

INTERGOVERNMENTAL AGREEMENT
Between Prosper Portland
and the
City of Portland, Oregon
Office of Management and Finance
For
Debt Management Services
Administered by the Debt Management Division

This INTERGOVERNMENTAL AGREEMENT (“Agreement”), effective July 1, 2021 (“Effective Date”), is between the CITY OF PORTLAND, OREGON, OFFICE OF MANAGEMENT AND FINANCE (“OMF”) and PROSPER PORTLAND. OMF and Prosper Portland may be referred to jointly in this Agreement as the “Parties” and individually as a “Party.”

RECITALS:

- A. The Debt Management Division of OMF administers the City’s debt management program, providing technical assistance on new financing programs or proposals, and assistance and expertise in compliance programs to City bureaus and offices.
- B. Prosper Portland, the duly designated urban renewal agency of the City of Portland, has a current need for debt management services which it can not readily provide for itself.
- C. Prosper Portland desires to obtain such services from OMF and OMF desires to provide such services to Prosper Portland on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows.

AGREED:

I. SCOPE OF WORK

During the term of this Agreement, OMF through its Debt Management Division, shall provide the following debt management services as required and requested by Prosper Portland from time to time:

- 1. Debt planning and transaction management;
- 2. Feasibility analyses;
- 3. Special projects assistance;
- 4. Compliance guidance; and
- 5. Administration of outside consultant contracts for debt management and related services.

In order to enable and facilitate OMF’s delivery of debt management services, Prosper Portland will:

1. Provide information as requested by OMF;
2. Keep OMF informed of urban renewal plan amendments and changes in urban renewal value;
3. Provide other Prosper Portland information as may be reasonably requested or needed by OMF to perform the services requested.

II. SPECIFIC CONDITIONS OF THE AGREEMENT

- A. **TERM:** The term of the Agreement will begin July 1, 2021 and continue until June 30, 2026 (the “Term”), unless terminated sooner under a provision of this Agreement. The term of this agreement may be extended for successive fiscal years by amendment.
- B. **INTERGOVERNMENTAL AGREEMENT MANAGER:** OMF’s Intergovernmental Agreement Manager for this Agreement shall be the Debt Manager, currently Matthew Gierach. Prosper Portland’s Intergovernmental Agreement Manager for this Agreement shall be the Finance Manager, currently Tony Barnes.
- C. **AMENDMENT:** All changes to this Agreement, including changes to the scope of work and Agreement maximum payment amount, must be made by written amendment. The City of Portland’s Chief Administrative Officer is authorized to execute amendments to this Agreement on behalf of OMF, provided such amendments are in writing, signed by both Parties, and approved as to form by the City Attorney. Prosper Portland’s Intergovernmental Agreement Manager is authorized to execute amendments to this Agreement on behalf of Prosper Portland (other than amendments that increase the maximum payment amount), provided such amendments are in writing, signed by both Parties, and approved as to form by Prosper Portland’s legal counsel. Amendments that increase the maximum payment amount shall be approved by the Prosper Portland Executive Director. Amendments that increase the maximum payment amount by \$500,000 or more shall be approved by the Prosper Portland Board of Commissioners.
- D. **BILLINGS/INVOICES/PAYMENT:** OMF’s Intergovernmental Agreement Manager is authorized to approve work, billings and invoices submitted pursuant to this Agreement and to carry out all other OMF actions referred to herein in accordance with this Agreement.

III. PAYMENTS

- A. Prosper Portland agrees to pay OMF a sum not to exceed ONE MILLION THREE HUNDRED THOUSAND and no/100 DOLLARS (\$1,300,000.00) for the debt management services described in Section I of this Agreement rendered between July 1, 2021 and June 30, 2026. Of this amount, ONE MILLION FIFTY THOUSAND and no/100 DOLLARS (\$1,050,000.00) (the “Service Delivery Funds”) are to reimburse the City for debt management services related to Prosper Portland (calculated as approximately 21% of total debt management time devoted to Prosper Portland matters under this Agreement over the Term, based on Prosper Portland’s historical utilization of debt management services relative to the utilization of debt management services by other City bureaus). Prosper Portland shall reimburse OMF for services performed in twelve equal monthly payments payable 30 days after the invoice is received. The remaining amount of

TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) is to cover debt issuance costs and costs for outside legal services necessarily incurred by the OMF in providing the debt management services described in Section I. Prosper Portland shall reimburse OMF for such costs within 30 days after Prosper Portland's receipt and approval of invoices from OMF for such costs.

- B. The funds provided to OMF under this Agreement may be used only to provide the debt management services described in Section I of this Agreement and may not be used for any other purpose.

IV. GENERAL AGREEMENT PROVISIONS

- A. **TERMINATION:** Either Party may terminate this Agreement by giving thirty (30) days written notice to the other Party. If this Agreement is terminated prior to the end of the Term, then the monthly installment of Service Delivery Funds for the month of termination shall be pro-rated and OMF shall refund to Prosper Portland any overpayment. In the event of such termination and subject to the maximum payment amount set forth in Section III, Prosper Portland remains responsible for paying all debt issuance costs and costs for outside legal services incurred in delivery of the debt management services prior to the date of termination.
- B. **CONFLICTS OF INTEREST:** No public official, 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 public official who participated in the award of this Agreement shall solicit employment from or be employed by the other Party during the period of the Agreement.
- C. **OREGON LAWS AND FORUM:** This Agreement shall be construed according to the laws of the State of Oregon, without regard to its provisions regarding conflict of laws. Any litigation between the Parties arising under this Agreement or out of work performed under this Agreement shall occur in the Multnomah County court having jurisdiction thereof.
- D. **INDEMNIFICATION:** To the extent permitted by Oregon law, and in accordance with the provisions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, including the limits of liability for public bodies set forth therein, Prosper Portland shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the negligent acts, errors, or omissions of Prosper Portland and its agents or employees in performance of their duties under this agreement and the City of Portland shall defend, save and hold harmless Prosper Portland, its officers, agents and employees, from all claims, suits or actions arising out of the negligent acts, errors or omissions of the City of Portland and its agents and employees in performance of its duties under this agreement. This section shall survive termination or expiration of this Agreement.
- E. **SEVERABILITY:** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- F. **INTEGRATION:** This Agreement contains the entire agreement between the Parties and supersedes all prior written or oral discussions or agreements. There

are no oral or written understandings that vary or supplement the conditions of this Agreement that are not contained herein.

- G. **THIRD PARTY BENEFICIARIES:** There are no third party beneficiaries to this Agreement. The Agreement may only be enforced by the Parties.
- H. **ELECTRONIC MEANS/COUNTERPART:** The Parties agree that they may conduct this transaction, including any amendments, by electronic means, including the use of electronic signatures. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.
- I. **NOTICE:** Any notice or communication under this Agreement by either Party to the other shall be deemed given and delivered (a) forty-eight (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 confirmation that such transmission has been received, and:

A notice or communication to the City shall be addressed as follows:

City of Portland
OMF – Debt Management
Attn: Debt Manager
1120 SW 5th Avenue, Rm 1040
Portland, Oregon 97204

A notice or communication to Prosper Portland shall be addressed as follows:

Prosper Portland
Finance and Business Operations
Attn: Finance Manager
222 NW 5th Ave.
Portland, OR 97209

- I. **DISPUTE RESOLUTION:** If a dispute arises regarding this Agreement, the Parties agree to exercise good faith in expeditiously resolving any conflict. All conflicts should first be discussed and resolved if at all possible by the persons identified in the Notice Section. Any conflicts not resolved by the contact person shall be elevated to the designee of the governing board of the Parties, specifically the Chief Administrative Officer for the City and the Executive Director for Prosper Portland, for discussion and resolution.

Exhibit A

Dated this _____ day of _____, 2021

CITY OF PORTLAND
Office of Management and Finance

PROSPER PORTLAND

Tom Rinehart
Chief Administrative Officer

Kimberly Branam
Executive Director

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

General Counsel