

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7579

APPROVING TERMS OF AN EXCLUSIVITY TERM SHEET WITH BEAM CONSTRUCTION & MANAGEMENT LLC and COLAS DEVELOPMENT GROUP LLC FOR 1.39 ACRES OF PROSPER PORTLAND-OWNED PROPERTY BETWEEN SE TAYLOR, SE WATER, AND SE MADISON STREETS

WHEREAS, in 2017 Prosper Portland acquired approximately 2.19 acres of real property from the Oregon Department of Transportation, comprised of three parcels abutting SE Water Avenue to the west and bounded by SE Taylor Street to the north and SE Madison Street to the south (“Property”), as authorized by Prosper Portland Board of Commissioners (“Board”) Resolution No. 7216, adopted November 9, 2016;

WHEREAS, the Property is within the Central Eastside tax increment finance district, as established pursuant to the Central Eastside Urban Renewal Plan, which was adopted by the Board and approved by the Portland City Council in Central Eastside;

WHEREAS, Prosper Portland staff engaged in a competitive solicitation for developer partners for the Property, and in 2018 selected Beam Construction & Management, LLC (“Beam”) as its preferred development partner for the Property;

WHEREAS, Prosper Portland staff have been working with Beam and Colas Development Group LLC (collectively the “Developer”) towards terms of a Purchase and Sale for the middle of the Property’s three parcels, comprising 0.80 acres between SE Salmon, SE Water and SE Main Streets (“Block B”), as well as the terms of an Exclusive Negotiating Agreement for the northern and southern of the Property’s three parcels, comprising 0.80 acres between SE Taylor, SE Water and SO Salmon Streets (“Block A”), and 0.59 acres between SE Main, SE Water, and SE Madison Streets (“Block C”), respectively.;

WHEREAS, Developer plans to develop Block B as an approximately 65,000 square foot live music and events venue that can accommodate approximately 3,500 occupants;

WHEREAS, following the purchase and development of the Block B property, Developer intends to negotiate the terms of a Ground Lease and/or Purchase and Sale Agreement with Prosper Portland for Blocks A and C, in accordance with the provisions of the Term Sheet attached to the Resolution as Exhibit A (the “Term Sheet”); and,

WHEREAS, the Term Sheet, establishes deadlines for Developer to accomplish certain milestones following the completion of the Block B Project to retain is exclusive negotiating position with respect to Blocks A and C;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to enter into and execute and Exclusive Negotiating Agreement for Blocks A and C on terms substantially consistent with the Term Sheet attached to this Resolution as Exhibit A;

BE IT FURTHER RESOLVED, the Executive Director is hereby authorized to execute any amendments or other modifications to the Exclusive Negotiating Agreement, provided that the terms of the same do not materially increase Prosper Portland’s obligations or risks, as determined by the Executive Director in consultation with Prosper Portland’s General Counsel; and

BE IT FURTHER RESOLVED, that with the approval of not less than four Board members and of all Board members present at the meeting, this Resolution will take effect immediately upon adoption, otherwise it will become effective thirty (30) days after adoption by the Board.

Adopted by the Prosper Portland Commission on September 18, 2024

A handwritten signature in blue ink that reads "Pam Feigenbutz". The signature is written in a cursive, flowing style.

Pam Feigenbutz, Recording Secretary

AMENDED AND RESTATED TERM SHEET

(Workshop Blocks A & C Term Sheet and Development Agreement)

This Amended and Restated Term Sheet replaces and supersedes the Term Sheet between the Parties dated April 15, 2020, as a nonbinding statement of the parties’ current intent, understandings and assumptions regarding the fundamental framework and structure related to the subject matter hereof (the “Term Sheet”). This Term Sheet outlines the principal anticipated terms for a binding development agreement between Beam Development, assumed business name of Beam Construction & Management, LLC (or one or more affiliates, subsidiaries, or assigns as permitted in this Term Sheet) and Colas Development Group, LLC (or one or more affiliates, subsidiaries, or assigns as permitted in this Term Sheet) (collectively “Developer”) and Prosper Portland, the economic development and urban renewal agency for the City of Portland (“Prosper Portland”) related to the development of the two Workshop Block parcels located along the Property (defined below).

This Term Sheet is not a binding contract, and is intended only to provide a basis for negotiations of a future binding agreement between Developer and Prosper Portland (the “Development Agreement”). Neither party makes any representations or warranties, whether express or implied, by execution of this Term Sheet. Notwithstanding the foregoing, the section of this Term Sheet titled “Pre-Development Agreement Exclusivity Period” is intended to be a binding obligation of Prosper Portland.

Parties	This Term Sheet is made between Prosper Portland and Developer. Developer may not assign its interest under the Development Agreement without the prior written consent of Prosper Portland (which consent shall not be unreasonably withheld, conditioned or delayed); provided that no consent shall be required to an assignment to an entity in which Developer has control of the development of the given projects.
Property	<p>The real property described in this Term Sheet collectively totals 1.39 acres and is located on three blocks of SE Water Avenue between SE Taylor Street and SE Madison Street in Portland’s Central Eastside Tax Increment Finance District (the following blocks being, collectively, and is more particularly described as Parcels 1 and 3 in the Deed recorded in Multnomah County Official Records as Instrument Number 2017-076262 the “Property”):</p> <p>PARCEL 1: Northern most parcel between SE Taylor and Salmon Street, .80 acres/34,809 SF (“Block A”)</p> <p>PARCEL 3: Southernmost parcel between Main and Madison Street, .59 acres / 25,601 SF (“Block C”)</p>
Exclusive Negotiating Rights to Other Blocks	<p>This Term Sheet does not give Developer a formal Option to acquire or to lease Block A or C, but instead establishes a period of time during which Prosper Portland agrees to refrain from selling, leasing or otherwise conveying Blocks A or C to any entity other than Developer (see “Exclusivity Periods; Initial Deposit and Extension Fee” section below).</p> <p>It is intended that during the applicable Exclusivity Periods (as defined below), Developer and Prosper Portland will continue to negotiate mutually agreeable terms and conditions of potential ground lease or purchase of Block A and Block C.</p>

<p>Block A & C Ground Lease or Purchase Option</p>	<p>Should Prosper Portland and the Developer mutually agree on a ground lease, the following terms will apply to a ground lease structure for Block A or Block C:</p> <p>Base Rent will be calculated using a discounted cash flow analysis utilizing a 6% discount rate, valuing the leased-fee interest as the present value of rent payments together with the present value of the appreciated value of the Appraised Value of the Property. Establishing the leased-fee interest value for Block A and Block C requires an updated appraisal obtained no more than 12 months prior to Closing.</p> <p>Should Prosper Portland and the Developer mutually agree on the purchase and sale of Block A or C, the key terms of the Purchase and Sale Agreement will be substantially similar to the key terms of the Purchase and Sale Agreement negotiated between the Parties for Block B.</p>
<p>Block A & C Appraised Value</p>	<p>Prosper Portland will obtain an appraisal for Block A or C within a reasonable period of time after the Parties agree on the Developer’s development proposal for that Block.</p>
<p>Environmental Matters</p>	<p>It is anticipated environmental remediation will be required for both Block A and C in connection with the development including removing contaminated and co-mingled (debris-laden) soils and any DEQ-related monitoring and oversight activities and associated fees (the “Remediation Activities”).</p> <p>The Term Sheet and Purchase and Sale Agreement will require the Developer to undertake and complete the Remediation Activities, including obtaining a No Further Action letter and coordinating with DEQ to ensure compliance with the Remedial Action Approach Plan and Contaminated Media Management Plan. The Development Agreement will make Developer responsible for any and all costs and expenses (including any cost overruns) in connection with the same.</p> <p>The Purchase and Sale Agreement may include a provision negotiated by the parties providing that Prosper Portland may hold a reserve to pay for a portion of the documented environmental remediation costs and in accordance with a schedule of values to be approved in advance by Prosper Portland.</p> <p>Prosper Portland will pay, on a reimbursement basis, for the remediation based on documented environmental remediation costs in accordance with a schedule of values approved in advance by Prosper Portland, not to exceed \$2,001,000.</p>
<p>Future Phases – Block A Project and Block C Project</p>	<p><u>Developer will propose projects on Block A and Block consistent the entitlements and that both maximize the development potential of each block and are financially feasible based on then current market conditions.</u></p>
<p>Exclusivity Periods; Initial Deposit and Extension Fee</p>	<p>Upon execution of the Term Sheet, Prosper Portland agrees to refrain from negotiating with 3rd parties in connection with the selling, leasing or other conveyance of an interest in Block A or C to any entity other than Developer for the following periods (each an applicable “Exclusivity Period”):</p> <p>Phase I (Block B) Exclusivity:</p>

It is expected that the Developer will have purchased Block B from Prosper Portland (located between Blocks A and C) for the development of a live music venue, with closing to occur on or before December 2025, pursuant to the terms of a separate Term Sheet executed by the Parties on or about the same date as the execution of this Term Sheet.

Phase II (Block A or C) Exclusivity:

Under Phase II Developer will have the flexibility to explore development opportunities on Block A or Block C to meet market demand consistent with the site entitlements.

The Phase II exclusivity on both Blocks A and C will continue until the earliest to occur of any of the following:

- Developer fails to execute a Purchase and Sale Agreement for Block B and/or close on the purchase of Block B from Prosper Portland as outlined above;
- Developer fails to submit to Prosper Portland a development concept on either Block A or Block C within 6 months following completion of Block B construction as evidenced by a certificate of occupancy;
- Developer fails to submit to Prosper Portland a feasibility study on either Block A or Block C within 12 months following Prosper Portland approval of the development concept; and
- Developer fails to obtain a permit 18 months after the project is deemed feasible by Prosper Portland
- Developer fails to close on either Block A or C within 24 months after obtaining permits.
 - The parties obligations to close will be subject to the following conditions:
 - Developer has obtained all permits
 - Developer has closed on financing (equity and/or debt)

Phase III (Final Block) Exclusivity:

Under Phase III Developer will retain the right to develop the block that was not selected for development in Phase II and Developer will have the flexibility to explore development opportunities on the last remaining block to meet market demand consistent with the site entitlements.

The Phase III exclusivity on the final developable parcel, Block A or C, will continue until the earliest to occur of any of the following:

- Developer fails to meet the closing conditions on Phase II (Block A or C) as outlined above;
- Developer fails to submit to Prosper Portland a development concept on Phase III within 6 months following completion of Phase II construction as evidenced by a certificate of occupancy;
- Developer fails to submit to Prosper Portland a feasibility study on Phase III within 18 months following completion of Phase II construction as evidenced by a certificate of occupancy; and

	<ul style="list-style-type: none"> • Developer fails to close on Phase III within 24 months following completion of Phase II construction as evidenced by a certificate of occupancy.
<p>Predevelopment Period</p>	<p>Prosper Portland will reasonably cooperate with Developer to provide it with reasonable rights to access the Property and to conduct due diligence, which may include but is not limited to environmental testing, soils testing, and surveys.</p> <p>Prosper Portland will provide its consent to all land use and permit applications reasonably requested by Developer in connection with entitlements and will cooperate with Developer in connection with the development of the Property.</p> <p>Prosper Portland will allow Developer to represent that is has secured site control to Developer’s lenders, investors, consultants, tenants and other parties critical to Developer’s ability to develop the Property.</p>
<p>Prosper Portland Policies</p>	<p>The following Prosper Portland policies will apply to any development of Block A and/or Block C:</p> <ul style="list-style-type: none"> - Workforce Training and Hiring Program - Business Equity Policy - Green Building Policy
<p>Adjacent ODOT-owned Parcels</p>	<p>Prosper Portland supports Developers efforts to lease the ODOT-owned remnant parcels and to provide district parking.</p> <p>It is critical to the feasibility of the development of the Property to improve the blighted remnant parcels owned by ODOT, such that uses that would be detrimental to the leasing/marketability of the adjacent Project would be precluded (e.g. dirt and gravel storage, long-term construction staging, etc.).</p>
<p>Prevailing Wage Determination</p>	<p>Prior to the execution of the Development Agreement, Developer will be responsible for obtaining a determination from the Bureau of Labor and Industries regarding the applicability or inapplicability of prevailing wage laws and regulations (ORS 279C.800, et seq.) to the development of Block A or C, and the parties acknowledge that Developer anticipates that the its development of Blocks A and C will not be subject to prevailing wage requirements, and to the extent BOLI determines otherwise the parties will meet to discuss how best to proceed with the development of Blocks A & C.</p>

[Signature Page Follows]

This Term Sheet is made and entered into by and between the parties below as of _____,
2024. This Term Sheet is non-binding except for the “Pre-Development Exclusivity Period” section.

Beam Construction & Management, LLC d/b/a Beam Development

By: _____
Jonathan Malsin, Manager

Colas Development, LLC

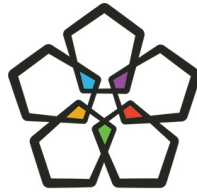
By: _____
Andrew Colas, President

Prosper Portland

By: _____
Kimberly Branam, Executive Director

Approved as to Form:

Prosper Portland Legal Counsel



**PROSPER
PORTLAND**
Building an Equitable Economy

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RESOLUTION TITLE:

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Adopted by the Prosper Portland Commission on September 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 Felisa Hagins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Michi Slick	<input checked="" 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: September 23, 2024
Pam Feigenbutz, Recording Secretary	