10.17.2 **“Change in Control”** means any transfer, sale, pledge, encumbrance, or other disposition, in any single transaction or cumulatively, of Control of Developer through any or all of the following actions, if, as the result of such action, one or more persons who are not in control of Developer on the Effective Date acquire such Control: (a) the transfer, sale, pledge, encumbrance or other disposition of interests in Developer existing as of the Effective Date, either by Developer or by any of the owners of interests in Developer as of the Effective Date; (b) the creation of new ownership interests in Developer; or (c) the surrender or liquidation of ownership interests in Developer.

10.17.3 **“Control”** means the control of more than fifty percent (50%) in the aggregate of any and all of those interests in Developer that entitle the controller thereof to participate in its management. Following a Transfer permitted by this Section 10.17, the “Effective Date” for purposes of Section 10.17 will be deemed to mean the effective date of such permitted Transfer for purposes of assessing whether there has been a Change in Control of such transferee.

10.18 No Partnership. Nothing contained in this Agreement, and no acts of the Parties hereto, will be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between the Parties other than that of independent contracting parties.

10.19 Non-waiver of Government Rights. Except as may be expressly set forth in this Agreement, Prosper Portland is specifically not, whether by making this Agreement, by performing any action, or by exercising any right, obligating itself, the City, or any other agency with respect to any discretionary action relating to the Property, including, but not limited to, rezoning, variances, environmental clearances, or any other governmental approvals which are or may be sought or required.

10.20 Limitation on Damages. Notwithstanding anything to the contrary that may be contained in this Agreement, in no event will Prosper Portland or Developer be obligated to pay special, incidental, or consequential damages for any purposes or in any circumstance under or in relation to this Agreement, each of which is hereby waived by the Parties. For the avoidance of doubt, the foregoing waiver includes without limitation any lost opportunities, profits, or losses.

10.21 No Third-Party Beneficiary Rights. No person not a Party to this Agreement is an intended beneficiary of this Agreement, and no person not a Party to this Agreement will have any right to enforce any term of this Agreement.

10.22 Confidentiality/Public Records. Developer understands that Prosper Portland is a public entity subject to the Oregon Public Records Law, government audit requirements, and public review and oversight. Records of Prosper Portland may be required to be disclosed publicly unless exempted. Exemptions are few, narrowly tailored and often conditional. Prosper Portland will not voluntarily disclose confidential material to private third parties. Developer may inform Prosper Portland of the written materials it provides Prosper Portland that Developer considers confidential. However, such confidentiality will not guarantee that such material will not be subject to a public records request and subsequent disclosure. Prosper Portland will inform Developer of any and all public records request that would involve material received from Developer related to the transaction contemplated by this Agreement, so that Developer may participate in seeking any available legal protection of the material. If Prosper Portland receives a public records request for material that is considered confidential, Prosper Portland will notify Developer in writing before complying with such request and will provide Developer with a reasonable time within the statutorily-prescribed time period for public records responses, to assert to Prosper Portland and discuss with Prosper Portland's counsel legal arguments as to whether such records fall within an exemption to the Public Records Act. Prosper Portland will work cooperatively with Developer to protect confidential information to the extent that Prosper Portland reasonably believes an exemption to the Public Records Act applies. Confidential information does not include material, data or information that (a) was known to Prosper Portland prior to its receipt thereof from Developer, (b) is generally available to the public or that has been obtained from a third party having the right to disclose the same, or (c) is independently developed by or on behalf of a Party without reference to any materials or information received from the other Party. Developer will maintain and retain all books, documents, papers, plans, records, electronic or otherwise necessary to document Developer's performance and compliance with all requirements imposed on Developer under the terms of this Agreement for six years following termination of this Agreement, or if Closing occurs, six years following completion of the Project. Developer must maintain fiscal records in accordance with generally accepted accounting principles. Prosper Portland may inspect, examine or audit the such records at any time during the six-year period, upon reasonable notice. If the original records are located outside the boundaries of the greater Portland region or upon Prosper Portland's request, Developer will provide Prosper Portland with copies of the records Prosper Portland wishes to inspect.

10.23 STATUTORY WARNING. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS

30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Signatures follow on next page.

IN WITNESS WHEREOF, this Agreement is executed in multiple counterparts as of the Effective Date.

CITY OF PORTLAND, a municipal corporation in the State of Oregon, acting by and through **PROSPER PORTLAND**, the economic development and urban renewal agency of the City of Portland

By: _____
Kimberly Branam, Executive Director

APPROVED AS TO FORM:

Prosper Portland Legal Counsel

PALINDROME PROPERTIES GROUP, LLC,
a Nevada limited liability company

By: _____
Name: _____
Title: _____

Exhibit A: Legal Description of the Land

Exhibit B: Environmental Reports

Exhibit C: Due Diligence Documents

Exhibit D: Form of Revocable Permit of Entry

Exhibit E-1, E-2, E-3: Prosper Portland Policies

Exhibit F: Form of Memorandum of Agreement

Exhibit A

Legal Description of the Land

PARCEL I:

Lot 12, Block 1, BERNHARDT PARK, in the City of Portland, Multnomah County, Oregon.

PARCEL II:

Lot 13, Block 1, BERNHARDT PARK, in the City of Portland, Multnomah County, Oregon, EXCEPT the Southwesterly 4 feet conveyed to the State of Oregon, by and through its State Highway Commission by Deed recorded August 8, 1972 in Book 874, Page 749, Deed Records.

Subject to all easements, covenants, restrictions, conditions, and all encumbrances of record.

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Exhibit B

Environmental Reports

Final Phase I Environmental Site Assessment, Architectural Ironworks, 9231 & 9311 SE Foster Road, Portland, OR 97266 (URS - October 22, 2008)

Final Phase II Environmental Site Assessment, Architectural Ironworks, 9231 & 9311 SE Foster Road, Portland, OR 97266 (URS - October 22, 2008)

Hazardous Materials Assessment for Maintenance/Renovation, Architectural Iron Products, 9231 SE Foster Road, Portland, OR 97266 (NetCompliance Environmental Services, LLC - September 23, 2008; report transmittal cover page, Landau Associates, October 31, 2008)

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Exhibit C

Due Diligence Documents

[To be compiled, if any]

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Exhibit D



REVOCABLE PERMIT OF ENTRY
[Private Entity - Pre-Acquisition Due Diligence]

THIS REVOCABLE PERMIT OF ENTRY, (this “**Permit**”) is hereby granted by **Prosper Portland** to **PALINDROME PROPERTIES GROUP, LLC**, a Nevada limited liability company (the “**Developer**”), pursuant to that certain Disposition and Development Agreement dated January 15, 2024 between Prosper Portland and Developer (the “**Agreement**”), for the temporary use of certain Prosper Portland owned Property (as hereinafter defined) for the purpose of performing intermittent due diligence activities subject to the following terms and conditions:

Section 1. Location, Activities, and Maintenance of Property.

1.1 Prosper Portland hereby grants to Developer a temporary, revocable license to enter intermittently upon and use that certain real property defined in the Agreement as the “**Land**” and legally described on Exhibit A to the Agreement. Developer, its contractors, and subcontractors will be granted intermittent access to the Property for the purpose of performing non-invasive pre-acquisition due diligence activities consisting of completing a boundary and/or ALTA survey, conducting site tours for prospective lessees, lenders, and investors, and other activities on site as deemed necessary to complete site acquisition due diligence and design activities and for no other purpose.

1.2 Developer shall repair any damage to existing improvements, including landscaping and sidewalks, resulting from its use of the Property, excluding the mere discovery of conditions on the Property. Developer shall not undertake any invasive investigations, including environmental borings, samplings, or excavation, without first obtaining Prosper Portland’s written approval. Prosper Portland’s written approval may be conditioned on Developer and its contractors providing detailed descriptions of the proposed on-site activities and the protective measures to be undertaken and/or the amendment of Section 6 of this Permit to add special conditions related to the proposed activity. Prosper Portland may also require Developer’s contractor to sign this Agreement, obligating them to comply with the conditions herein. In the event that Developer performs invasive investigations, Developer shall be responsible for removal of any debris and any and all repairs required to restore the structural integrity of the Property to

the extent damaged by such invasive investigations and environmental mitigation of any disturbed materials requiring mitigation solely as a result of such invasive investigations.

1.3 Developer's use of and entry upon the Property shall be without out-of-pocket expense of any kind whatsoever to Prosper Portland. Should Prosper Portland incur out-of-pocket costs as a result of Developer's temporary use of the Property, Developer shall reimburse Prosper Portland promptly upon the presentation of billing and reasonable documentation of such expense.

1.4 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. Insurance and Indemnification.

- 2.1 Developer must obtain, maintain, and keep during the Term (as hereinafter defined) of this Permit commercial general liability insurance written on an "occurrence" basis. Such insurance shall be in the amount of not less than \$1,000,000.00 combined single limit for liability with a \$2,000,000.00 aggregate insuring bodily and/or personal injury, including death and disease, and property damages. Developer's insurance shall be primary insurance and any insurance or self-insurance maintained by Prosper Portland and/or the City shall not contribute to it.
- 2.2 Developer must prior to its entry on or use of the Property provide to Prosper Portland a Certificate of Insurance evidencing the insurance required in Section 2.1 of this Permit and containing an endorsement specifically naming the City of Portland, the Portland Development Commission, Prosper Portland, its commissioners, officers, agents, and employees as additional insureds. Endorsement CG 20 10 11 85, or its equivalent, must be attached to certificate.
- 2.3 Developer must indemnify, hold harmless, and, at Prosper Portland's request, defend Prosper Portland and the City of Portland and each of their respective 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 Developer's entry and activities on the Property, provided, however, that nothing herein shall be construed to require indemnification of Prosper Portland for liability attributable to Prosper Portland's sole negligence or willful misconduct or for the mere discovery of an adverse condition.
- 2.4 Developer is solely responsible for any theft, damage, or destruction to any materials, equipment, or any other property of Developer, or anyone acting on behalf of Developer in connection with or incidental to this Permit.

Section 3. Restrictions on Use and Hazardous Substances.

- 3.1 Developer must, in its use and entry upon the Property, observe all rules, regulations, and laws now in effect by any municipality, county, state or federal authority having jurisdiction over the Property, as they relate to the use of the Property. Developer is solely responsible for obtaining any permits or approvals from other agencies or licensing bodies as may be necessary for Developer's authorized entry upon and use of the Property. Furthermore, Developer agrees to indemnify Prosper Portland as provided above for any damages caused by the violation of any permits or approvals that may so be required.

- 3.2 Use of explosives or highly flammable material is not permitted without prior written authorization from Prosper Portland. **(Insurance limits may be increased dependent upon Prosper Portland permission of this use).**
- 3.3 Developer shall not have the right to use the electricity, gas, water, sewer, and other utilities on the Property unless otherwise specified in Section 6 below.
- 3.4 Developer shall not cause 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).
- 3.5 Developer shall not cause 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 except as may specifically detailed in Section 6 below. Hazardous Substances are substances regulated under any environmental law or regulation now or hereafter enacted by any governmental federal, state, or local authority. Furthermore, Developer agrees to indemnify Prosper Portland as provided above for any damages caused by the violation thereof of any permits or approvals that may otherwise be required. Notwithstanding the foregoing or anything else to the contrary in this Agreement, in no event shall Developer have any liability or responsibility hereunder as a result 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 except to the extent arising from Developer's activities on the Property.

Section 4. Processing Fee, Use Fee, and Term.

- 4.1 Developer will not be required to pay to Prosper Portland any permit processing fee, use fee, or security deposit.
- 4.2 This Permit will commence on the date of execution of this permit and will end on the Closing Date (as defined in the Agreement) unless earlier terminated or extended in writing by Prosper Portland (the "**Term**").
- 4.3 Developer's rights under this Permit will be personal to Developer and are not transferable or assignable to any other party or entity unless otherwise approved in writing by Prosper Portland.

Section 5. Termination, Notice, and Amendments.

- 5.1 All communications related to permission to access to the Property should be directed to Ember Breckenridge at breckenridgee@prosperportland.us. All communications concerning approval under Section 1.3 for invasive environmental testing or investigation should be directed to Colin Polk at polkc@prosperportland.us. All other communications and notices made to a Party pursuant or related to this Permit must be made in the manner provided in the Agreement.
- 5.2 The Parties agree that any amendments to this Permit must be made in writing, and become effective upon execution by both Parties.

Section 6. Special Conditions.

- 6.1 Any work Developer performs pursuant to this Permit shall be for the sole benefit of the Developer and shall be without out-of-pocket expense to Prosper Portland.

6.2 Developer will provide to Prosper Portland an approximate schedule of site visits so other tenants can be notified.

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

CITY OF PORTLAND, a municipal corporation in the State of Oregon, acting by and through **PROSPER PORTLAND**, the economic development and urban renewal agency of the City of Portland

By: _____
Kimberly Branam, Executive Director

APPROVED AS TO FORM:

Prosper Portland Legal Counsel

PALINDROME PROPERTIES GROUP, LLC,
a Nevada limited liability company

By: _____

Name: _____

Title: _____

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EXHIBIT E-1

[Business Equity Program Specifications]

[To Be Attached]

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EXHIBIT E-2

[Workforce Training and Hiring Program Specifications]

[To Be Attached]

DRAFT

EXHIBIT E-3

[Green Building Policy]

[To Be Attached]

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EXHIBIT F

FORM OF MEMORANDUM OF AGREEMENT

After recording return to:

Prosper Portland
Attn. Karen L. Harris
220 NW Second Avenue, Suite 200
Portland, OR 97209

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY (“**Memorandum**”) will serve as notice to all persons that Prosper Portland, with an address of 222 NW Second Avenue, Portland, Oregon 97209, and PALINDROME PROPERTIES GROUP, LLC, a Nevada limited liability company (“**Developer**”), with an address of [REDACTED], entered into an Agreement for Disposition and Development of Property in the Lents Town Center Urban Renewal Area, effective as of [REDACTED], 2024 (as may be amended or modified from time to time, the “**Agreement**”) relating to the real property legally described on Schedule 1 to this Memorandum attached hereto and incorporated by this reference (the “**Property**”).

Among other things, the Agreement requires Prosper Portland to convey the Property to Developer upon the satisfaction of certain conditions precedent and requires Developer to construct improvements on the Property, all as more particularly set forth in the Agreement.

Prosper Portland and Developer execute this Memorandum to acknowledge being bound by the Agreement and to give notice of the Agreement to third parties.

This Memorandum is for informational purposes only and nothing contained herein will be deemed to in any way modify or otherwise affect any of the terms and conditions of the Agreement, the terms of which are incorporated herein by reference. This Memorandum is merely a memorandum of the Agreement and is subject to all of the terms, provisions and conditions of the Agreement. In the event of any inconsistency between the terms of the Agreement and this Memorandum, the terms of the Agreement will prevail.

[Signatures and acknowledgements on next page]

PROSPER PORTLAND, the economic development and urban renewal agency of the City of Portland

PALINDROME PROPERTIES GROUP, LLC, a Nevada limited liability company

By: _____
Kimberly Branam, Executive Director

By: _____

Name: _____

Title: _____

Approved as to Form:

Prosper Portland Legal Counsel

STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me on _____, 2024, by Kimberly Branam, as Executive Director of PROSPER PORTLAND, the economic development and urban renewal agency for the City of Portland, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me on _____, 2024, by _____, as _____ of PALINDROME PROPERTIES GROUP, LLC, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

Schedule 1 to Memorandum of Agreement

PARCEL I:

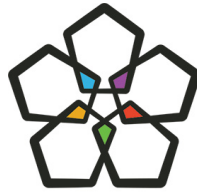
Lot 12, Block 1, BERNHARDT PARK, in the City of Portland, Multnomah County, Oregon.

PARCEL II:

Lot 13, Block 1, BERNHARDT PARK, in the City of Portland, Multnomah County, Oregon, EXCEPT the Southwesterly 4 feet conveyed to the State of Oregon, by and through its State Highway Commission by Deed recorded August 8, 1972 in Book 874, Page 749, Deed Records.

Subject to all easements, covenants, restrictions, conditions, and all encumbrances of record.

DRAFT



**PROSPER
PORTLAND**
Building an Equitable Economy

RESOLUTION NO. 7526

RESOLUTION TITLE:

AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT TO CONVEY APPROXIMATELY 33,071 SQUARE FEET OF PROSPER PORTLAND-OWNED PROPERTY IN THE LENTS TOWN CENTER TAX INCREMENT FINANCE DISTRICT


Adopted by the Prosper Portland Commission on March 13, 2024

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 type="checkbox"/>	Commissioner Marcelino J. Alvarez	<input 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 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 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.

	<p>Date:</p> <p>March 18, 2024</p>
<p>Pam Feigenbutz, Recording Secretary</p>	