

2024-010452

Klamath County, Oregon

12/03/2024 02:13:02 PM

Fee: \$122.00

After Recording Return To:
Davis Wright Tremaine LLP
560 SW 10th Avenue, Suite 700
Portland, OR 97205
Attn: Michael Karas

ACCESS AND UTILITIES EASEMENT

THIS ACCESS AND UTILITIES EASEMENT (this “**Agreement**”) is made and entered into as of December 3, 2024, by and between GreenPark Infrastructure (OR), LLC, a Delaware limited liability company (“**Grantee**”), and Donald Rajnus and Sharon Rajnus (collectively, “**Grantor**”).

RECITALS

A. Grantor owns certain real property located in Klamath County, Oregon, legally described on Exhibit A attached hereto (“**Grantor’s Property**”).

B. Grantee owns certain real property located in Klamath County, Oregon, legally described on Exhibit B attached hereto (“**Grantee’s Property**”). Grantor’s Property abuts Grantee’s Property.

C. By virtue of that Land Partition 33-24 dated November 12, 2024, and recorded November 14, 2024 as Recording No. 2024-9909 in the Official Records of Klamath County, Oregon (“**Plat**”), Grantor dedicated that certain private non-exclusive 103.5' X 104' access and utilities easement (“**Easement**”) over and across a portion of Grantor’s Property for the benefit of Grantee’s Property, as legally described on the attached Exhibit C and depicted on Exhibit D (“**Easement Area**”).

D. The parties desire to establish and clarify certain rights and responsibilities under the Easement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and hereby incorporated by reference.
2. **Establishment of Easement.** Grantor hereby reaffirms and ratifies the Easement created for the benefit of Grantee’s Property under the Plat over, under and across the Easement Area, for use by Grantee and its Permitted Users (as defined below) for the construction, access, maintenance, repair, replacement, and use of roads, utility lines and facilities, including without limitation, above and belowground power lines and poles, sewer, water, and stormwater drainage facilities, and appurtenances thereto (collectively, “**Grantee’s Facilities**”). “**Permitted Users**” shall mean the referenced party’s successors, assigns, agents, employees, contractors, tenants, licensees, and invitees.
3. **Maintenance.** Except as provided for in Section 4, Grantee shall be solely responsible for maintenance and repair of the Easement Area and Grantee’s Facilities.

4. **Damage.** Notwithstanding anything in this Agreement to the contrary, each party shall be responsible for and shall pay the costs of repair and correction of any specific damage to the Easement Area or Grantee's Facilities it or its Permitted User caused. In the event Grantor or its Permitted User caused the damage and does not cure or begin to cure such damage within ten (10) days after receipt of notice from Grantee, then Grantee shall have the right, but not the obligation, to cure such failure, for the account of and at the expense of Grantor and Grantor shall reimburse Grantee within ten (10) days of Grantee's demand.

5. **Benefits and Burdens.** The benefits and burdens of the Easement are appurtenant to the Grantee Property and burden the Grantor Property and are intended to attach to and run with the land described herein and each parties' respective successors and assigns. No part of this Agreement shall be construed as creating any rights in the general public, nor shall any part be deemed to be a gift or dedication for public use of any portion of the properties described in this Agreement.

6. **Reservation.** Grantor retains the right to use for Grantor's own purposes the Easement Area so long as such use does not unreasonably interfere with Grantee's use of the Easement Area and other rights herein granted, in Grantee's sole opinion and discretion. For clarity, Grantor or its Permitted Users shall not be permitted to use Grantee's Facilities.

7. **Indemnification.**

a. Grantee and its successors and assigns shall indemnify and defend the Grantor and its successors and assigns from and against all claims, losses and other expenses (including without limitation reasonable attorneys' fees and court costs) (collectively, "**Damages**") resulting from the exercise by the Grantee or its Permitted Users of rights under this Agreement or otherwise arising in relation hereto, including without limitation, Damages suffered or asserted by third parties, except to the extent caused by the negligence or willful misconduct of the Grantor or its Permitted Users.

b. Grantor and its successors and assigns shall indemnify and defend the Grantee and its successors and assigns from and against all Damages arising out of the negligence or willful misconduct of Grantor or its Permitted Users or otherwise arising in relation hereto, including without limitation, Damages suffered or asserted by third parties, except to the extent caused by the negligence or willful misconduct of the Grantee or its Permitted Users.

8. **Further Documents.** Each party shall, as often as reasonably requested, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further documents and instruments as may be necessary to carry out the intent and purpose of this Agreement.

9. **Miscellaneous.** The headings contained herein shall not be used to interpret the provisions hereof. This Agreement shall be interpreted under and governed by the laws of the State of Oregon. Any person's failure to enforce any provision hereof shall not constitute a waiver thereof in any future instance. If any provision hereof is held to be unenforceable, the remaining provisions shall continue in full force and effect. Both parties represent and warrant that they have the authority to execute this Agreement and each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party of whose behalf the representative is signing. This Agreement may be executed and acknowledged in one or more counterparts, and the individual signature pages and associated acknowledgements may be attached to a single copy of this Agreement to create a single original document. In the event a court of competent jurisdiction determines any provision of this Agreement is void or unenforceable, such provision shall be deemed reformed so as to

be valid or enforceable to the maximum extent possible, and the remaining provisions of this Agreement shall remain in full force and effect. Each of the exhibits attached hereto is expressly made a part hereof by reference as though fully set forth in this Agreement. In the event that either party to this Agreement files an action against the other to interpret or enforce the terms of this Agreement, the prevailing party or parties in such action shall be entitled to recover its attorneys' fees and costs (whether or not taxable) as awarded by a court of competent jurisdiction, whether or not such action is prosecuted to final judgment. This Agreement contains or expressly incorporates by reference the entire agreement of the parties with respect to the matters contemplated herein and supersedes all prior negotiations and agreements (written, oral or otherwise) related thereto. This Agreement shall not be amended or modified in any way except by a written instrument which is executed by each party to this Agreement.

[Signatures appear on the following pages]

IN WITNESS WHEREOF, the parties hereto executed this Agreement as of the date first set forth above.

GRANTOR:

By: Donald Rajnus
Name: Donald Rajnus

By: Sharon Rajnus
Name: Sharon Rajnus

ACKNOWLEDGMENT

STATE OF OREGON)
) ss.
COUNTY OF Oregon)

This instrument was acknowledged before me on this 26 day of November, 2024 by Donald Rajnus.



Lisa Legget-Weatherby
Notary Public for Oregon
My Commission Expires: 9/27/2027

STATE OF OREGON)
) ss.
COUNTY OF Humath)

This instrument was acknowledged before me on this 26 day of November, 2024 by Sharon Rajnus.



Lisa Legget-Weatherby
Notary Public for Oregon
My Commission Expires: 9/27/2027

[Signatures continue on following page]

GRANTEE:

GreenPark Infrastructure (OR), LLC,
a Delaware limited liability company

By: Shane Deaton

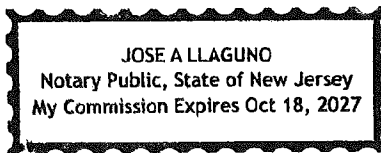
Name: Shane Deaton

Its: Authorized Signatory

NEW JERSEY
STATE OF OREGON)
) ss.
COUNTY OF HUDSON)

ACKNOWLEDGMENT

On this 2nd day of DECEMBER, 2024 personally appeared before me SHANE DEATON who stated that (s)he is the CEO of GreenPark Infrastructure (OR), LLC, a Delaware limited liability company, and that the instrument was signed in behalf of the said entity and acknowledged said instrument to be its voluntary act and deed.



Jose A. Llaguno
Notary Public for State of New Jersey
My Commission Expires: 10/18/2027

EXHIBIT A

Legal Description of Grantor's Property

PARCEL 1 OF LAND PARTITION 33-24, BEING A REPLAT OF PARCELS 1 AND 2 OF LAND PARTITION 110-06, SITUATED IN THE WEST 1/2 OF SECTION 35, TOWNSHIP 40 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND RECORDED AS DOC # 2024-009909

EXHIBIT B

Legal Description of Grantee's Property

Tract 1:

PARCEL 2 OF LAND PARTITION 33-24, BEING A REPLAT OF PARCELS 1 AND 2 OF LAND PARTITION 110-06, SITUATED IN THE WEST 1/2 OF SECTION 35, TOWNSHIP 40 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND RECORDED AS DOC # 2024-009909

Tract 2:

PARCEL 2 OF LAND PARTITION 32-24, BEING A REPLAT OF PARCEL 1 OF LAND PARTITION 59-21, LOCATED IN SECTIONS 25, 26, 35 AND 36, TOWNSHIP 40 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND RECORDED AS DOC #2024-009910

EXHIBIT C
Legal Description of Easement Area

An area of land in the Northwest Quarter of the Southwest Quarter of Section 35, Township 40 South, Range 11 East, Willamette Meridian, Klamath County, Oregon. Being a portion of the land described as Parcel 1 of Land Partition 33-24 being a replat of Parcels 1 and 2 of Land Partition 110-06, said portion being more particularly described as follows:

COMMENCING at a 3-inch aluminum cap marking the West Quarter Corner of said Section 35 from which a 2.5-inch brass cap marking the Northwest Corner of said Section 35 bears North $00^{\circ}24'45''$ West 2642.34 feet; thence along the west section line of said Section 35, South $00^{\circ}25'11''$ East 1321.16 feet to the southwest corner of said Parcel 1 of Land Partition 33-24; thence leaving said section line and along the southerly boundary of said Parcel 1 of Land Partition 33-24, North $89^{\circ}53'57''$ East 30.00 feet to a point on the easterly right-of-way for Adams Point Road and the POINT OF BEGINNING; thence continuing along the southerly boundary of said Parcel 1 and leaving said easterly right-of-way for Adams Point Road, North $89^{\circ}53'57''$ East 104.00 feet to the southeast corner of said Parcel 1 of Land Partition 33-24; thence along the easterly boundary of said Parcel 1, North $00^{\circ}25'11''$ West 103.50 feet; thence leaving said easterly boundary of Parcel 1, South $89^{\circ}53'57''$ West 104.00 feet to a point on the easterly right-of-way for Adams Point Road; thence along said easterly right-of-way South $00^{\circ}25'11''$ East 103.50 feet to the POINT OF BEGINNING.

Containing 0.25 acres, more or less.

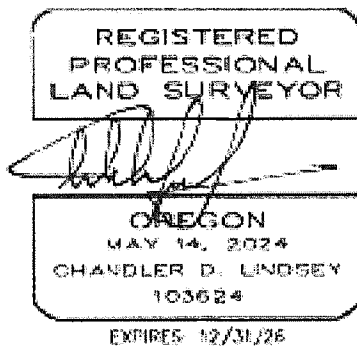


EXHIBIT D
Depiction of Easement Area

