

Exhibit A



Amanda Fritz, Commissioner
Michael Stuhr, P.E., Administrator

1120 SW Fifth Avenue, Room 600
Portland, Oregon 97204-1926
Information: 503-823-7404
www.portlandoregon.gov/water



Ordinance No. _____

INTERGOVERNMENTAL AGREEMENT

CITY OF PORTLAND INTERGOVERNMENTAL AGREEMENT NO.: _____

This Intergovernmental Service Level Agreement (“this Agreement”) is entered into by and between the City of Portland, Oregon, acting by and through its City of Portland **Water Bureau** hereafter called “City,” and **Prosper Portland**, assumed business name of the Portland Development Commission, hereafter called “Prosper Portland.”

RECITALS

- A. On March 8, 2020, Governor Kate Brown issued Executive Order 20-08 declaring an emergency under ORS 401.165 due to the public health threat posed by the novel infectious coronavirus (COVID-19).
- B. On March 23, 2020, Governor Kate Brown issued Executive Order 20-12 to stay home except for essential needs. The order included closing specific businesses and requiring social distancing measures.
- C. Small businesses are at the heart of Portland’s economy, and among the hardest hit, and most impacted by the COVID-19 crisis.
- D. The City of Portland utility bureaus, the Portland Water Bureau (“the Water Bureau”) and the Bureau of Environmental Services (“BES”), will provide one-time utility relief up to \$1,000,000 to be awarded to qualifying small businesses as a credit on their sewer, stormwater and water bills. This new program is called the Small Business Utility Relief Program.
- E. The Water Bureau and BES propose to partner through this agreement with Prosper Portland to develop and administer the Small Business Utility Relief Program. The Water Bureau will manage the Agreement on behalf of BES.
- F. Prosper Portland is the economic and urban development agency for the City of Portland and focuses on building an equitable economy, based on four cornerstones: growing family-wage jobs, advancing opportunities for prosperity, collaborating with partners for an equitable city, and creating vibrant neighborhoods and communities. Prosper Portland is experienced in managing programs to provide relief funding for small businesses.
- G. The City and Prosper Portland share a joint interest in supporting small businesses most impacted by COVID-19 and using equity as a foundation for establishing a program, acknowledging Black, Indigenous, Asian Pacific Islander and People of Color and/or women as individuals and business owners are amongst the most vulnerable impacted by COVID-19.
- H. Prosper Portland will provide administrative oversight for the new Small Business Utility Relief Program, which will include developing program criteria, managing the application and selection processes in support of the Water Bureau and BES. Attachment A, Statement of Work, details the services being provided by Prosper Portland to the Water Bureau. All attachments attached hereto are hereby incorporated into this Agreement and made a part hereof. This Agreement allows the Water Bureau to compensate Prosper Portland for this work.
- I. The Water Bureau will lead program communications and program implementation including verifying awardee information, maintaining the awardee list, and managing the bill credit process.
- J. Contingent upon City Council authorization, the Water Bureau desires to enter into a formal Agreement with Prosper Portland in the not-to-exceed amount of **\$100,000**. Funding is available in Water Bureau and the Bureau of Environmental Services Fiscal Year 2019-20 Budgets and, as required, will be requested in future fiscal year budgets in order to support the COVID-19 Small Business Utility Relief Program.

Please contact us for translation or interpretation, or for accommodations for people with disabilities.

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www.portlandoregon.gov/water/access · 503-823-7432 (TTY: 503-823-6868, Relay: 711)

NOW, THEREFORE, THE PARTICIPANTS AGREE AS FOLLOWS:**1. STATEMENT OF WORK**

This Agreement provides assistance through funding to Prosper Portland in supporting the goals of the Small Business Utility Relief Program. Funding from the City is being provided by BES and the Water Bureau. Prosper Portland will apply the funds towards their administrative oversight for the new Small Business Utility Relief Program, which will include developing program criteria and managing the application and selection processes, including staffing costs, administrative overhead, and related materials and services costs.

2. TERM

Work is authorized to have commenced on the effective date of this Agreement, May 1, 2020 (“the Effective Date”). The expiration date of this Agreement shall be December 31, 2020, unless otherwise mutually agreed by the parties. After the selection of recipients of assistance occurs, but before the expiration of the Agreement, as provided in Attachment A, the City Project Manager and Prosper Portland Project Manager will conduct a debrief to review and discuss program outcomes and confer regarding any improvements that could be made on future similar coordination efforts.

3. BILLING PROCEDURES AND COMPENSATION

- A.** The City has authorized a total not-to-exceed amount of **\$100,000** for this Agreement. Funding in support of this Agreement will be provided by the Water Bureau in the amount of \$35,000 and by BES in the amount of \$65,000. Funding is available in Fiscal Year 2019-20 budgets and, as required, will be requested in future fiscal year budgets by the Water Bureau and BES in order to support the COVID-19 Small Business Utility Relief Program.
- B.** The City will pay Prosper Portland for expenses upon submission of an itemized monthly invoice. Invoices must include the agreement number indicated above, a brief detail explanation of what the invoice supports, the legal name, property address, phone number, and email address of Prosper Portland; and Prosper Portland’s Project Manager’s name and contact information. The City will pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any invoice, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next payment until the dispute is resolved.
- C.** Funding for the work will only be disbursed upon City Council approval via City Ordinance authorizing the Agreement.
- D.** The City’s policy is to pay its invoices via electronic funds transfers through the automated clearing house (“ACH”) network. To initiate payment of invoices, Prosper Portland may be required to execute the City’s standard ACH Vendor Payment Authorization Agreement which is available by contacting the City. Contact information may be found at <https://www.portlandoregon.gov/bfrs/article/658486> .
- E.** If using ACH and upon verification of the data provided, the Payment Authorization will authorize the City to deposit payment for services rendered directly into Prosper Portland’s accounts with financial institutions. All payments will be in United States currency.
- F.** By the last business day of the month, Prosper Portland must submit to the City an invoice for expenses incurred during the previous month. Each invoice must identify the work that has been completed per the terms of this Agreement.
- G.** Invoices shall only be submitted to the City electronically and emailed to: wbaps@portlandoregon.gov with a copy to the Water Bureau Project Manager. At a minimum the invoice shall contain the agreement number

indicated above, and set out all items for payment including, but not limited to: the name of the individual, labor category, direct labor rate, hours worked during the period, Phase of the Project and tasks performed. The Water Bureau's Project Manager will identify any additional details that Prosper Portland must include in invoices.

- H. Prosper Portland shall fully cooperate with a City audit of the records at any time. The Prosper Portland shall also fully cooperate with an audit to account for all expenses if necessary.

4. NOTICES; PROJECT MANAGERS

Unless otherwise stated in this Agreement, the designees named below shall be the contacts for all activities relating to the work/services to be performed under this Agreement.

Prosper Portland:

Name: Amy Nagy
Project Manager
Address: 222 NW Fifth Ave.
Portland, OR 97209
Phone: (503) 825-3351
Email: nagya@prosperportland.us

City:

Name: Sarah Murphy Santner
Project Manager
Address: 1120 SW 5th Avenue, Room 400
Portland, OR 97204
Phone: (503) 823-7444
Email: Sarah.Santner@portlandoregon.gov

The Prosper Portland Project Manager and the City's Project Manager are the individuals identified in the notice information above, or such other personnel as may be designated in writing by Prosper Portland or the Water Bureau from time to time.

5. TERMINATION

This Agreement may be terminated by either party. The City on thirty (30) days written notice may terminate this Agreement. Prosper Portland, on ninety (90) days written notice, may terminate this Agreement. If the City terminates for any reason other than due to breach by Prosper Portland, the City agrees to pay Prosper Portland for work performed through the date the notice of termination is received by Prosper Portland.

6. NON-DISCRIMINATION

In carrying out activities under this Agreement, neither party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, age handicap, familial status or national origin. Both parties shall take affirmative actions to ensure that applicants for employment are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, ability, familial status, or national origin. Such actions shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

7. ACCESS TO RECORDS

Both parties and their duly authorized representatives shall have access to the books, documents, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcript.

8. INDEMNIFICATION

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 7, and Oregon Tort Claims Act, ORS 30.260 through 30.300, Prosper Portland shall indemnify, defend and hold harmless the City from and against all liability, loss and costs arising out of or resulting from the negligent or intentionally wrongful acts of Prosper Portland, its officers, employees and agents in the performance of this Agreement.

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 9, and the Oregon Tort Claims Act (ORS 30.260 to 30.300) the City shall indemnify, defend and hold harmless Prosper Portland from and against all liability, loss and costs arising out of or resulting from the negligent or intentionally wrongful acts of the City, its officers, employees and agents in the performance of this Agreement.

9. INSURANCE

Prosper Portland procures commercial insurance for a variety of risks and exposures. With reasonable advance notice, Prosper Portland shall provide evidence of such insurance upon the City Project Manager's request. All Prosper Portland personnel, officers and employees, acting within the scope of their employment are covered by the Oregon Tort Claims Act.

Prosper Portland is a subject employer under the Oregon Workers' Compensations law in compliance with ORS 656.017, and shall maintain workers' compensation insurance through the duration of this Agreement.

10. SUBCONTRACTING AND ASSIGNMENT

With the exception of work identified in the attached Attachment A, Statement of Work, Prosper Portland shall not subcontract its work under this Agreement without the written consent of the City. Prosper Portland shall ensure that all subcontractors used to perform the services under this Agreement meet the City Codes pertaining to permits, workmen's compensation, licensing, and all other requirements.

11. DISPUTES

The signatories to this Agreement shall expend their best efforts to amicably resolve any dispute that may arise under this Agreement. Any dispute that the signatories are unable to resolve shall be submitted to the Director of Prosper Portland or his/her designee and the City of Portland's approving authority or their designated representative for resolution.

12. OREGON LAWS AND FORUM

This Agreement shall be construed according to the laws of the State of Oregon. Any litigation between the City and Prosper Portland arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof and, if in the federal Courts, in the United States District Court for the State of Oregon.

13. FUNDS AVAILABLE AND AUTHORIZED

The City certifies that at the time this Agreement is written that sufficient funds are available or will be requested and authorized for expenditure to finance costs of this Agreement within current appropriation and limitation. In the event of non-appropriation, the City shall notify Prosper Portland of the City's intent to terminate this Agreement. The City's contribution is contingent upon receipt of approval by City Council and upon continuation of funding.

14. COMPLIANCE WITH APPLICABLE LAW

Both parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Without limiting the generality of the foregoing, parties expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; (v) Any applicable sections of ORS Chapter 279, and (vi) all other applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.

15. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, acts of God and war which are beyond its reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

16. NO THIRD-PARTY BENEFICIARY

The City and Prosper Portland are the only parties to this Agreement and as such are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

17. MERGER CLAUSE

This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written not specified herein regarding this Agreement.

18. AMENDMENTS

The City and Prosper Portland may amend this Agreement at any time only by written amendment executed by the City and Prosper Portland. The Water Bureau's Commissioner-in-Charge or Mayor are authorized to approve amendments for the City to this Agreement that do not increase the total Agreement amount above 25% of the original Agreement amount. The Prosper Portland must submit a written request to the City's Project Manager prior to any amendments to the Agreement. Any amendment to the Agreement requires the signature of both parties approving authorities.

19. OWNERSHIP OF DOCUMENTS

- A. The City and Prosper Portland will jointly own any and all data, documents, plans copyrights, specifications, working papers, and any other materials produced in connection with this Agreement.
- B. Prosper Portland, upon request by the City, must provide the City copies of the materials referred to above, including any electronic files containing the materials.

21. SEVERABILITY/SURVIVAL

If any of the provisions contained in this Agreement are held unconstitutional or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this Agreement for any cause.

22. CONFLICTS OF INTEREST

No City Officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct, or indirect, in this Agreement or the proceeds thereof. No board of directors member or employee of Prosper Portland, during his or her tenure or for one year thereafter, shall have any direct financial interest in this Agreement or the proceeds thereof. No City officer or employees who participated in the award of this Agreement may be employed by Prosper Portland during the term of this Agreement.

23. COUNTERPARTS

This Agreement may be signed in two (2) or more counterparts, each of which shall be deemed an original and which, when taken together, shall constitute one and the same agreement.

The parties agree the City and Prosper Portland may conduct this transaction, including any amendments to this Agreement, by electronic means, including the use of electronic signatures.

APPROVING AUTHORITIES:**CITY OF PORTLAND****PROSPER PORTLAND**

Michael Stuhr, P.E.
Water Bureau Administrator

Kimberly Branam
Executive Director

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Prosper Portland Legal Counsel

Attachment A, Statement of the Work

General Information

The mission and vision of Prosper Portland is to create economic growth and opportunity for Portland. Prosper Portland stimulates job creation, encourages broad economic prosperity, and fosters great places on behalf of the City of Portland.

The Water Bureau is committed to serving all customers with clean, safe and reliable water. The Bureau of Environmental Services provides sewage and stormwater collection and treatment services to accommodate Portland's current and future needs. The Water Bureau bills for water, sewer and stormwater services, and provides customer assistance for both utility bureaus.

The Water Bureau and the Bureau of Environmental Services, collectively called “the City” recognize the importance of providing assistance to help small businesses with their City of Portland sewer, stormwater, and water bills during the COVID-19 crisis.

Prosper Portland is experienced in managing programs to provide relief funding for small businesses. Prosper Portland will provide administrative oversight to the City for the development and launch of a Small Business Utility Relief Program, which will provide discounts on utility bills to small businesses. Prosper Portland shall develop program criteria, and manage the application and selection processes.

The Portland Water Bureau will provide guidance on program design, coordinate decision making and program support, lead program communications and program implementation including verifying awardee information, maintaining the awardee list, and managing the bill credit process. This includes participating in the advisory team, design team, application review team, and outreach, marking and communications team.

Prosper Portland’s Deliverables

Scope of Services - Project Phase/Assigned Teams/Timeline Requirements

In addition to existing requirements identified in the agreement and above, Prosper Portland shall be responsible as lead for project work associated with Small Business Utility Relief Program (Program) for the City. Prosper Portland shall ensure each phase of the project proceeds per the timeline requirements identified in Table 1 below. The City shall make every effort possible to ensure decision making milestones will not impact project timeline. The not to exceed amount of the agreement is \$100,000. It is estimated that \$75,000 is scheduled for staff time. Prosper Portland may contract for and allocate resources to third party vendors for materials and services with the written consent (including email consent) of the City’s Project Manager.

Table 1, Project Scope and Schedule

Project Phase/Scope of Services	Timeline (Schedule)
Phase 1. PROGRAM DESIGN <u>City shall:</u> <ul style="list-style-type: none"> - Confirm program goals/priorities with leadership - Confirm funding parameters/constraints - Lead initial announcement and draft marketing tools - FAQs / Website copy <u>Prosper Portland shall:</u> <ul style="list-style-type: none"> - Adapt program design guidelines to City priorities - Confirm eligibility criteria - Refine selection and disbursement process - Confirm credit level(s) - Support initial announcement and coordination with the City Mayor’s Office 	May 2020

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Phase 2. APPLICATION DEVELOPMENT <u>City shall:</u> <ul style="list-style-type: none"> - Technical Support - Confirm application decisions with leadership <u>Prosper Portland shall provide:</u> <ul style="list-style-type: none"> - Update application based on program design parameters - Translation - Jot form - Scoring: Priorities / weighting criteria - Soft outreach: Prosper Small Business Hotline updates; website; CBOs will be determined (tbd) 	Late May – early June 2020
Phase 3. COMMUNICAITON / MARKETING (APPLICATION LAUNCH) <u>City shall:</u> <ul style="list-style-type: none"> - Lead final marketing strategy - Soft outreach: Water Call Center updates - Media releases <u>Prosper Portland shall:</u> <ul style="list-style-type: none"> - Upload applications to websites (Prosper Portland, Small Business, Water/BES Programs/Services) - Support communication push - Troubleshooting 	Mid-June 2020
Phase 4. SELECTION <u>Prosper Portland shall complete the following services in partnership with the City:</u> <ul style="list-style-type: none"> - Backend sorting - Equity lens sorting - Architype / Scenario building - Final selection 	Late June – early July 2020
Phase 5. ANNOUNCEMENT <u>City shall:</u> <ul style="list-style-type: none"> - Notifications to awardees and non -recipients - Media releases <u>Prosper Portland shall:</u> <ul style="list-style-type: none"> - Social media/website posts - Data/reporting (process, demographics, geography) - Support media outreach 	Late July 2020
Phase 6. IMPLEMENTATION <u>City shall</u> <ul style="list-style-type: none"> - Verify awardee information - Maintain live awardee list and update with businesses should an initial awardee drop from the process - Manage the bill credit process and awardee communications. Oversee any technical issues with awardees not receiving the credit. <u>Prosper Portland shall:</u> <ul style="list-style-type: none"> - Provide a list of initial awardees and waitlist based on selection criteria - Serve a technical resource to support troubleshooting during implementation - 	July – September 2020
Phase 7. SUMMARY OF WORK AND EVALUATION <u>City shall</u> <ul style="list-style-type: none"> - Project Manager will convene a debrief session with Prosper Portland team to review effectiveness of program including providing relief to customers based on equity and vulnerability criteria and other lessons learned that may inform future rounds of funding. <u>Prosper Portland shall:</u> <ul style="list-style-type: none"> - Participate in one debrief session with the City Project Manager. 	September – December 2020