

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7538

**ADOPTING AN UPDATED PROSPER PORTLAND CONSTRUCTION BUSINESS
AND WORKFORCE EQUITY POLICY**

WHEREAS, Prosper Portland is committed to advancing racial and social equity and to building an equitable economy;

WHEREAS, Prosper Portland requires developers and contractors to take certain steps and engage in certain practices to advance equity in the construction context, including establishing goals for utilization of firms certified by the Oregon Certification Office for Business Inclusion and Diversity (“Certified Firms”) and participation by BIPOC and women workers;

WHEREAS, the Prosper Portland Board of Commissioners (“Board”) wishes to reinforce values articulated in the agency’s Equity Policy in the context of construction, and intends to achieve this objective by:

1. Advancing racial and economic equity through programs and investments that assist in providing career opportunities for women and Black, Indigenous, and People of Color (“BIPOC”) in the construction industry;
2. Engaging with the City of Portland, public agencies, construction industry stakeholders, and other partners to collaborate on additional opportunities to advance the participation of women and BIPOC individuals in the construction industry; and
3. Maintaining Prosper Portland’s Construction Wage Policy, as set forth in Resolution No. 6666, adopted January 29, 2009 (“Construction Wage Policy”).
4. Establishing protections for construction workers on Prosper Portland related jobsites in areas of racism, harassment, and wage-theft.

WHEREAS, the Prosper Portland Board believes that, to maximize transparency and consistency, the key obligations of Prosper Portland staff, developers, and contractors in advancing construction equity should be outlined in a formal, Prosper Portland Board-adopted policy of the agency;

WHEREAS, the Prosper Portland Board intends to adopt an updated Construction Business and Workforce Equity Policy attached to this Resolution as Exhibit A (“CBWE Policy”); and

WHEREAS, the CBWE Policy makes certain substantive changes to the key terms and conditions of the Construction Equity Procedures, including, without limitation, the following:

1. Increasing Business Equity Program applicability from projects with \$200,000 Hard Construction Costs to projects with \$300,000 Hard Construction Costs to better align with Prosper Portland policies and financial products and increases in construction costs within

- the market without significant adverse impact on opportunities for COBID certified firms;
2. Increasing Workforce Equity Policy applicability on Prosper Portland’s Sale of Real Property from i) a purchase price of greater than \$300,000 to a purchase price of \$500,000 or greater and ii) Hard Construction costs greater than \$300,000 to Hard Construction Costs of \$1,000,000 or greater to better align with Prosper Portland financial products without causing adverse impact on workforce equity opportunities;
 3. Providing a new Alternative Path to Workforce Equity performance for Contractors and Subcontractors on Prosper Portland-Sponsored or Sale of Real Property with the following eligibility criteria:
 - The subcontract (trade) work is valued between \$100,000 and \$200,000 and 300 to 500 hours.
 - The project was bid out prior to seeking funding from Prosper Portland, subject to approval by Prosper Portland.
 - Subcontractor/Contractor has limited level of experience on publicly funded projects, as determined by Prosper Portland;
 4. Adding more specific requirements related to worksite safety, anti-harassment and culture change together with new anti-wage theft language;
 5. Adding Community Workforce Agreement language that aligns with City of Portland requirements for public infrastructure works; and,
 6. Adjusting wording and terminology for greater clarity, including renaming of Workforce Training and Hiring Guidelines to Workforce Training and Hiring Specifications.

NOW, THEREFORE, BE IT RESOLVED, that the CBWE Policy attached hereto as Exhibit A is adopted as the policy of Prosper Portland;

BE IT FURTHER RESOLVED, that the CBWE Policy supersedes all prior administrative procedures and policies of Prosper Portland relating to construction equity on Prosper Portland projects or projects supported by Prosper Portland, except that the Construction Wage Policy remains in full force and effect;

BE IT FURTHER RESOLVED, that the Executive Director is authorized to amend the CBWE Policy from time to time in the Executive Director’s reasonable discretion, so long as such amendments are non- material in nature as determined in consultation with the General Counsel, certain examples of which are provided in the CBWE Policy;

BE IT FURTHER RESOLVED, that the CBWE Policy shall be effective prospectively, and does not apply to projects or investments previously approved by the Prosper Portland Board; 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.

Adopted by the Prosper Portland Commission on

June 18, 2024



Pam Feigenbutz, Recording Secretary



Construction Business and Workforce Equity Policy

June 18, 2024

The Construction Business and Workforce Equity Policy (this “Policy”) generally applies to Prosper Portland investments resulting in the design and implementation of construction, as more specifically described below. This Policy should be reviewed and used when planning new projects or programs and contracting for goods and services related to construction projects. Questions regarding this Policy can be directed to the Business and Workforce Equity Staff within the Development and Investment Department (“CBWE Staff”).

This Policy is organized as follows:

PART ONE: Policy Objectives and Authority

PART TWO: Business Equity Program

PART THREE: Workforce Training and Hiring Program

PART FOUR: Construction Equity Fund

PART FIVE: Community Workforce Agreements

PART SIX: General Provisions; Definitions

PART SEVEN: Modifications

PART EIGHT: Administrative Procedures and Specifications

PART ONE: POLICY OBJECTIVES AND AUTHORITY

1.1 Definitions. The capitalized terms found in this Policy are defined in Part Six.

1.2 Policy Objectives. The objective of Prosper Portland’s Construction Business and Workforce Equity Policy is to ensure Prosper Portland delivers on its strategic priorities of increasing inclusive industry-based job training and career path employment; access to bid opportunities for BIPOC firms and individuals; and supporting growth and health of businesses through partnerships. Prosper Portland aims to achieve these objectives by:

- Reinforcing values articulated in Prosper Portland’s Equity Policy as approved by Resolution No. 7335, adopted August 14, 2019 and Resolution 7411, adopted April 14, 2021;
- Leveraging investments to increase access to contracting opportunities for businesses owned by historically underrepresented communities in Portland;

- Advancing racial and economic equity through programs and investments that assist in providing career opportunities for women and BIPOC in the construction trades; and,
- Complementing Prosper Portland’s Construction Wages Policy, adopted by Resolution No. 6666 on January 29, 2009, and Oregon’s prevailing wage law (ORS 279C.800 et seq), which provide rules and requirements regarding wages paid to workers on applicable construction projects.

PART TWO: BUSINESS EQUITY PROGRAM

Part Two of this Policy describes the Business Equity Program (“BEP”) and other activities in support of equitable construction contracting opportunities. Questions on this section should be directed to CBWE Staff.

The Goal of Part Two is to ensure that Prosper Portland’s projects and programs provide professional, supplier, and construction contracting opportunities to businesses certified by the Certification Office for Business Inclusion and Diversity (or its successor) as: Disadvantaged (DBE), Minority (MBE), Women (WBE), Emerging Small Business (ESB), or Service Disabled Veteran (SDV), and Veteran-Owned Business Enterprises (VOSB).

2.1 Applicability. The BEP applies to all of the following types of transactions:

- A Prosper Portland Personal Services Contract in the construction context for any amount.
- A Prosper Portland Flexible Services Contract in the construction context for any amount.
- A Prosper Portland-Owned Construction Contract with Hard Construction Costs of \$300,000 or greater.
- A Prosper Portland Sponsored Project receiving \$300,000 or greater of Prosper Portland Resources to support a project with Hard Construction Costs of \$300,000 or greater.
- A sale of Prosper Portland real property to a private party with a purchase price of \$300,000 or greater that is expected to involve Hard Construction Costs of \$300,000 or greater.
- An Intergovernmental Agreement with Hard Construction Costs of \$300,000 or greater, whether the project is contracted by Prosper Portland or another agency.*
- All financial thresholds will be reviewed every five (5) years and may be updated with approval from the Executive Director.

*Prosper Portland may defer to another agency's business equity program either in whole or on a component-by-component basis if the program (or the applicable component being deferred to) is substantially equal to or more stringent than Prosper Portland’s program. CBWE Staff are responsible for evaluating and recommending deferrals. If Prosper Portland defers to another agency's program, CBWE Staff should communicate the requirement for utilization reports to that agency. Deferrals will be set forth in the applicable transaction documents and approved by the authorized signatory for transaction documents.

2.2 Utilization Goals for Certified Firms. The following Utilization Goals will be periodically assessed by the CBWE Staff and Prosper Portland Management. Adjustments may be recommended to the Board and take into consideration appropriate factors, including current regional availability and disparity studies:

- 22% of an applicable project’s total Hard Construction Costs be allocated to Certified Firms, and 14% of Hard Construction Costs (which counts towards the overall 22% goal) be allocated to any combination of DBE or MBE firms.
- 20% of an applicable project’s Professional Services Costs be allocated to Certified Firms.

2.3 Utilization Goals for Projects Already Underway. In cases where a party receives notification of Prosper Portland's approval of the availability of Prosper Portland Resources after it has already expended funds on a project, started construction, or taken other action that would impair its ability to comply with the Business Equity Program (BEP), Prosper Portland may negotiate a reasonable Certified Firm's participation goal. This goal may be achieved with technical assistance provided by Prosper Portland through its project manager, with support from the CBWE Staff. The negotiated Utilization Goal ensures that the party utilizes the available resources effectively and complies with the BEP, despite the prior actions taken.

2.4 Prompt Payment. Under the BEP, Prosper Portland will mandate that the contracting entity comply with prompt payment laws. Specifically, Oregon Revised Statute 279C.570, if applicable, for all construction projects. This means that contractors and subcontractors must be paid in a timely manner. Prosper Portland will ensure rigorous enforcement of this obligation to guarantee that contractors and subcontractors receive their payments promptly.

2.5 Self-Performed Work. For construction contracts that are not subject to ORS 279C.305, such as Sponsored Projects and Prosper Portland-Owned alternative contracts, Prime Contractors intending to self-perform more than 10% of the trade work to complete a project or an entire Construction Specifications Institute (CSI) Master Format trade division, excluding superintendents, supervision, mobilization, etc.) must obtain written authorization from CBWE Staff or their designee. CBWE Staff or their designee may approve a higher percentage based on the type, size, available subcontractors, and other relevant project criteria. This provision applies only to Prime Contractors and does not apply to sub-contractors.

2.6 Joint Ventures. For large-scale and alternative contracting projects not subject to low bid requirements, Prosper Portland may provide incentives for joint ventures and mentor-protége partnerships that enhance BEP goals (e.g., additional points in the RFP evaluation process).

2.7 Alternatives to Low Bid. Alternatives to low bid (e.g., Design/Build, Construction Manager/General Contractor) that may enhance BEP goals should be pursued when feasible, legally permissible and appropriate in the circumstances on projects subject to the BEP.

2.8 Ineligibility. Contractors or subcontractors that are on the BOLI list of ineligible contractors cannot participate in Prosper Portland Owned or Prosper Portland-intergovernmental agreement (“IGA”) construction projects. Prosper Portland will require that owner/developer/prime contractor of Prosper Portland Sponsored projects make a good faith effort to avoid hiring contractors or subcontractors that are on the BOLI list of ineligible contractors.

2.9 Insurance and Bonding. For Prosper Portland Sponsored Projects subject to BEP, Prosper Portland may offer incentives to the owner/developer/prime contractor to reduce insurance and bonding barriers and to encourage early release of retainage for Certified Firms.

PART THREE: WORKFORCE TRAINING AND HIRING PROGRAM

Part Three of this Policy describes the Workforce Training and Hiring Program (“WTHP”) and other activities that support equitable construction workforce development. Questions on this section should be directed to CBWE Staff.

The Goal of the WTHP is to maximize apprenticeship opportunities in the construction trades and ensure employment opportunities for People of Color and Women. Prosper Portland also encourages the employment of veterans and people with disabilities on projects that involve Direct Contracting, Land Transactions, and on work utilizing Prosper Portland resources.

3.1 Applicability. The WTHP apply to all of the following types of transactions:

- A Prosper Portland-Owned Construction Contract consisting of construction work \$300,000 or more.
- A Prosper Portland-Sponsored Project consisting of construction. The WTHP applies if the project receives \$300,000 or more of Prosper Portland Resources to support a project with Hard Construction Cost of \$1,000,000 or more.
- A sale of Prosper Portland real property to a private party with a purchase price of \$500,000 or more that is expected to involve Hard Construction Costs of \$1,000,000 or more.
- A Prosper Portland-Intergovernmental Agreement consisting of construction work of \$300,000 or more.
- All financial thresholds will be reviewed every five (5) years and may be updated with approval from the Executive Director.

If the prime contractor is subject to the Workforce Training and Hiring Program, it becomes mandatory that the WTHP is applied to all subcontracts with a value of \$100,000 or more. Subcontracts with a value of less than \$100,000 are not subject to the WTHP. The WTHP also does not apply to Personal Services Contracts, Flexible Services Contracts, and services contracts or agreements that do not involve construction work.

Prosper Portland may defer to another agency's workforce training and hiring program either in whole or on a component-by-component basis if the program (or the applicable component being deferred to) is substantially equal to or more stringent than Prosper Portland's program. CBWE Staff are responsible for evaluating and recommending such deferrals. If Prosper Portland defers to another agency's program, CBWE Staff should communicate the requirement for utilization reports to partner agencies. Deferrals will be specified in the relevant transaction documents and approved by the authorized signatory of such documents.

3.2 General Program Requirements. The following WFTHP goals will be periodically assessed by the CBWE Staff and Prosper Portland Management. Adjustments may be recommended to the Board and take into consideration appropriate factors, including current regional availability and disparity studies. Projects subject to the WTHP shall:

- Ensure that a minimum requirement of twenty percent (20%) of labor hours in each apprenticeable trade performed by the prime contractor/subcontractor, are worked by State

Registered apprentices if working an excess of 300 hours or more on any trade; unless a WTHP Alternative Path has been approved by Prosper Portland, in accordance with section 3.3.

- Prime Contractors/subcontractors to whom the WTHP applies will be registered training agents, in the applicable trades, of State of Oregon Bureau of Labor and Industries (“BOLI”) approved apprenticeship training programs before commencing work; unless a WTHP Alternative Path has been approved by Prosper Portland, in accordance with 3.3.
- Work to achieve the following goals: (i) thirty percent (30%) of hours worked by minorities; and (ii) fifteen percent (15%) of hours worked by women. This goal will be measured in aggregate by combining both apprentice hours and journey hours. Although goals are measured in aggregate, CBWE Staff may also collect this data in a disaggregated manner (e.g., percentages for journey level specifically and for apprentice level specifically) to help inform policy development.
- Encourage the employment of veterans and people with disabilities.
- Seek to employ a workforce that reflects the diversity of the City of Portland, including recruiting a diverse workforce through unions, community-based organizations, apprenticeship programs, and other union-affiliated and non-union-affiliated community resources.
- Report labor hours

3.3 WTHP Alternative Path. Contracts or subcontracts associated with either a Prosper Portland-sponsored project or the sale of real property by Prosper Portland to a private party, with the following criteria, are eligible to meet alternative requirements to those specified in Section 3.2 through the WTHP Alternative Path.

- A Subcontract (trade) work valued between \$100,000 and \$200,000 and 300 and 500 hours
- Project was bid out prior to seeking funding from Prosper Portland, subject to approval by Prosper Portland
- Limited level of experience on publicly funded projects, as determined by Prosper Portland

Alternative requirements for contractors deemed eligible for an Alternative Path are defined under Section 5 of the Workforce Training and Hiring Program Specifications. Contractors and sub-contractors eligible for the WTHP Alternative Path that have been previously eligible for the WTHP Alternative Path will be required to meet the previous Alternative Path Requirements and at least one additional Alternative Path Requirement up to and including full compliance with the General Requirements described in Section 3.2.

3.4 Equal Employment Opportunity Certification. Contractors and subcontractors subject to the WTHP must be certified by the City of Portland as an Equal Employment Opportunity employer.

3.5 Worksite Anti-Racism, Anti-Harassment, and Culture Change. Prosper Portland requires a comprehensive workplace anti-racism anti-harassment prevention program to ensure all employees, regardless of race, gender, or creed, are guaranteed a safe and respectful working environment. Developer/Owner/Prime Contractors working on Prosper Portland Sponsored projects are required to incorporate an anti-racism, anti-harassment culture change program that meets the ‘Safe From Hate Alliance, Oregon’ (SFH) goals. The program will include at a minimum:

- Enforce a zero-tolerance policy for job site discrimination, including failure to report incidents.

- Job site trainings that foster a positive and safe work environment. Trainings should meet the following and be sized according to the scale and scope of the project:
 - Be in-person or otherwise interactive
 - Be required for job site supervisors and provided to employees (permanent and temporary).
 - Trainings from “Green DOT for the Trades” and “Rise Up Oregon” meet these requirements.
- Provide procedures for employees in need of recourse.

Joining the Safe from Hate Positive Jobsite Culture Pledge and meeting the requirements of that pledge meets this requirement. Alternative programs that meet the intent of anti-racism, anti-harassment culture change may be negotiated with CBWE Staff to ensure programs are sized according to the scale and scope of the project. Prosper Portland may approve alternative programs that meets the intent of the Safe From Hate Alliance standards.

3.6 Anti-Wage Theft. Under the WFTHP, Prosper Portland mandates that all contracting entities comply with all applicable employment laws, specifically, ORS 652, if applicable, for all construction projects. This mandate applies to all contracting entities even when the contract value is below \$100,000 and/or the contracting entity is eligible for the Alternative Path. This means that employees must be paid in a manner consistent with the regulations specified in ORS 652.

Projects owners receiving funding from Prosper Portland must conduct a BOLI complaints review at the earliest reasonable time to inform contractor and subcontractor selection for the purpose of determining if any contractor or subcontractors working on the project have recently received BOLI complaints against them for wage theft or related issues. The exact timing of the complaints review will be determined and agreed upon with CBWE Staff.

The BOLI complaints review shall be submitted to Prosper Portland within five (5) business days of completion for the purpose of collecting data regarding wage theft issues.

PART FOUR: CONSTRUCTION EQUITY FUND

The Prosper Portland Construction Equity Fund (CEF) is the repository for all monies contributed pursuant to this Part Four and shall be used to fund programs consistent with the goals of this Part Four. CBWE Staff will develop and manage programs to effectuate these goals.

The goal of this fund is to provide resources for the provision of technical assistance to BIPOC and women-owned construction businesses and Workforce Development to increase the number of women and BIPOC in all stages of the construction trades. It also funds business and workforce navigation/consulting services in the construction industry to assist with meeting the goals described in this Policy.

4.1 Sources of the CEF Fund. There are three sources of funding for the Fund: (i) payments from companies participating in the E-Zone program; (ii) amounts received as liquidated damages due to violations of the BEP or WTHP, or corresponding provisions in contracts; and (iii) amounts received as part of the 0.25% set-aside.

4.2 Enterprise Zone. All E-Zone companies will make a payment of 3% of actual tax savings derived from participation in the Enterprise Zone program towards the Fund. Payment shall occur simultaneously with the 15% Workforce Business Development Fund payment, with the total payment equal to 18% of actual tax savings for all Enterprise Zone projects approved after April 1, 2020.

4.3 Prosper Portland Construction Projects Equity Fund. Prosper Portland will contractually require developers or general contractors (as applicable) to contribute a percentage of Hard Construction Costs of all projects that trigger either or both of the BEP or the WTHP (pursuant to Sections 2.1 or 3.1 of this Policy). The percentage shall be established by the Executive Director subsequent to the effective date of the Authorizing Resolution, but the percentage shall not exceed 0.25% of Hard Construction Costs. The specific manner and timing of payment to the Fund shall be developed by CBWE Staff and the Legal Department. The Executive Director may further establish written limitations (e.g., minimum dollar thresholds for Hard Construction Costs) on the applicability of this Section 4.3 if, in the Executive Director’s judgment, it would be appropriate to do so.

4.4 Business and Workforce Equity Liquidated Damages. When Prosper assesses liquidated damages based on noncompliance with the Business and Workforce Equity Policy, those funds shall be appropriated to the Construction Equity Fund.

PART FIVE: COMMUNITY WORKFORCE AGREEMENTS

5.1 Public Projects. Consistent with the City of Portland’s Construction Diversity and Inclusion Policy for Alternative Public Improvement Contracts, Prosper Portland will enter into a community workforce agreement aligned with the Regional Workforce Equity Agreement (RWEA) for all Prosper Portland-Owned Construction contracts where the Project consists entirely of public infrastructure improvements (such as streets, parks, or utilities); is procured using alternative contracting methods; and with a Hard Cost Construction estimate valued at over \$5 million. Prosper Portland will amend Section 5.1 Public Projects if/when the City of Portland amends its Construction Diversity and Inclusion Policy for Alternative Public Improvement Contracts.

5.2 Public Private Partnerships. Prosper Portland may negotiate individual for CWA, CBA, or PLA for large scale, multiphase, public-private development projects.

PART SIX: GENERAL PROVISIONS; DEFINITIONS

6.1 Incorporation into Contracts. Prosper Portland’s legal counsel shall take appropriate steps to incorporate the applicable terms of this Policy into contracts.

6.2 Damages. Contracts subject to the BEP and/or WTHP shall include appropriate remedies for violations. Without limiting any remedies that may be specifically negotiated as part of an applicable contract, in the event of a breach of this Policy, Prosper Portland may take any or all of the following actions:

- Withholding progress payments
- Liquidated damages (\$150,000 per program violated, paid by the project owner), CBWE staff and legal counsel may also utilize another measure (e.g., an amount based on pay for

- apprentice hours not achieved that would have been achieved had compliance occurred, if deemed appropriate)
- Notification of possible debarment

6.3 Accountability. Prosper Portland currently contracts with the City of Portland, Bureau of Revenue and Financial Services, pursuant to an IGA approved by the Board through Resolution No. 7340, adopted September 11, 2019 (the “Monitoring IGA”). Pursuant to the Monitoring IGA, the City’s Compliance Officer provides services and software access to Prosper Portland. Prosper Portland will require the Prime Contractor/Subcontractor to report monthly using the City’s compliance reporting software, currently LCP Tracker (for the WTHP) and B2Gnow (for the BEP), or other appropriate software from time to time. Prosper Portland, through CBWE Staff and the City’s Compliance Officer, or other appropriate compliance personnel from time to time, shall monitor projects monthly and report out to appropriate external stakeholders, internal staff, and on the Prosper Portland website. CBWE Staff will ensure that this monitoring approach, or another reasonably comparable monitoring approach, is diligently and continuously implemented.

6.4 Definitions

Capitalized terms in this Policy have the following meanings:

“**Alternative Path**” means Workforce Training and Hiring requirements up to and including full compliance and reporting as further defined in the WTHP Programs Specifications.

“**Board**” means the Prosper Portland Board of Commissioners.

“**Business Equity Program**” means the program described in Part 2 of this Policy.

“**Certified Firms**” include Minority/Women/Emerging Small Business/Service-Disabled Veteran and Veteran Owned Small Business (M/W/ESB/SDV and VOSB) firms as certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID); or a Disadvantaged Business Enterprise (DBE) as certified by the U.S. Department of Transportation.

“**BIPOC**” Black, Indigenous, and all People of Color. It is a term to make visible the unique and specific experiences of racism and resilience that the Black/African Diaspora and Indigenous communities have faced in the structure of race within the United States. BIPOC is a term that honors all people of color as well as creates an opportunity to lift up the voices, particularly of those communities.

“**Direct Contracting**” includes all professional, supplier, and construction services purchased directly by Prosper Portland (i.e., not through a developer, Intergovernmental Agreement, or any other third party).

“**Enterprise Zone**” is a five-year, 100% tax abatement program designed to encourage existing and new industrial firms to make new capital investments in certain designated areas. Participating firms are required to create or retain quality jobs while maximizing the economic benefits for residents of Portland who are currently earning at or below 80% Median Family Income.

“**Equity**” means everyone has access to opportunities necessary to satisfy their essential needs, advance their well-being, and achieve their full potential (see the Portland Plan).

“Flexible Service Contract” is a contract for services that has repetitive requirements on an as-needed basis and may include Personal Services Contracts.

“Hard Construction Cost(s)” are the costs to build improvements on a property, including all related construction labor and materials and fixed and built-in equipment costs. They are all costs except Soft Construction Costs.

“Intergovernmental Agreement” or “IGA” is an agreement between Prosper Portland and another government entity, including the City of Portland.

“Land Transaction” is the sale of real property by Prosper Portland at any price for the purpose of a private or public project.

“Project” means a discrete construction, reconstruction, renovation, demolition, or remediation undertaking. Prosper Portland staff, in consultation with the Legal Department, have authority to consider the totality of the circumstances in determining whether one “project” or multiple “projects” exist for purposes of analyzing whether applicability thresholds are met if there is ambiguity. Factors that could be considered by Prosper Portland staff in making this determination may include, but are not limited to, the timing of such undertakings, whether there are or may be different contractors, and whether the undertakings are conceptually and/or physically distinct.

“Prosper Portland-Owned Construction Contract” are those in which Prosper Portland has a direct contractual relationship with the prime contractor and where Prosper Portland is the owner of the project.

“Prosper Portland Resource(s)” include: (i) Prosper Portland funds in the form of grants, loans, or payments (for purposes of calculating Prosper Portland Resources, any Prosper Portland funds used by a single entity for a single project in the form of grants, loans, or payments will be combined to determine the total amount of Prosper Portland Resources); and (ii) the value of a Land Transaction (for purposes of calculating the value of a Land Transaction, the value will be the difference between the appraised value of the property and its sale price).

“Prosper Portland-Sponsored Project(s)” include all projects that are privately owned and constructed involving Prosper Portland Resources, or a property conveyance that includes Prosper Portland Resources.

“Personal Services Contract” is a contract for specialized skills, knowledge or unique resources that involve the application of highly technical or scientific expertise or the exercise of professional, artistic, or management discretion or judgment. Such services include, but are not limited to, those performed by architects, engineers, surveyors, attorneys, auditors, other licensed professionals, artists, designers, computer programmers, consultants, and property managers.

“Soft Construction Cost(s)” are the costs associated with designing and permitting a building or improvement including all professional services such as architectural or engineering. These costs also include those not directly related to the construction of a building or improvement, such as overhead, administration, developer fees, or taxes. For the avoidance of doubt, real property acquisition costs are not Soft Construction Costs.

“Utilization Goal(s)” are percentage goals set for Certified Firms and workforce utilization on contracts and projects subject to the Policy.

“Workforce Equity Program” means the program described in Part 3 of this Policy.

“Workforce Goal(s)” means the goals related to construction trades that utilize People of Color and Women as a percentage of total construction hours worked on a Prosper Portland -Sponsored Project.

6.5 Severability. If any section, clause, phrase, sentence, or part of this Policy is for any reason adjudged unconstitutional, invalid or unenforceable, it will only void that part, clause, phrase or section so declared and the remainder will remain in full force and effect.

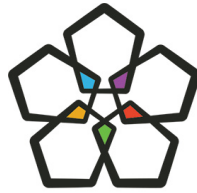
PART SEVEN: MODIFICATIONS

As provided in the Authorizing Resolution, this Policy may be amended by the Executive Director from time to time in her reasonable discretion so long as such amendments are non-material in nature as determined in consultation with the General Counsel. Material amendments require prior Board approval.

Non-material amendments include, but are not limited to, the following: (i) adjustments to reporting requirements; (ii) adjusting dollar applicability thresholds for inflation, based upon change in CPI-U, West Region, or another comparable index selected by the Executive Director; (iii) changing titles of departments or roles to reflect current organizational structure; and (iv) clarification or resolution of ambiguities as needed.

PART EIGHT: ADMINISTRATIVE PROCEDURES AND SPECIFICATIONS

The Executive Director (or their designee) may update administrative procedures and/or specifications to provide guidance to staff in implementing this Policy.



**PROSPER
PORTLAND**
Building an Equitable Economy

RESOLUTION NO. 7538

RESOLUTION TITLE:

ADOPTING AN UPDATED PROSPER PORTLAND CONSTRUCTION BUSINESS AND WORKFORCE EQUITY POLICY

Adopted by the Prosper Portland Commission on June 18, 2024, effective July 17, 2024


Adopted by the Prosper Portland Commission on June 18, 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 checked="" type="checkbox"/>	Commissioner Marcelino J. Alvarez	<input checked="" 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 type="checkbox"/>	Commissioner Michi Slick	<input 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.

	Date: June 24, 2024
Pam Feigenbutz, Recording Secretary	