

**PROSPER PORTLAND**

**Portland, Oregon**

**RESOLUTION NO. 7369**

**AUTHORIZING A FIVE-YEAR TECHNICAL SERVICES AGREEMENT WITH  
THE OREGON MANUFACTURING EXTENSION PARTNERSHIP**

**WHEREAS**, Manufacturing Extension Partnerships, a program of the National Institute of Standards and Technology within the U.S. Department of Commerce, support manufacturers in various states across the country by providing technical assistance that helps businesses increase their efficiency and decrease costs;

**WHEREAS**, Prosper Portland is able to support the Oregon Manufacturing Extension Partnership (“OMEP”) and provide subsidized efficiency and process consultations to manufacturing businesses in Portland that provide middle-wage jobs;

**WHEREAS**, by working with OMEP, Prosper Portland supports the creation of middle-wage employment opportunities for underrepresented populations by engaging in activities that stimulate growth of the manufacturing cluster;

**WHEREAS**, staff proposes that Prosper Portland enter into a new five-year technical services agreement with OMEP (“Agreement”), pursuant to which Prosper Portland will reimburse OMEP up to 50 percent of its costs per project not to exceed \$15,000 per project for the industry clients;

**WHEREAS**, the Agreement is exempt from competitive procurement, as a technical assistance agreement with a non-profit organization (pursuant to Part 3.II.G of Prosper Portland’s Local Contract Review Board Administrative Rules);

**WHEREAS**, Prosper Portland has the right to increase the ratio of Prosper Portland’s funding to an industry client; and

**WHEREAS**, the Agreement is on the same terms and conditions as prior agreements with OMEP, which all together exceed \$500,000.

**NOW, THEREFORE, BE IT RESOLVED**, that the Prosper Portland Board of Commissioners authorizes the Executive Director to execute the Agreement, in an amount not to exceed \$495,000, in substantially the form of Exhibit A attached to this resolution, for the purpose of providing technical assistance to manufacturing businesses in Portland;

**BE IT FURTHER RESOLVED**, that the Executive Director may approve changes to the Agreement if such changes 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 this resolution shall become effective immediately upon its adoption.

Adopted by the Prosper Portland Commission on May 13, 2020



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Pam Feigenbutz, Recording Secretary

**TECHNICAL SERVICES MASTER AGREEMENT  
ADVANCED MANUFACTURING INDUSTRY**

This Technical Services Agreement (this "Agreement") is between the **Prosper Portland**, the assumed business name of the Portland Development Commission, the urban renewal and redevelopment agency of the City of Portland, ("Prosper Portland") and the **Oregon Manufacturing Extension Partnership, Inc.** ("OMEP" or "Contractor"); together, the "Parties" to this Contract. The Prosper Portland Project Manager for this Agreement is **Kevin Johnson**.

**Effective Date and Duration**

This Agreement will become effective on the date of the last signature below (the "Effective Date"). This Agreement will expire, unless otherwise terminated or extended, on **January 31, 2025** (the "Expiration Date").

**Scope of Services and Work Orders**

- (a) The Scope of Services for this Agreement is contained in EXHIBIT A.
- (b) This Agreement is executed for work to be provided on an as-needed basis. As such, Prosper Portland makes no guarantee of any work and there is no guarantee that the maximum compensation of this Agreement will be earned.
- (c) Authorization for all work performed under this Agreement will be in the form of Work Orders issued by Prosper Portland to OMEP (see EXHIBIT A, Section 4.0). Each Work Order will describe the work to be accomplished as well as applicable performance schedule, budget, and other matters relevant to that work. OMEP shall not deviate from the Work Order scope, budget, or schedule without a written agreement between the Parties.
- (d) Any conflict between this Agreement and any Work Order will be resolved in favor of this Agreement.

**Consideration**

The maximum compensation payable to OMEP through Work Orders issued for this Agreement is **four hundred ninety-five thousand and 00/100 dollars (\$495,000.00)** without a written amendment to this Agreement signed by the Parties.

**Agreement Terms and Conditions**

The terms and conditions listed on pages 2 - 5 are incorporated herein and made a part of this Agreement.

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**OMEP DATA, CERTIFICATION, AND SIGNATURE**

Legal Name: Oregon Manufacturing Extension Partnership, Inc.

Address (including City, State, Zip Code): 7650 SW Beveland Street, Suite 170, Portland, OR 97223

Phone Number: (503) 406-3770 Fax Number: (503) 406-3779 Email Address: mfusak@omep.org

Citizenship, Nonresident Alien:  Yes  No Business License Number: 441003

Business Type: Corporation

I, the undersigned, agree to perform the services outlined in this Agreement in accordance to the terms and conditions (listed on pages 2-5), the Scope of Services contained in EXHIBIT A, to the extent that Work Orders are issued pursuant to this Contract; and hereby certify under penalty of perjury that I/my business am/is not in violation of any Oregon tax law.

Approved by OMEP:

\_\_\_\_\_ Date

Chris Scherer, President

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**PROSPER PORTLAND SIGNATURES**

Approved by:

\_\_\_\_\_ Date

Kimberly Branam, Executive Director

Approved as to form:

\_\_\_\_\_ Date

Prosper Portland Legal Counsel

**PROSPER PORTLAND  
STANDARD AGREEMENT TERMS AND CONDITIONS FOR  
TECHNICAL SERVICES MASTER AGREEMENTS**

**1. Access to Records.**

The Contractor shall maintain and Prosper Portland and its duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after the Expiration Date. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by Prosper Portland.

**2. Audits**

(a) Prosper Portland, either directly or through a designated representative, may conduct financial and performance audits of the billings and the Work specified in this Agreement at any time in the course of the Agreement and during the three (3) year period after the Expiration Date. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in *Government Auditing Standards* by the Comptroller General of the United States General Accounting Office.

(b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to Prosper Portland.

(c) If an audit shows performance of the Work is not efficient in accordance with *Government Auditing Standards*, Prosper Portland may pursue remedies provided under section 4, Early Termination of Agreement and section 6, Remedies.

**3. Conditions for the Survival of Work Orders**

Prosper Portland may issue Work Orders against this Agreement that have an expiration date after the Expiration Date of this Contract. Such Work Orders survive the Expiration Date of this Agreement provided that (a) any such Work Order is fully-executed prior to the Expiration Date of this Contract; (b) any increase to the maximum compensation of any such Work Order is not more than 20% or \$5,000 (whichever amount is less) above the original amount of that Work Order; and, (c) all work under that Work Order must be completed within six (6) calendar months after the Expiration Date of this Contract. Prosper Portland must seek approval from the Prosper Portland Professional Services Manager in order to (a) extend the Work Order for a period of time greater than six (6) months after the Expiration Date of this Contract; or, (b) authorize an

increase to the maximum compensation of that Work Order in excess of \$5,000 or 20% of the original amount of the Work Order. Any increase to the maximum compensation of a Work Order after the Expiration Date of this Agreement must not exceed the maximum compensation of this Agreement at the time it expired.

**4. Early Termination of Contract**

(a) Prosper Portland and the Contractor, by mutual written agreement, may terminate this Agreement at any time.

(b) Prosper Portland, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

(c) Either Prosper Portland or the Contractor may terminate this Agreement in the event of a breach of this Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate this Agreement at any time thereafter by giving a written notice of termination.

**5. Payment on Early Termination**

(a) In the event of termination under subsection 4(a) or 4(b), Early Termination of Agreement hereof, Prosper Portland shall pay the Contractor for work performed in accordance with this Agreement prior to the Termination Date.

(b) In the event of termination under subsection 4(c), Early Termination of Agreement hereof, by the Contractor due to a breach by Prosper Portland, then Prosper Portland shall pay the Contractor as provided in subsection (a) of this section 5.

(c) In the event of termination under subsection 4(c), Early Termination of Agreement hereof, by Prosper Portland due to a breach by the Contractor, then Prosper Portland shall pay the Contractor as provided in subsection (a) of this section 6, subject to set off of excess costs, as provided for in subsection 6(a), Remedies.

(d) In the event of early termination, all of the Contractor's work product will become and remain property of Prosper Portland.

**6. Remedies**

(a) In the event of termination under subsection 5(c), Early Termination of Contract, hereof, by Prosper

Portland due to a breach by the Contractor, then Prosper Portland may complete the Work either itself, by agreement with another contractor or by a combination thereof. In the event the cost of completing the Work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Contractor shall pay to Prosper Portland the amount of the reasonable excess.

**(b)** The remedies provided to Prosper Portland under section 5, Early Termination of Agreement and this section 6 for a breach by the Contractor shall not be exclusive. Prosper Portland also shall be entitled to any other equitable and legal remedies that are available.

**(c)** In the event of breach of this Agreement by Prosper Portland, then the Contractor's remedy shall be limited to termination of this Agreement and receipt of payment as provided in subsection 5(c), Early Termination of Agreement and subsection 5(b), Payment on Early Termination hereof.

#### **7. Subcontracts and Assignment**

The Contractor shall not subcontract, assign or transfer any of the Work, without the prior written consent of Prosper Portland. Prosper Portland's approval of a Work Order or Work Order Amendment that identifies subcontractors and/or subcontractor personnel not otherwise listed in this Agreement will suffice for purposes of the "written consent" required by this paragraph. Notwithstanding Prosper Portland approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and Prosper Portland shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Contract, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

#### **8. Independent Contractor**

The Contractor certifies, represents and warrants that Contractor is an independent contractor of Prosper Portland under all applicable State and federal laws. Contractor is not an "officer," "employee," or "agent" of Prosper Portland as those terms are used in ORS 30.265.

#### **9. Ownership of Work Products**

All work products of the Contractor which result from this Agreement (collectively, the "Work Products") are the exclusive property of Prosper Portland. Work Products include but are not limited to all data, information in any form, documents, drawings, photographs, research, analysis and any other work subject to intellectual property laws and doctrines. Prosper Portland and the Contractor intend that such Work Products be deemed "work for hire" of which

Prosper shall be deemed the author. If for any reason any Work Product(s) are not deemed "work for hire," Contractor hereby irrevocably assigns to Prosper Portland all of its right, title and interest in and to any and all of the Work Products whether arising from copyright, patent, trademark, trade secret or any other state or federal intellectual property law or doctrine. The Contractor agrees to execute such further documents and instruments as Prosper Portland may reasonably request in order to fully document such vested rights in Prosper Portland. The Contractor forever waives any and all rights related to the Work Products, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. The Contractor may refer to the Work Products in its marketing materials for advertising purposes.

#### **10. Indemnity - Claims for Other than Professional Liability**

The Contractor shall indemnify defend, save, and hold harmless Prosper Portland, the City of Portland, and each of their respective officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of the Contractor or its subcontractors, agents or employees under this Contract; provided however, that nothing herein shall be construed to require indemnification of Prosper Portland for liability attributable to Prosper Portland's sole negligence.

#### **11. Indemnity - Claims for Professional Liability**

The Contractor shall indemnify, defend, save, and hold harmless Prosper Portland, the City of Portland, and each of their respective officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of the Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this Contract.

#### **12. Insurance**

The Contractor shall carry, at a minimum, insurance coverage in the amounts set forth in EXHIBIT B which is hereby made a part of this Contract.

#### **13. Standard of Care**

The Contractor shall perform all services at the same level of professional skill, care, diligence and standards as other professionals performing similar services under similar conditions. The Contractor will re-perform any services not meeting this standard or correct any inconsistencies, errors or omissions in the Work

Products without additional compensation and without undue delay, or Prosper Portland, in its sole discretion, may terminate this Agreement pursuant to subsection 4(c), Early Termination of Agreement and pursue any and all remedies available. The passage of the Expiration Date does not extinguish, prejudice, or limit either party's right to enforce this Agreement with respect to any default or defect in performance that has not been cured.

**14. Compliance with Applicable Laws**

The Contractor agrees to comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances – including all federal and state civil rights and rehabilitation rules and statutes – applicable to the Work. The Contractor shall comply with the clauses required in every public Agreement in the state of Oregon, including ORS 279B.220, 279B.230 and 279B.235 which are hereby incorporated by reference. The Contractor further agrees to comply with all federal and state laws prohibiting discrimination on the basis of race, sex, national origin, religion, age or disability.

**15. Counterparts**

This Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the Parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.

**16. Recycled Products**

To the maximum extent economically feasible, the Contractor shall use good faith efforts to use recycled products in connection with its performance of work under this Contract.

**17. Successors in Interest**

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and approved assigns.

**18. Governing Law and Venue**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the state of Oregon, without regard to principles of conflicts of law. Any claim, action, suit, or proceeding (collectively, a "Claim") between Prosper Portland and the Contractor that arises from or relates to this Agreement must be brought in the Circuit Court of Multnomah County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. THE CONTRACTOR, BY

EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**19. Amendments**

Prosper Portland and the Contractor may amend this Agreement at any time only by written amendment executed by Prosper Portland and the Contractor.

**20. No Third Party Beneficiaries**

No person not a party to this Agreement is an intended beneficiary of this Contract, and no person not a party to this Agreement shall have any right to enforce any term of this Contract.

**21. Business License and Equal Employment Opportunity Certification**

The Contractor shall obtain a City of Portland business license and certify as an Equal Employment Opportunity employer as required by Portland City Code 7.02.300 and 3.100, respectively, prior to beginning the Work.

**22. Subcontracting with Certified Minority-owned, Women-owned and Emerging Small Businesses**

Through its Business and Workforce Equity Policy, Prosper Portland seeks to extend subcontracting opportunities to State of Oregon certified Minority-Owned, Women-Owned and Emerging Small Businesses (collectively, "M/W/ESBs") in order to promote their economic success and growth. The Contractor is encouraged to make reasonable efforts to utilize M/W/ESB firms for any subcontracting opportunities under this Agreement and maintain a diverse workforce.

**23. Payment to Vendors and Subcontractors**

(a) The Contractor shall pay each subcontractor, supplier, and lessor providing it satisfactory services, materials or equipment for carrying out its obligations under this Agreement within ten (10) business days from the receipt of each payment the Contractor receives from Prosper Portland

(b) The Contractor shall not take or fail to take any action in a manner that causes Prosper Portland or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without Prosper Portland's prior written consent.

(c) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Agreement as such claim becomes due, Prosper Portland may pay such claim to the person and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. However, the payment of such

a claim by Prosper Portland shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

#### **24. Confidentiality**

The Contractor acknowledges that it or its employees, agents or subcontractors may, in the course of performing its duties under this Contract, be exposed to or acquire information that is the confidential information of Prosper Portland. Any and all information provided by Prosper Portland and marked "confidential," or identified as confidential in a separate writing, that becomes available to the Contractor or its employees, agents or subcontractors in the performance of work under this Agreement shall be deemed to be confidential information of Prosper Portland ("Confidential Information"). Confidential Information does not include information that: (a) is or becomes (other than by disclosure by the Contractor) publicly known; (b) is rightfully in the Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (c) is obtained from a source other than Prosper Portland without the obligation of confidentiality; or (d) is disclosed with the written consent of Prosper Portland. The Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of services to Prosper Portland under this Contract. The Contractor agrees to advise each of its employees, agents or subcontractors of their obligations to keep the Confidential Information confidential.

#### **25. Severability**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

#### **26. Waiver**

The failure of Prosper Portland to enforce any provision of this Agreement shall not constitute a waiver by Prosper Portland of that or any other provision.

#### **27. Notices**

The Contractor's address for notices related to the administration of this Agreement is the physical and email address listed on page 1 of this Contract. Prosper Portland's address for notices is the physical address of 222 NW 5th Avenue, Portland, Oregon 97209 sent to the attention of the Prosper Portland Project Manager identified on page 1 of this Agreement and the email address of [procurement@prosperportland.us](mailto:procurement@prosperportland.us) or the email address designated the Prosper Portland Professional Services Manager. Any notice given by one party to the other party shall be deemed given and delivered (a) two days after being mailed by U.S. mail, (b) one day after being sent by email, or (c) when received, if personally delivered to the party at their physical address.

#### **28. Merger Clause**

This Contract, attached Exhibits, Work Orders issued pursuant to this Agreement and all documents attached thereto 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 the Parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. The Contractor, by the signature of its authorized representative, hereby acknowledges that he or she has read this Contract, understands it and agrees to be bound by its terms and conditions.

**EXHIBIT A to the TECHNICAL SERVICES MASTER AGREEMENT  
ADVANCED MANUFACTURING INDUSTRY**

**1.0 SCOPE OF SERVICES**

Under this Technical Services Master Agreement (this “Agreement”), **Oregon Manufacturing Extension Partnership, Inc.** (“OMEP” or “Contractor”) agrees to provide **Prosper Portland**, the assumed business name of the Portland Development Commission, the urban renewal and redevelopment agency of the City of Portland (“Prosper Portland”) and designated Clients (as defined below) with the following services on an as-needed basis:

**1.1 Industry Clients**

**1.1.1 Identification**

Prosper Portland and OMEP Program Managers will cooperate in marketing OMEP services and identifying potentially qualified businesses to participate in receiving technical assistance (“Program”). Such marketing may include holding workshops, advertising on websites and in trade journals, and providing information to local area business associations.

Prosper Portland and OMEP will evaluate each business seeking assistance (“Applicant”) and make the determination whether an Applicant is qualified for the Program based on the following criteria (“Program Evaluation Criteria”):

- Participation in the Program will yield efficiency improvements and/or productivity enhancements that result in more efficient use of labor, resources and facilities
- Participation in the Program will result in a model to enhance sustainable target industry development
- Availability and applicability of funds, as solely determined by Prosper Portland
- Potential for replication of project results as a model to enhance Prosper Portland’s target industry development

**1.1.2 Implementation**

Each Applicant selected for the Program (“Client”) and OMEP will develop a written scope of work (“SOW”) and submit the SOW to Prosper Portland for approval. Any changes to an approved SOW must be approved in writing by Prosper Portland. The SOW will identify the project and describe the services OMEP will provide, along with the following information:



- Project's estimated cost and detailed budget (both to Prosper Portland and the Client, including potential in-kind contributions)
- Project's timeline, including estimated start and completion dates
- Name of OMEP staff/consultant assigned to the project
- Client's contact information (including Client's business name, contact person, contact phone and email address, and a brief description of the Client)
- Summary of how the project will meet the stated goals of the Program Evaluation Criteria listed in section 1.1 above
- Measurement(s) of project success (e.g. product improvement, development, increased productivity)
- The proposed outcome, including, for purposes of determining tax increment financing ("TIF") eligibility, specific pre-development activities that will result in fixed improvements to the Client's space.

### 1.1.3 Reporting

- *Status Updates*: OMEP will provide monthly invoices to Prosper Portland's Program Manager for this Agreement. Each invoice will include a description of the work completed within that billing period.
- *Final Project Reports*: OMEP will provide a written Success Story to Prosper Portland's Program Manager for each project. The Success Story will summarize the work performed and results achieved, including jobs created and/or retained, investments made based on OMEP recommendations, reduction in waste, increased efficiency, etc.

## 1.2 Small, Minority, Women and Disadvantage Business Program ("SMWDBP") Clients

- Prosper Portland and OMEP Program Managers will cooperate in marketing and identifying up to ten (10) qualified small manufacturing businesses, particularly those from low-income communities or under-represented populations ("Applicants"), to participate in receiving technical assistance through the SMWDBP using criteria listed in section 1.1.1 above.
- OMEP shall conduct one (1) Business Innovation workshop for up to ten (10) BIW Clients.
- OMEP and potential subconsultants ("SMWDBP Team") shall provide one (1) workshop to include four (4) classroom sessions. Each session will be hands-on and include, but not limited to, addressing key questions about leadership, financial understanding, operational improvements and top line growth.
- SMWDBP Team shall be available to conduct up to three (3) on-site support sessions with each BIW Client.

## 2.0 COMPENSATION

In consideration of the services OMEP agrees to provide under the terms of this Agreement, Prosper Portland agrees to compensate OMEP a sum not to exceed the amount listed in the "Consideration" paragraph on page 1 of this Agreement. That amount is payable to OMEP on a reimbursement-basis for services provided to Clients. Payments under this Agreement are subject to the following conditions:

- 2.1 OMEP is eligible to receive reimbursement only for services provided on projects approved by Prosper Portland under this Agreement.
- 2.2 Prosper Portland will reimburse OMEP \$8,000 for SMWDBP workshop.
- 2.3 Prosper Portland will reimburse OMEP up to \$1,800 per individual on-site support session with each SMWDBP Client.
- 2.4 Prosper Portland will reimburse OMEP up to 50% of its costs per project (not to exceed \$15,000 per project, unless increased as provided in 2.4 below) for the Industry Clients. The parties understand that the Industry Client will reimburse OMEP the remaining 50% of the cost of services OMEP provides.
- 2.5 OMEP certifies that an Industry Client's matching fund contributions will be obtained by OMEP and records of such contributions will be available for Prosper Portland's review upon request.
- 2.6 Prosper Portland reserves the right, in its sole discretion, to increase the ratio of Prosper Portland's funding of an Industry Client's project up to 100%, based on special circumstances as deemed appropriate by the Prosper Portland Economic Development Manager. Examples of circumstances that may merit increased funding include public benefit, the Industry Client experiencing financial difficulty, certain small businesses or non-profits, innovative business or approach, or high growth cluster business. In any event, Prosper Portland's total payment for services shall not exceed \$30,000 to any one Industry Client over a three-year period. Any additional funding provided under this provision shall be based on a determination of need and the demonstrated progress from initial investments by Prosper Portland and will require prior approval by Prosper Portland's Economic Development Division Manager.
- 2.7 Under this Agreement, projects may be funded with either Prosper Portland general fund dollars or TIF funds. Any project funded with TIF funds must (1) be located within a designated Urban Renewal Area; (2) be for the purposes of rehabilitation or redevelopment of existing structures or new development on vacant land; and (3) satisfy all applicable statutes and policies.

## 3.0 BILLING AND PAYMENT PROCEDURES

- 3.1 For payment, OMEP must submit to Prosper Portland an itemized invoice in a form and with sufficient detail to determine the work performed for the amount requested.
- 3.2 All invoices must contain, at a minimum:
  - Invoice date
  - Client Name
  - Agreement and Work Order Number
  - Billing period
  - Description of services provided to Client in that billing period

- 3.3 Prosper Portland shall process payment in its normal course and manner for accounts payable, **NET 30 DAYS** from the date Prosper Portland receives all properly-prepared invoices.

#### 4.0 WORK ORDERS

- 4.1 **Authorization of Work.** Work Orders will be issued by Prosper Portland to the OMEP to authorize the performance all work under this Agreement. The specific statement of work, performance schedule, deliverables and compensation for a given assignment will be included in each Work Order. PROSPER PORTLAND IS NOT RESPONSIBLE FOR PAYMENT OF ANY WORK THAT IS NOT PROPERLY AUTHORIZED.
- 4.2 **Proposals and Cost Estimates.** Prior to issuance of any Work Order, OMEP will be asked to provide a proposal and/or detailed cost estimate for the requested services which must include all billable days, OMEP and subcontractor personnel and anticipated reimbursable expenses. All such proposals and cost estimates are subject to reasonable negotiations prior to approval of a Work Order.
- 4.3 **Work Order Amendments.** Except for changes to the expiration date of a Work Order, any change(s) to the scope, budget or other matters of an approved Work Order will be implemented by a written amendment to that Work Order prepared by Prosper Portland and signed by the Parties. The expiration date of any Work Order may be changed through email approval between OMEP and the Prosper Portland employee identified as the Work Order Manager on the cover page of an approved Work Order (the "Prosper Portland Work Order Manager").
- 4.4 **Work Order Termination.** Unless otherwise specified in a particular Work Order, Prosper Portland may terminate any Work Order issued from this Agreement for any reason by providing fifteen (15) calendar days written notice to OMEP (see also paragraph 27 in the terms and conditions of this Agreement). Such an action will not affect the balance of any other Work Orders that may have been issued from this Agreement.
- 4.5 **Performance Evaluation.** At the completion of each Work Order, Contractor may be evaluated by the Prosper Portland Work Order Manager with regards to quality of work products and services provided; budget, scope and schedule control; and Agreement administration (e.g. accuracy of billings and conformance to the "Billing and Payment Procedures" contained in this Agreement, etc.) and other matters relevant to the work performed pursuant to that Work Order. Any such evaluation will be included in OMEP's contract file.

[Remainder of page intentionally left blank]

**EXHIBIT B to the TECHNICAL SERVICES MASTER AGREEMENT  
ADVANCED MANUFACTURING INDUSTRY**

**INSURANCE REQUIREMENTS**

Prior to the Effective Date of this Agreement, OMEP must provide Prosper Portland with adequate certificates of insurances, consistent with the following requirements. OMEP's insurance shall be primary insurance, and any insurance or self-insurance maintained by Prosper Portland and/or the City of Portland shall not contribute to it. During the term of this Agreement, Contractor shall maintain in force at its own expense, each type of insurance noted below:

1. **Workers' Compensation insurance** in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt under ORS 656.027).

Required and attached or  Contractor is exempt. Certified by Contractor: \_\_\_\_\_  
Signature/Title

2. **Commercial General Liability insurance** on an occurrence basis with a combined single limit of not less than **\$1,000,000** each occurrence for bodily injury and property damage. The general liability insurance shall provide contractual liability coverage for the indemnity required under this Agreement. The coverage shall name "**The Portland Development Commission and the City of Portland and each of their respective officers, agents, and employees**" as Additional Insured with respect to OMEP's services to be provided under this Agreement.

Required and attached or  Waived

3. **Automobile Liability insurance** with a combined single limit of not less than **\$500,000** each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

Required and attached or  Waived

4. **Professional Liability insurance** with a combined single limit of not less than **\$1,000,000** against liability for personal injury, death or damage of property, including loss of use thereof, arising from OMEP's professional negligence, malpractice, errors or omissions in any way related to this Agreement.

Required and attached or  Not Required or Waived

5. **Tail Coverage.** For Professional Liability written on a "claims made" basis and for any other required liability insurance provided on a "claims made" basis, "tail" coverage will be required at the completion of the Agreement for a duration of twenty four (24) consecutive months. In lieu of "tail" coverage, continuous "claims made" liability coverage for a term of twenty four (24) consecutive months immediately following Agreement completion will be acceptable to Prosper Portland, provided the retroactive date of the coverage is on or before the effective date of this Agreement.

6. **All Types of Insurance.** There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without written notice from OMEP or its insurer(s) to Prosper Portland.

7. **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, OMEP shall furnish acceptable insurance certificates to the Prosper Portland at the time, or prior to the time, Contractor returns signed contracts. The General Liability certificate shall name "**Prosper Portland and the City of Portland and each of their respective officers, agents, and employees**" as additional insured but only with respect to OMEP's services to be provided under this Agreement. Insuring companies or entities are subject to Prosper Portland acceptance. If requested, complete copies of the insurance policy shall be provided to the Prosper Portland. OMEP shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.



# PROSPER PORTLAND

Building an Equitable Economy

## RESOLUTION NO. 7369

**RESOLUTION TITLE:**

AUTHORIZING A FIVE-YEAR TECHNICAL SERVICES AGREEMENT WITH THE OREGON  
MANUFACTURING EXTENSION PARTNERSHIP

Adopted by the Prosper Portland Commission on May 13, 2020


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 Alisha Moreland-Capua MD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Francesca Gambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Peter Platt	<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"/>

Consent Agenda                       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.*

	<b>Date:</b>  May 19, 2020
<b>Pam Feigenbutz, Recording Secretary</b>	