

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7371

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A LETTER OF AGREEMENT BETWEEN PROSPER PORTLAND AND AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 75, LOCAL 3769 TEMPORARILY AMENDING THE PARTIES' COLLECTIVE BARGAINING AGREEMENT

WHEREAS, Prosper Portland and the American Federation of State, County, and Municipal Employees ("AFSCME") are Parties to a collective bargaining agreement ("CBA") that was approved by AFSCME and by the Prosper Portland Board of Commissioners ("Board") through Resolution No. 7325 on July 10, 2019 ("Current CBA"), which is in effect until June 30, 2022;

WHEREAS, as a result of the COVID-19 worldwide pandemic, the State of Oregon ("State") and the City of Portland ("City") have declared States of Emergency ("SOE"), and the State, City, and Prosper Portland all anticipate significant impacts to their operating budgets;

WHEREAS, in response to this sudden economic emergency on April 22, 2020, the Parties reopened negotiations through expedited bargaining pursuant to the Public Employment Collective Bargaining Act and Article 26 of the CBA, to solve for a \$1,200,000 portion of the Fiscal Year 2020-21 ("FY 2020-21") anticipated budget shortfall, while acknowledging that the solution is intended to be short-term, as the full financial impact resulting from the SOE and the pandemic is not yet known;

WHEREAS, designated representatives of AFSCME and Prosper Portland management engaged in collective bargaining and reached agreement on May 1, 2020 on certain measures that include a temporary amendment to portions of the CBA in the form of a Letter of Agreement, attached hereto as Exhibit A and incorporated herein;

WHEREAS, represented staff have approved ratifying the Letter of Agreement amending the CBA by a vote of their union membership, and

WHEREAS, the Prosper Portland Board believes that it is in the best interest of Prosper Portland to approve the Letter of Agreement which amends the CBA for FY 2020-21; all other terms of the CBA will remain in effect.

NOW, THEREFORE, BE IT RESOLVED, that the temporary amendments to the CBA between AFSCME and Prosper Portland set forth in the Letter of Agreement attached hereto as Exhibit A is hereby approved;

BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized to execute the Letter of Agreement for and on behalf of Prosper Portland;

BE IT FURTHER RESOLVED, that the Executive Director may approve changes to the Letter of Agreement, prior or subsequent to execution, if such changes, in the opinion of the Executive Director and in consultation with General Counsel, do not materially increase Prosper Portland’s obligation or risks;

BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized to provide similar or necessary provisions to non-represented employees and make any necessary changes in Prosper Portland’s Personnel Policy to do so; 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



Pam Feigenbutz, Recording Secretary

LETTER OF AGREEMENT

The parties to this Agreement are Prosper Portland herein called the **Employer** and American Federation of State, County and Municipal Employees (AFSCME) Council 75, Local 3769 hereinafter referred to as **Union**, further referred to collectively as the **Parties**.

BACKGROUND

1. On March 8, 2020, Oregon Governor Kate Brown declared a State of Emergency in response to the increasing concern with Coronavirus (COVID-19) within the state.
2. On March 23, 2020, Oregon Governor Kate Brown issued an Executive Order to, "Stay Home, Save Lives". This order limited non-essential gatherings and closed non-essential businesses across the City.
3. These actions have had, and are expected to continue to have, an unprecedented impact on Prosper Portland's financial standing.
4. Union and Employer are parties to a collective bargaining agreement (CBA) that is in effect until June 30, 2022.
5. Employer is evaluating multiple options to address the unexpected financial impacts of COVID-19, including possible lay-off of employees.
6. In response to the City's and Prosper Portland's sudden economic emergency, on April 22, 2020 the Parties reopened negotiations through expedited bargaining pursuant to the Public Employment Collective Bargaining Act ("PECBA").
7. Article 26 of the CBA details the obligations of both Parties prior to completion of any layoff, including the requirement to proactively seek cost saving alternatives to layoffs.
8. Article 26 of the CBA also requires a 90-day expedited bargaining period before any layoffs could be completed, which Employer triggered on April 27, 2020.
9. The measures taken in this Letter of Agreement are intended to allow Prosper Portland to meet its financial obligations and maintain the delivery of services to the greatest extent possible.
10. The measures taken in this agreement are intended to be short-term, however, the full financial impact resulting from the State of Emergency is yet to be understood.
11. The measures taken in this agreement also include measures that will be taken with non-represented employees because these measures were instrumental in the Union's decisions and agreement to enter into this Letter of Agreement.

AGREEMENT

The Parties hereby agree as follows:

1. Prosper Portland will implement furloughs, which is defined as a temporary unpaid leave of absence, as follows:

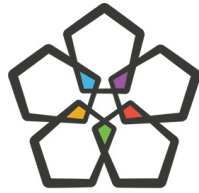
- a. All full time, represented and non-represented non-management employees, earning \$75,001 or more as of June 30, 2020, will take twelve (12) furlough days in fiscal year (FY) 2020-21.
 - b. Furlough requirements will be prorated for all impacted part-time employees.
 - c. All impacted employees must take three (3) furlough days between July 1 and September 30, 2020, the dates of which will be coordinated with the employee's manager (and in coordination with payroll) to ensure continuity in delivery of services and to reduce the impacts of administrating these furlough days. Employee-specific requests will be considered and will not be unreasonably denied.
 - d. The Parties agree to evaluate the flexible furlough scheduling process in early October to determine whether it has had undue impacts on workflows or delivery of services.
 - e. If Employer determines that the flexible furlough schedule has had negative workflow or delivery of service impacts, future furlough days will be scheduled by Employer for all impacted employees on one specific day each month for the remainder of the fiscal year.
 - f. Each employee will retain their full time or part time employee status for purposes of Prosper Portland-provided benefits calculations, without regard to the reduction in hours resulting from the required furlough days.
 - g. No employee will lose their healthcare coverage during any furlough period so long as they remain an employee of Prosper Portland and are not laid-off, retire, or are otherwise separated from Prosper Portland service.
 - h. Employer will not interfere with any employee seeking unemployment benefits as a result of the required furlough days and will provide whatever acknowledgements or certifications are required by the State of Oregon to enable processing of any unemployment benefit request.
2. Management employees will take a one-time 7.5% reduction in pay for FY 2020-21.
 3. Hiring of new employees for three (3) of the currently unfilled six (6) positions will be frozen for FY 2020-21; the following three currently unfilled positions may be filled:
 - a. Project Manager I – Central Eastside;
 - b. Project Manager I – Southwest Corridor (limited term employee); and
 - c. Combined procurement/accounting position (specifics to be determined by department)

Employer will reopen positions (a) and (b) above for internal recruitment to allow for an additional consideration and opportunity for existing internal staff to apply for these positions. Employer will comply with the CBA, including Section 26(1)(a) if applicable, in making decisions. .

4. Employer will reduce administrative materials and services by \$150,000 in its FY 2020-21 budget.
5. Following final signature on this Letter of Agreement, the Parties will create a COVID-19 Fiscal Impact work group made up of members of two representatives from each side of the bargaining Team. The charge of this advisory work group includes:

- a. To assess Prosper Portland’s overall financial situation
 - b. To identify sources of new funding to offset loss of revenue and prevent layoffs
 - c. To consider whether economic conditions have improved and the actions taken by this Agreement are no longer needed, reasonable action can be taken to remediate the impact of the steps take in this Letter of Agreement
 - d. If economic conditions worsen, to consider whether additional cost cutting measures are needed
 - e. If not more frequently, this work group will meet in:
 - i. October 2020 before the fall bump budget discussions;
 - ii. January 2021 at the beginning of the FY 2021/22 budgeting process; and
 - iii. April 2021 before Employer’s general fund budget request is finalized.
6. This Agreement is to address the economic impacts of the State of Emergency related to the Coronavirus pandemic and does not set a precedent for the Parties to this Letter of Agreement.

AFSCME, Local 3769	Prosper Portland
_____	_____
Shelly Haack President	Kimberly Branam Executive Director
_____	_____
Date	Date



**PROSPER
PORTLAND**
Building an Equitable Economy

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RESOLUTION TITLE:

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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-Capuia 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"/>
<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: May 21, 2020
Pam Feigenbutz, Recording Secretary	