

Multnomah County Official Records
E Murray, Deputy Clerk

2019-056806



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CITY OF PORTLAND
Office of the City Auditor
1221 SW Fourth Avenue, Room 130
Portland, OR 97204

I hereby certify this Ordinance No. 189319 to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on February 12, 2019.

Mary Hull Caballero
Auditor of the City of Portland
By 
Deputy

ORDINANCE No. 189319

Vacate N Hunt St east of N Argyle Wy subject to certain conditions and reservations
(Hearing; Ordinance; VAC-10121)

The City of Portland ordains:

Section 1. The Council finds:

1. In accordance with ORS 271.130 (Vacation on Council's own motion), the City of Portland ("City") through Portland Development Commission, also known as Prosper Portland, initiated the vacation of N Hunt Street east of N Argyle Way (the "Street Area") on November 17, 2017. For purposes of this street vacation ordinance (this "Ordinance"), the Petitioner is defined as Prosper Portland or its successors and assigns.
2. City, by and through Prosper Portland, owns property abutting the southerly side of Street Area and is planning to sell the property to Transition Projects, Inc. ("TPI") at the end of the year. Once funding has been secured, an affordable housing project (the "Project") is expected to be constructed and the Street Area will be needed for the Project.
3. Ferguson Enterprises, Inc. ("Ferguson") owns property abutting the Street Area to the north. In anticipation of the Project, Ferguson has conveyed its underlying fee interest in the Street Area to TPI in Document No. 2018-024568 recorded March 6, 2018, Multnomah County Deed Records.
4. The vacation is in conformance with the City's Comprehensive Plan and is consistent with recommendations made by the Director of the Bureau of Transportation ("PBOT") and Planning and Sustainability Commission, as provided in the Bureau Director's Report, dated August 13, 2018 and on file with the Office of the City Auditor (the "Auditor") and PBOT.
5. In accordance with ORS 271.100, the Portland City Council (the "Council") fixed a time and place for public hearing before the Council; the Auditor published notice thereof and posted notice in the areas proposed for vacation.
6. In accordance with ORS 271.190, since the area to be vacated lies within 5,000 feet of the harbor line, approval in writing of the proposed vacation has been secured from the Port of Portland.
7. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing, finds no objections were made or filed hereto, and it is in the public interest to vacate the Street Area.

NOW, THEREFORE, the Council directs:

- a. The Street Area, more particularly described in Book 1831, Page 1301, recorded June 19, 1985, and Book 642, Page 1342, recorded September 30, 1968, Multnomah County Deed Records and depicted on **Exhibit A** as attached and incorporated by reference, is hereby vacated.
- b. The vacation of the above-described Street Area is granted subject to the following conditions:
 1. The Petitioner will permanently close the intersection of N Hunt Street and pay all costs for constructing a curb and sidewalk or driveway, in accordance with the requirements of the City Engineer.
 - i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, a *Performance Guarantee. The Petitioner acknowledges that the Performance Guarantee indicated is a preliminary estimate subject to change and agrees to provide additional guarantee and/or fees as required by the City Engineer.
**the Petitioner will need to apply for a public works permit in order to provide the City with a Performance Guarantee.*
 - ii) The Petitioner agrees to authorize the City to complete the required street improvements at the Petitioner's cost, whether by using the Performance Guarantee or by other means of payment, in the event that the City Engineer, at his sole discretion, determines that the improvements are not being made as required in a reasonable time.
 - iii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.
 2. The Petitioner is required to complete the 30% Concept Review phase of the Publics Works process. Bonding or contract must be completed prior to recording of this Ordinance.
 3. The Petitioner will complete a Type 1x Lot Consolidation for all platted lots losing street frontage as a result of the vacation as required by the Bureau of Development Services.
 4. TPI is the underlying fee owner of a portion of Street Area. A sewer easement is needed for future storm water facilities within said portion; therefore, TPI will grant a Sewer Easement to the City, in substantially the same form as attached **Exhibit B** and incorporated by reference. Said easement will be recorded concurrently with this Ordinance.
 5. In accordance with ORS 271.120 and City policy, this Ordinance, shall not cause or require the removal or abandonment of any sewer, water or gas main,

conduit of any kind, wire, pole or thing used, or intended to be used, for any public service. Subject to Paragraph 7 below, this Ordinance will reserve an easement for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge any and all such thing; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the centerline of any such utility, except with the prior written consent of the City Engineer and the owner of the utility and that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and to the Director of the Bureau of Development Services, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum of danger or inconvenience to the public and to the owner of such utility and to protect and preserve the same as presently constructed or hereinafter reconstructed, renewed, replaced and/or enlarged. Removal or relocation of existing utilities in the street vacation area will require written agreements between the Petitioner and owner(s) of the utilities.

6. Notwithstanding Condition 5 and except for Condition 4, this Ordinance will serve as a full release of City interests in the Street Area and will provide City Bureaus with the authority necessary to take all other legal actions as may be reasonably necessary (including the issuance of quitclaim deeds acknowledging the release of any interests) to achieve this intent.
7. If any property, encumbered by an easement reserved in this Ordinance, is ever rededicated as public right-of-way, that portion of the easement located in the rededicated right-of-way shall automatically be terminated.
8. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
9. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, Council may repeal this Ordinance at its sole discretion.

Section 2. Petitioner shall file with the Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of this Ordinance.

Section 3. Notice is given that the street vacation will not be effective until a certified copy of this Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording this Ordinance are that 30 days have passed after final Council passage of this Ordinance, that all conditions of this Ordinance have been met, and that all vacation costs have been paid.

Section 4. After the prerequisites to recording this Ordinance have been met, the Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-

Way Acquisition ("RWA") Section, PBOT, which shall, at the expense of the Petitioner, file with the recorder, the assessor, and the surveyor of the county in which said property is located, the certified copy of this Ordinance and the acceptance, and any map, plat or other record which may be required by law. The RWA Section shall return a copy of the recorded ordinance to the Auditor and retain the original recorded ordinance in RWA File No. 8471.

Passed by the Council, DEC 19 2018

Commissioner Chloe Eudaly
Prepared by: Dee A. Walker:CB
Date Prepared: 11/9/2018

Mary Hull Caballero
Auditor of the City of Portland
By


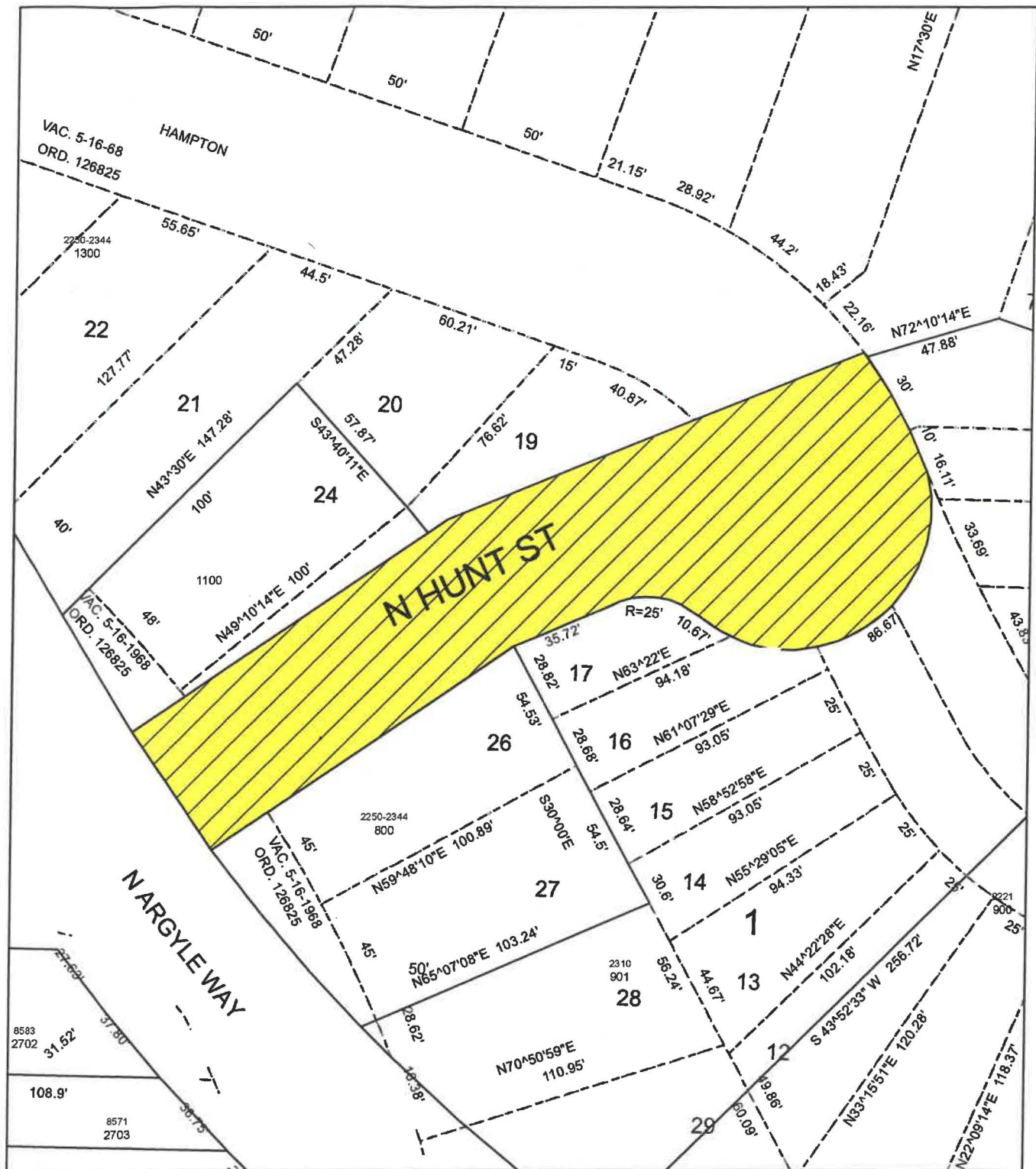

Deputy

EXHIBIT A



N HUNT ST EAST OF N ARGYLE WAY

Petitioner: City of Portland

Section: 1N1E09AC



Area herein vacated



1 in = 50 ft

EXHIBIT B

Grantor's Name & Address:

Transition Projects, Inc.
665 NW Hoyt Street
Portland, OR 97209

SEWER EASEMENT

Transition Projects, Inc. ("Grantor"), for good and valuable non-monetary consideration, the receipt whereof is hereby acknowledged, hereby grants unto the City of Portland ("Grantee"), a municipal corporation of the State of Oregon a perpetual easement ("this Easement") for the purpose of laying down, constructing, reconstructing, operating, inspecting, monitoring and maintaining a sewer or sewers and appurtenances (the "Facilities"), through, under, over and along the following described parcel ("the Easement Area"):

As described on Exhibit A and depicted on Exhibit B attached and incorporated by reference.
(*Exhibits not attached and will be provided by Grantor and approved by BES*)

Contains * square feet, more or less.

IT IS UNDERSTOOD and agreed that:

- A. Grantee will reasonably endeavor to minimize impacts to existing structures and surfaces. Grantee will restore areas disturbed by Grantee or Grantee's contractor to a condition that, in the reasonable judgment of Grantee, is as good as the condition that existed before the work began, except as to permanent changes made necessary by and authorized under this Easement. The area of repair or replacement will be limited to the area of damage, may have appearance variations due to age or weathering, and does not include any portion of the public right-of-way, as defined by Grantee.
- B. No other utilities, buildings, facilities, easements, material storage, grade changes or tree planting will be allowed within the Easement Area without the prior written consent of the Director of the Bureau of Environmental Services. Landscaping which by its nature is shallow-rooted and may be easily removed to permit access to the sewer lines and facilities authorized by this Easement shall not require consent.

R/W #*

BES #*

* TL *

After Recording Return to:

Dee A. Walker, City of Portland

1120 SW 5th Avenue, Suite 800

Portland, OR 97204

Tax Statement shall be sent to: No Change

- C. This Easement includes a right of access for Grantee and its contractors and agents for construction, inspection, maintenance, and other sewerage system activities.
- D. Grantor reserves all other rights not conveyed herein, but will not exercise said rights in any manner that would be inconsistent or interfere with or materially affect the rights herein granted.
- E. Grantee may separately agree in writing to release this Easement should another location in which to locate the Facilities be acceptable to the Director of the Bureau of Environmental Services. In such case, Grantee will simultaneously provide Grantor a quitclaim deed releasing Grantor's interest in this Easement, and, if necessary, in the reasonable judgment of Grantee, a new easement protecting and providing access to the Facilities to the same extent as provided in this Easement. Grantee will pay the approved administrative costs associated with processing and recording the quitclaim deed and the new easement.
- F. This Easement shall bind the heirs and assigns of Grantor and shall inure to the benefit of the successors in title of Grantee.
- G. Grantor represents and warrants that it has the authority to grant this Easement, that the Easement Area is free from all liens and encumbrances that would materially affect the easement grant, and that it will defend the same to Grantee against the lawful claims and demands of all persons whomsoever.
- H. Grantor agrees that the consideration recited herein is just compensation for the Easement Area or property rights conveyed, which includes damage to the property remainder, if any, resulting from the acquisition or use of said Easement Area or property rights.
- I. Grantor represents that to the best of its knowledge, after appropriate inquiry under the circumstances, the Easement Area is in compliance with all local, State and Federal environmental laws and regulations.
- J. Grantor represents that it has disclosed all knowledge of any release of hazardous substances onto or from the Easement Area and disclosed any known report, investigation, survey or environmental assessment that may provide information relevant to the Easement Area. "Release" and "hazardous substance" shall have the meaning as defined under Oregon law.
- K. Grantor warrants that there are no underground storage tanks, as defined under Oregon law, presently on or under the Easement Area.
- L. Grantee, by accepting this Easement, is not accepting liability for any preexisting release of hazardous substances onto or from the Easement Area, and Grantor is not attempting to convey any such liability.

IN WITNESS WHEREOF, Transition Projects, Inc., pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by _____ as President and _____ as Secretary, this _____ day of _____, 20__.

TRANSITION PROJECTS, INC., AN OREGON CORPORATION

By: _____
President

By: _____
Secretary

STATE OF _____

County of _____

This instrument was acknowledged before me on _____, 20__, by _____ as President, and _____ as Secretary, of Transition Projects, Inc., an Oregon corporation.

Notary Public for (state) _____
My Commission expires _____

APPROVED AS TO FORM:

City Attorney

APPROVED:

Bureau of Environmental Services Director
or designee

Date


ACCEPTANCE

Auditor of the City of Portland
City Hall Room 130
1221 SW 4th Avenue
Portland, Oregon 97204

This is to advise the City of Portland, Oregon that Transition Projects, Inc. hereby accepts the terms and provisions of Ordinance No. 189319, passed by the Portland City Council on December 19, 2018, **Vacate N Hunt St east of N Argyle Wy subject to certain conditions and reservations; VAC-10121**, and in consideration of the benefits received thereunder Transition Projects, Inc. hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.

January 19, 2019

Date

 , Executive Director

(Signature and Title)

George Devendorf

(Printed Name)

Transition Projects, Inc.
665 NW Hoyt St
Portland, Oregon 97209

Approved as to form:

APPROVED AS TO FORM

City Attorney


CITY ATTORNEY

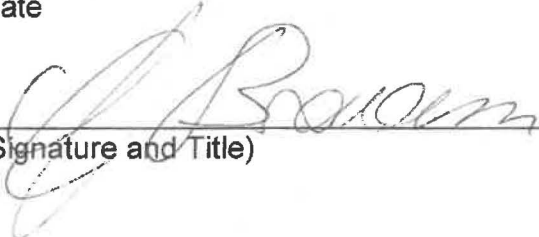
67 2/8/19

ACCEPTANCE

Auditor of the City of Portland
City Hall Room 130
1221 SW 4th Avenue
Portland, Oregon 97204

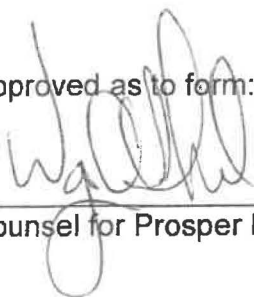
This is to advise the City of Portland, Oregon that Prosper Portland hereby accepts the terms and provisions of Ordinance No. 189319, passed by the Portland City Council on December 19, 2018, **Vacate N Hunt St east of N Argyle Wy subject to certain conditions and reservations; VAC-10121**, and in consideration of the benefits received thereunder Prosper Portland hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.

1.22.19
Date


(Signature and Title)

Kimberly Branam, Executive Director
(Printed Name)

Prosper Portland
222 NW 5th Avenue
Portland, OR 97209

Approved as to form:

Counsel for Prosper Portland

APPROVED AS TO FORM


CITY ATTORNEY 2/8/19

ACCEPTANCE

Auditor of the City of Portland
City Hall Room 130
1221 SW 4th Avenue
Portland, Oregon 97204

This is to advise the City of Portland, Oregon that Ferguson Enterprises Inc hereby accepts the terms and provisions of Ordinance No. 189319, passed by the Portland City Council on December 19, 2018, **Vacate N Hunt St east of N Argyle Wy subject to certain conditions and reservations; VAC-10121**, and in consideration of the benefits received thereunder Ferguson Enterprises Inc hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.

January 28, 2019
Date

Stewart R. Adcox, Deputy General Counsel
(Signature and Title)

Stewart R. Adcox
(Printed Name)

Ferguson Enterprises Inc
12500 Jefferson Ave
Newport News, VA 23602

Approved as to form:

APPROVED AS TO FORM

Mary Ann [Signature]
City Attorney
CITY ATTORNEY 2/8/19