

PROSPER PORTLAND

Portland, Oregon

RESOLUTION NO. 7390

**AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH
CONTINUUM PARTNERS, LLC AND A COMMUNITY BENEFITS
AGREEMENT WITH THE HEALTHY COMMUNITIES COALITION; AND
REQUESTING AND RECOMMENDING VARIOUS CITY COUNCIL ACTIONS
TO FACILITATE THE DEVELOPMENT OF THE BROADWAY CORRIDOR**

WHEREAS, the acquisition and redevelopment of the United States Postal Service Property (“Property”) at 715 NW Hoyt Street in the River District Tax Increment Finance District (“River District”) has long been envisioned by the general public, elected officials, and adopted land use and development plans as one of the most significant redevelopment sites in Portland’s central city;

WHEREAS, the Broadway Corridor Framework Plan, adopted by the Prosper Portland Board of Commissioners (“Board”) through Resolution No. 7147 on October 14, 2015, and by City Council through Ordinance No. 37165 on November 5, 2015, provides a strategic vision for development of the Broadway Corridor, including the Property;

WHEREAS, the Prosper Portland Board authorized the selection of Continuum Partners, LLC (“Continuum”) as the preferred developer partner for the development of the Property through Resolution No. 7268 on April 11, 2018;

WHEREAS, following extensive engagement with the Broadway Corridor Steering Committee, Prosper Portland staff convened community benefits negotiations and discussions with Continuum and the Healthy Communities Coalition, a consortium of environmental, labor, and other community organizations (“HCC”);

WHEREAS, Prosper Portland staff and Continuum have reached agreement in principle on terms and conditions for the phased disposition and development of a portion of the site, namely Lots 2, 5, 6, 7, 8, 9a, 9b, and 9c (“Acquisition Lots”) as shown in the Disposition and Development Agreement Term Sheet attached to this Resolution as Exhibit A (“DDA Term Sheet”);

WHEREAS, Prosper Portland staff and HCC have simultaneously reached agreement in principle on terms and conditions for a Community Benefits Agreement, as shown in the Community Benefits Agreement Term Sheet attached to this Resolution as Exhibit B (“CBA Term Sheet”; and together with the DDA Term Sheet, collectively the “Term Sheets”), which CBA Term Sheet contemplates a wide variety of benefits involving construction equity, operations equity, business equity, affordable housing, and sustainability;

WHEREAS, the cooperation and participation of the City of Portland (“City”), including without limitation, the Portland Housing Bureau (“PHB”), the Portland Bureau of Transportation (“PBOT”), Portland Parks & Recreation (“PPR”), Portland Water Bureau (“PWB”), Portland Bureau of Environmental Services (“BES”), and the Office of Management and Finance (“OMF”), is vital to the successful development of Broadway Corridor in a manner consistent with the goals and values described in the Term Sheets;

WHEREAS, the Term Sheets anticipate that Prosper Portland will enter into intergovernmental agreements with various City bureaus, including, without limitation, PHB, PBOT, PPR, PWB, BES, and OMF (collectively, the “IGAs”) governing, among other things, the design, construction, and funding of infrastructure serving the Property; the nature and extent of PHB’s involvement on the site to support affordable housing; and the availability of financial resources for the implementation of Prosper Portland’s obligations in the Term Sheets;

WHEREAS, Prosper Portland’s ability to implement the infrastructure, public amenities, and community benefits contemplated in the Term Sheets will rely in part upon financial contributions and approval from the City as shown in the Funding and Finance Plan attached to the DDA Term Sheet, including, without limitation, the forgiveness of the outstanding balance of the City line of credit associated with the River District evidenced by the Intergovernmental Agreement between Prosper Portland and OMF, Bureau of Financial and Revenue Services, dated December 21, 2015 (“Line of Credit” or “LOC”), and the implementation of a local improvement district on the site as contemplated in the DDA Term Sheet (“LID”) (collectively, the “City of Portland Financial Contributions”); and

WHEREAS, the City’s approval of the IGAs, City of Portland Financial Contributions, and other coordination and assistance from the City needed in order to implement the matters described in the Term Sheets require approval through one or more ordinances, resolutions, or other authorizing actions from Portland City Council (“Council Approval”).

NOW, THEREFORE, BE IT RESOLVED, contingent upon Council Approval of the City of Portland Financial Contributions, the Prosper Portland Board authorizes the Executive Director to enter into a Disposition and Development Agreement substantially consistent with the terms and conditions described in the DDA Term Sheet, together with such negotiated changes as may be deemed necessary or appropriate by the Executive Director so long as such changes do not materially increase Prosper Portland’s financial obligations or materially alter Prosper Portland’s risks, as determined in consultation with the General Counsel;

BE IT FURTHER RESOLVED, contingent upon Council Approval of the City of Portland Financial Contributions, the Prosper Portland Board authorizes the Executive Director to enter into a Community Benefits Agreement substantially consistent with the terms and conditions described in the CBA Term Sheet, together with such negotiated changes as may be deemed necessary or appropriate by the Executive Director so long as such changes do not materially increase Prosper Portland’s financial obligations or materially alter Prosper Portland’s risks, as determined in consultation with the General Counsel;

BE IT FURTHER RESOLVED, that the Prosper Portland Board authorizes the Executive Director to take such further actions and execute other documents as may be necessary or appropriate to complete the transactions described in the DDA Term Sheet, including, without limitation, execution of deeds,

easements, leases, or other agreements, instruments, amendments, certificates, and documents, so long as such actions do not materially increase Prosper Portland's financial obligations or materially alter Prosper Portland's risks, as determined in consultation with the General Counsel;

BE IT FURTHER RESOLVED, that the Prosper Portland Board authorizes the Executive Director to take such further actions as may be necessary or appropriate to perform its obligations in the CBA Term Sheet, including, without limitation, inclusion of applicable CBA obligations within applicable IGAs and other agreements, so long as such actions do not materially increase Prosper Portland's financial obligations or materially alter Prosper Portland's risks, as determined in consultation with the General Counsel;

BE IT FURTHER RESOLVED, that the Prosper Portland Board requests and recommends that Portland City Council direct its bureau staffs to negotiate IGAs as contemplated by the DDAs, and that the Portland City Council enact ordinances, resolutions, or other legislation authorizing the IGAs and City of Portland Financial Contributions and take any other actions necessary to authorize and direct City bureaus to cooperate and coordinate with Prosper Portland to implement the Term Sheets, in a manner consistent with such documents; and

BE IT FURTHER RESOLVED, that this resolution shall become effective immediately upon its adoption.

Adopted by the Prosper Portland Commission on

August 12, 2020



Pam Feigenbutz, Recording Secretary

**Prosper Portland – Continuum Term Sheet
(USPS Property North of NW Johnson Street)**

DATE: _____, 2020 (“Effective Date”)

BETWEEN: **CONTINUUM PARTNERS, LLC,** (“Continuum” or
a Colorado limited liability company, or its affiliates “Developer”)

AND: **THE PORTLAND DEVELOPMENT COMMISSION, DBA
PROSPER PORTLAND, THE URBAN RENEWAL AGENCY OF** (“Prosper”)
THE CITY OF PORTLAND, an Oregon municipal corporation

Recitals

A. Prosper is responsible for implementing the River District Urban Renewal Plan, which includes the 32-acre area known as the “Broadway Corridor.” On October 14, 2015, the Prosper Board of Commissioners (the “Board”) adopted the Broadway Corridor Framework Plan (the “Framework Plan”), which was then adopted by the Portland City Council (“City Council”) on November 5, 2015. The Framework Plan provides a guiding framework for development of the entire Broadway Corridor, and more specifically, a feasibility analysis of the acquisition and redevelopment of the 13.33-acre United States Postal Service (“USPS”) site, located at 715 NW Hoyt Street (the “USPS Property”). The USPS Property and Broadway Corridor are depicted on Exhibit A.

B. Together with the Portland Housing Bureau (“PHB”) as described in Paragraph D below, Prosper purchased the USPS Property from USPS on September 8, 2016 pursuant to a Purchase and Sale Agreement dated May 5, 2016, a copy of which has been provided to Continuum (“USPS Property Purchase and Sale Agreement”).

C. The USPS Property contains three structures: (a) the approximately 400,000 square foot USPS retail, processing and distribution building; (b) the approximately 9,200 square foot vehicle maintenance facility located in the northern portion of the USPS Property; and (c) an approximately 448 stall parking garage located in the southwest corner of the USPS Property. The USPS Property is currently leased back to USPS pursuant to a Lease dated July 26, 2016, as amended (the “USPS Lease”), a copy of which has been provided to Continuum, which lease shall terminate when all USPS activities conducted on the Property have been relocated. Prosper has secured, at Prosper’s sole cost and expense, an alternative site for the largest component of the USPS activities – the processing and distribution functions and vehicle maintenance, which have been successfully relocated off the USPS Property and onto the new site. The only remaining USPS activity on the site is the USPS “retail” functions including associated parking, which are still subject to the USPS Lease and relocation obligation. Due to the relocation requirements and unique specifications for the ongoing USPS retail and parking functions, these functions, comprised of approximately 15,000 sq. ft. as well as the other specifications and parking obligations as established by USPS and attached to the USPS Property Purchase and Sale Agreement as Exhibit J (“USPS Relocation Specifications”), may ultimately be required to be relocated back onto the redeveloped USPS Property. Prosper and USPS have signed a Letter of Intent dated August 8, 2019 memorializing their intent to explore

space within the garage in the southwest corner of the USPS property as an interim relocation site for USPS' retail and parking functions, at Prosper's sole cost and expense.

D. Prosper and PHB entered into an Intergovernmental Agreement on July 1, 2016, a copy of which has been made available to Continuum, in which PHB committed to fund a portion of the sales price for the USPS Property, and for which PHB received an ownership interest in the property proportionate to its contribution, with the precise configuration and form of PHB's ownership interest to be determined later by PHB and Prosper. PHB's contribution amounted to approximately 16.5% of the purchase price. The development rights controlled by PHB on the USPS Property are not controlled by Prosper and are not subject to this Term Sheet unless explicitly set forth herein.

E. On November 8, 2017, Prosper issued a Request for Qualifications (the "RFQ") seeking a developer that would: (a) advise Prosper and its consultants on the development plan for the approximately 32-acre Broadway Corridor development area; (b) advise Prosper and its consultants on their preparation of a master plan for the redevelopment of the USPS Property; and (c) engage in exclusive negotiations with Prosper regarding the redevelopment of the Prosper-controlled portion of the USPS site.

F. The following Guiding Principles were set forth in the RFQ to inform the planning, design, development and construction of the Project:

- Accountability. There will be a robust, proactive, and transparent strategy of communication, public engagement, implementation and oversight.
- Connectedness. Prosper and Continuum will leverage regional and local assets to strengthen multimodal transportation connections and improve accessibility to and through the area for all.
- Equity. Prosper and Continuum will work to promote racial equity, reduce disparities, and provide meaningful community benefits.
- Prosperity. The Project should foster economic and wealth prosperity for all through opportunities for innovation, creativity, education, and economic growth in the region.
- Resiliency. The Project should demonstrate leadership in sustainability, health and integration of the built and natural environments, and should promote human interaction with the environment.
- Vibrancy. The Project should be unique, aesthetically stunning, and should contribute to the creation of a mixed-use community that welcomes and reflects diversity, integrates private and public spaces, and enriches the quality of life for existing and new Portlanders of all ages, cultures and backgrounds.

G. On April 11, 2018, pursuant to Resolution No. 7267, Zimmer Gunsul Frasca Architects ("ZGF") was selected by Prosper to prepare a development plan with respect to Broadway Corridor (the "Broadway Corridor Development Plan") and to prepare a master plan as defined by and in accordance with Chapter 33.510.255 of Portland City Code with respect to redevelopment of the USPS Property (the "USPS Master Plan").

H. On April 11, 2018 (the "RFQ Selection Date"), pursuant to Resolution No. 7268, the Board approved the selection of Continuum as the preferred developer to advise Prosper and ZGF on the Broadway

Corridor Development Plan and the USPS Master Plan and with whom Prosper would exclusively negotiate a non-binding term sheet or memorandum of understanding that describes in general terms the conditions, contingencies, and commitments of Continuum and Prosper (each, a “Party” and collectively, the “Parties”) separately and/or jointly.

I. Subject to any legal or other identified constraints, Prosper has identified the following potential financial resources for infrastructure needed to implement the USPS Master Plan: bond proceeds secured by tax increment financing (“TIF”); New Market Tax Credit allocations; and the Enterprise Zone Program. Prosper will also work cooperatively with Continuum, other City bureaus and Metro, and other relevant agencies or governments, to identify funds such as system development charge (“SDC”) revenues, bond and levy revenue, and construction excise tax proceeds that will help facilitate development of the Project.

J. The Property (defined below) is a major component of the “Broadway Corridor” - a once-in-a-generation unique, diverse, vibrant, sustainable, mixed-use, dense urban district that will be integrated with a regional multi-modal transportation hub. The Broadway Corridor Project acknowledges historic disparities; considers what is being created for future generations; fosters culture, social equity and inclusion; and reimagines how all people live, work, enjoy and move through the city in a genuinely transparent and equitable way. The Developer will develop the Property (defined below) to accommodate office, residential and hospitality uses, as allowed by the market and in a manner that is consistent with the Broadway Corridor vision, the community benefits that are incorporated into a binding disposition and development agreement (“DDA”), and the USPS Master Plan. Prosper has engaged in a two-year process of developing and refining the USPS Master plan, and Continuum and many others have provided input to Prosper and ZGF as the USPS Master Plan has evolved.

TERMS

SECTION 1. Statement of Intent. This Prosper Portland – Continuum Term Sheet (“Term Sheet”) is a non-binding statement of the Parties’ current intent, understandings and assumptions regarding the fundamental framework and structure related to the redevelopment of the lots to be created under the USPS Master Plan that are north of NW Johnson Street as well as the lot currently identified as Lot 5 in the USPS Master Plan that is located on the south side of NW Johnson Street (the “Property”), which shall form the basis for negotiating the DDA. The Property may also include the piece of land south of NW Johnson Street under the to-be-built Green Loop, which is a portion of Lot 2 of the USPS Property (the “Land”). Although some provisions of this Term Sheet contain significant detail and may require relatively little detail to be added in the DDA, other provisions do not contain much or any detail and will require more development and addition of detail in the DDA. Any material additions or modifications in the DDA that are not set out in the Term Sheet shall require approval by the Prosper Board of Commissioners and City Council.

SECTION 2. Property. The lots constituting the Property and the Land are depicted and numbered on Schedule 2 attached to this Term Sheet (each, a “Lot” and collectively, the “Lots”).

SECTION 3. Phase 1 Acquisition.

3.1 Phase 1 Lots. As the Phase 1 acquisition of the Property, Continuum will acquire from Prosper at least Lot 6, and/or both Lots 7 and 8 (each, a “Phase 1 Lot” and collectively, the “Phase 1 Lots”). Continuum shall notify Prosper in writing within five (5) business days of Prosper’s notification to

Continuum of the City's letting of the 30% Open Space concept design plan contract whether Lots 7 and 8 will be included in, or instead of, Lot 6 as a Phase 1 Lot. Notwithstanding the foregoing, Continuum may elect to include a Lot as a Phase 1 Lot physically connected to, integrated with, or adjacent to the portion of the Green Loop between the park to be built south of NW Johnson Street (the "Park") and the connection at the Broadway Bridge (Lots 2, 7, 8 and 9(c)) (each, a "Green Loop Affected Lot" and collectively, the "Green Loop Affected Lots") if and only if (a) Continuum has concurrently elected to undertake conceptual design for such Green Loop Affected Lot, and (b) the City has elected to undertake the 30% Open Space Design, including final design commission approval if necessary.

3.1.1 If Continuum identifies a Green Loop Affected Lot to be acquired in Phase 1 and the City opts to undertake the 30% Open Space Design by a date to be agreed upon by Continuum and Prosper in the DDA but does not timely complete such design, then Continuum may elect as an additional remedy option under Section 3.2 that the time periods related to Continuum's obligation to close on the Phase 1 Lots be tolled on a day-for-day basis until the City has completed the 30% Open Space Design. If the City opts to undertake and actually completes the 30% Open Space Design by a date to be agreed upon by Continuum and Prosper in the DDA, but such design does not provide a viable option for the development of one or more of the Green Loop Affected Lots, as determined by Continuum in its reasonable discretion, then Continuum shall have no obligation to close on the Green Loop Affected Lot and shall close on Lot 6. Within ten (10) business days of completion of the 30% Open Space Design, Continuum shall notify Prosper in writing whether Continuum has determined that the design does not provide a viable option for development of Lots 7 and 8 and/or Lot 9 ("Continuum's Non-Viability Notification"). If Continuum so notifies Prosper, the Phase 1 Closing of Lot 6 shall take place within twenty-four (24) months after Continuum's Non-Viability Notification. In such case Continuum shall forfeit its option to acquire the Lots that are the subject of the Non-Viability Notification, and those Lots shall be removed from the Property subject to the DDA.

3.2 Conditions Precedent to Continuum's Obligation to Close on the Phase 1 Lots. The following conditions precedent must be satisfied by the dates set forth in this Section 3.2 or the schedule attached to this Term Sheet as Schedule 12 (the "Infrastructure Schedule and Development Plan") and before Continuum is obligated to Close the purchase of the Phase 1 Lots. The conditions set forth in this Section 3.2 are intended for Continuum's benefit, and Continuum has the right in its sole and absolute discretion to waive, by written notice to Prosper, any of the conditions at Continuum's sole cost and risk. If any of these conditions is not satisfied or waived by the date set forth in the Infrastructure Schedule and Development Plan, Continuum, at its election, may (a) terminate the DDA and obtain a refund of the Escrow Deposits to the extent delivered to escrow, and to the extent that a condition precedent is not satisfied because of Prosper's action or inaction, Continuum may also obtain reimbursement from Prosper of Continuum's out-of-pocket design cost for the Phase 1 Lots incurred after the time that PBOT executed a guaranteed maximum price construction contract for the Phase 1 Infrastructure construction (the "GMP") to a maximum of \$2 per gross square foot on the Phase 1 Lots, not to exceed One Million Dollars (\$1,000,000) or (b) keep the DDA in full force and effect and extend the time for Prosper to satisfy the Phase 1 Conditions Precedent. Subject to Section 3.1.1, the remedies set forth in this Section 3.2 shall be Continuum's sole and exclusive remedies for Prosper's failure to timely satisfy one or more of the conditions precedent set forth in this Section 3.2.

3.2.1 The City's or Prosper's completion of the Phase 1 Infrastructure within six (6) months from the date set forth in the Infrastructure Schedule and Development Plan:

- (a) NW 9th Ave Water Main;
- (b) NW 9th Ave Sanitary Main;

(c) NW Kearney and NW Johnson curb-to-curb right-of-way (“ROW”), including wet utilities, streetlights, and temporary asphalt concrete sidewalks (but not final back of curb streetscape improvements; Continuum to construct and fund final sidewalk and back of curb improvements with adjacent vertical development);

(d) Dry utility engineering (including fiber, telecommunications, cable, conduit locations) has been completed identifying where each will be located, and to the extent located in a curb-to-curb ROW, install trunk lines for natural gas and electricity and conduit for other dry utilities; and

(e) off-site signal and intersection improvements necessary for traffic mitigation [and occupancy of the Phase 1 Lots] (collectively the “Phase 1 Infrastructure”).

3.2.2 Prosper’s and the City’s execution of one or more intergovernmental agreements (“IGAs”) by a date that will be established in the DDA with the Portland Bureau of Transportation (“PBOT”), the Bureau of Environmental Services and the Portland Water Bureau committing funds in accordance with the Funding and Finance Plan attached hereto as Exhibit 3.2.2 (collectively with funding commitments from Portland Bureau of Parks and Recreation (“Parks”), “Funding Commitments”) to provide for the design and construction of the Phase 1 Infrastructure. To the extent the Phase 1 Infrastructure may be funded in part by a local improvement district (“LID”), then City Council’s approval of said LID will also be a condition precedent to Continuum’s obligations to acquire the Phase 1 Lots.

3.2.3 Prosper’s and the City’s (a) execution of one or more IGAs with Parks by a date that will be established in the DDA (i) committing funds in accordance with the Funding and Finance Plan to provide for the commencement of a City or Prosper led thirty percent (30%) public works plan design for PNCA Park and the Park and the Green Loop (collectively the “30% Open Space Design”), (ii) agreeing to a City or Prosper led design effort for the Integrated Portion of the Green Loop in coordination with Continuum, Parks, and PBOT, and (b) written agreement that Continuum may construct the Integrated Portions of the Green Loop. The 30% Open Space Design for the Park shall include detail showing the rise in elevation from south to north to accommodate the transition from the Park, across public rights-of-way and private property, to the Broadway Bridge.

(a) The Parties acknowledge and agree that the goals and objectives of the Park and the Green Loop shall not only reflect the guiding principles of the Broadway Corridor but shall also serve as an amenity to the surrounding development that is compatible with strong anchor tenants providing desirable jobs, which is an important economic driver for the Broadway Corridor and downtown district. Continuum shall be included in an “Owners’ and Operators’ Group” advising on the concept and 30% Open Space Design of the Park and its relation to the surrounding development and included in regular meetings that will be scheduled to discuss both design and programming of the Park. Advice and input from the Owner’s and Operators’ Group will be discussed and thoughtfully considered by Parks and Prosper.

(b) The Parties further acknowledge that, although the Green Loop has long been planned as a stand-alone Project by the region as an important transportation connector for the areas in the City that are north of the Broadway Bridge to transport transit riders to areas south of the Broadway Corridor, the portion of the Green Loop between the Park and the connection at the Broadway Bridge are physically connected to, integrated with, or adjacent to Green Loop Affected Lots (collectively, the “Integrated Portions of the Green Loop”) and should be constructed by Continuum with the vertical projects on these Lots, which may include the bridges extending over NW Johnson and NW Kearney Streets (the “Bridges”). Because Prosper is paying for the Integrated Portions of the Green Loop with proceeds from tax increment financing, Prosper and/or

the City shall design the Integrated Portions of the Green Loop and include Continuum as an active participant in, and seek Continuum's input in, the design of the Integrated Portions of the Green Loop, including Continuum's particular input in and coordination regarding how the Green Loop interfaces with Continuum's concept-level designs for the Green Loop Affected Lots, which design process shall be led by Parks and will include input from the public at various phases. Subject to obtaining written agreement from Prosper and the City that is able to do so, Continuum will construct the Integrated Portions of the Green Loop, which may include the Bridges, with construction of the adjacent vertical projects.

3.2.4 On or before the Parties' execution of the DDA, the final non-appealable approval of the USPS Master Plan that allows flexibility for development on each Lot through, for example, massing envelopes, general design principles, locations of parking and public accessways, and parking ratios, and includes reasonable comments submitted to Prosper or ZGF by Continuum (e.g., suggested language related to Lots 7 and 8). Prosper will consent to amendments to the USPS Master Plan proposed by Continuum, if any, provided that such amendments are consistent with the terms and conditions of the DDA that are applicable to the specific Lot or Lots to which the specific amendment pertains and that in no way impacts the developability of Lots or potential lots that are not subject to the DDA.

3.2.5 On the Closing, Prosper shall have performed in all material respects its obligations under (a) the DDA; or, (b) to the extent such obligations impact Continuum and Continuum has not been made responsible for them in the DDA, Prosper's obligations under the requirements of the Transportation Demand Management Plan ("TDM"), the USPS Master Plan, and any obligations under the CBA.

3.2.6 If Continuum would like to include a Green Loop Affected Lot as a Phase 1 Lot, then the City has elected to complete the 30% Open Space Design;

3.2.7 If a Green Loop Affected Lot is included as a Phase 1 Lot and Continuum has not given a Non-Viability Notification to Prosper, then by Closing Continuum shall have agreed to the 30% Open Space Design for that portion of the Green Loop that is integrated with the Green Loop Affected Lot.

3.2.8 Continuum's satisfaction with or waiver of due diligence related to the Phase 1 Lots, which Continuum shall conduct within the time frame set forth in Section 21 below.

3.2.9 On or before Closing, the Parties' or the City's receipt of a determination from BOLI that is substantively consistent with, and does not impose any materially greater obligations on Continuum than, those contemplated in the CBA Term Sheet (as defined in Section 11) as described in Section 21 below.

3.3 Conditions Precedent to Prosper's Obligation to Close on the Phase 1 Lots. The following conditions precedent must be satisfied before Prosper is obligated to Close the sale of the Phase 1 Lots. The conditions set forth in this Section 3.3 are intended for Prosper's benefit, and Prosper has the right in its sole and absolute discretion, by delivering written notice to Continuum, to waive any of the conditions at Prosper's sole cost and risk, subject to the provisions below in Section 14 regarding Failure to Commence or Substantially Complete Construction. If any of these conditions is not satisfied or waived on or before Closing or another date as set forth herein, Prosper, at its election, may (a) terminate the DDA and retain as liquidated damages the Escrow Deposits to the extent delivered to escrow, and Continuum will provide Prosper with any design documents prepared by third party designers as of the date of the termination only if Prosper pays to Developer the actual out-of-pocket costs incurred by Developer for such documents as of the date the DDA is terminated; except for the work Continuum has done for the conceptual design for the Green Loop Affected Lots, which shall be provided to Prosper at no charge, or (b) keep the DDA in full force and effect and extend the time for Continuum to satisfy the Phase 1 Conditions Precedent. The remedies set forth in this Section 3.3 shall be Prosper's sole and exclusive remedies for Continuum's failure to timely satisfy one or more of the conditions precedent set forth in this Section 3.3.

3.3.1 Within thirty (30) days of the later of (a) six (6) months from Substantial Completion of the Phase 1 Infrastructure and (b) the date that is twenty-four (24) months after PBOT's execution of the GMP, Continuum shall demonstrate to Prosper's reasonable satisfaction the following: (i) Continuum's financing for vertical construction will close within forty-five (45) days after Closing; (ii) all permits necessary to commence site work for the applicable vertical project have been obtained or will be ready to be pulled within forty-five (45) days of Closing subject only to the payment of permit fees; (iii) a general contractor has been identified for the project and a construction contract will be executed within forty-five (45) of Closing; (iv) the contractor has mobilized for construction or is obligated to do so within forty-five (45) days after Closing; and (v) excavation is scheduled to occur within sixty (60) days of Closing.

3.3.2 The final non-appealable approval of the USPS Master Plan allows flexibility for development on each Lot through, for example, massing envelopes, general design principles, locations of parking and public accessways, and parking ratios, and includes reasonable comments submitted to Prosper or ZGF by Continuum (e.g., suggested language related to Lots 7 and 8). Continuum will consent to amendments to the USPS Master Plan proposed by Prosper, if any, provided that such amendments are consistent with the terms and conditions of the DDA that are applicable to the specific Lot or Lots to which the specific amendment pertains; and that in no way impacts the developability of Lots or potential lots that are not subject to the DDA.

3.3.3 If the conditions set forth in Section 3.1 have been satisfied and Continuum seeks to Close on a Green Loop Affected Lot, then the City shall have opted to complete the 30% Open Space Design, in which case Continuum must demonstrate that it has concurrently completed conceptual design for a Green Loop Affected Lot.

3.3.4 If Continuum is acquiring a Green Loop Affected Lot, then Continuum shall have agreed to the design of that portion of the Green Loop that is integrated onto a Green Loop Affected Lot.

3.3.5 If Continuum elects to acquire Lot 5 as part of the Phase 1 Lots, then Continuum shall have demonstrated to Prosper's reasonable satisfaction that it has established a partnership, joint venture, or some other formal equity relationship with a minority local firm for at least the development of Lot 5 or any other Lot approved by Prosper in writing.

3.4 Escrow Deposits. Continuum shall make the following Escrow Deposits:

3.4.1 Initial Deposit. Within five (5) business days of the City's or Prosper's completion of sixty percent (60%) engineering plans for the Phase 1 Infrastructure, which shall be completed by the date set forth in the Infrastructure Schedule and Development Plan, Continuum will (a) deposit into escrow \$500,000 of cash earnest money (the "Initial Deposit") for the acquisition of the Phase 1 Lots, which Initial Deposit shall be applicable to the Purchase Price and nonrefundable except in the event of casualty, condemnation or Prosper's breach of the DDA.

3.4.2 Second Deposit. Within five (5) business days of the City's or Prosper's Commencement of Construction of the Phase 1 Infrastructure, which shall be commenced by the date set forth in the Infrastructure Schedule and Development Plan, Continuum will deposit an additional \$1,000,000 cash into escrow (the "Second Deposit" and together with the Initial Deposit, the "Deposits"), which Second Deposit will be applicable to the Purchase Price but nonrefundable except in the event of casualty, condemnation or Prosper's breach of the DDA.

3.5 Closing. Subject to Section 3.2, within thirty (30) days of the later of (a) six months of Substantial Completion of the Phase 1 Infrastructure and (b) twenty-four (24) months after PBOT's execution of the GMP, and so long as all other conditions precedent to Closing have been either satisfied or waived by the applicable Party, Prosper and Continuum will close the acquisition of the Phase 1 Lots by Continuum

depositing the Purchase Price for the Phase 1 Lots (less the amount of the Deposits) into escrow and receiving from Prosper a deed conveying fee simple title to such Lots. Continuum shall Commence Construction of the Phase 1 Lots within sixty (60) days of Closing. At Closing each Lot being Closed shall have the FAR allocation assigned to it as set forth in Section 10.3 herein.

SECTION 4. Phase 2 and 3 Acquisitions.

4.1 Phase 2 and Phase 3 Acquisition Dates. The remaining Lots will be acquired by Continuum in up to two additional phases in any order Continuum chooses by a date not later than ten (10) years from closing of the acquisition of the Phase 1 Lots. Notwithstanding the foregoing and subject to Section 4.2, Continuum will acquire additional lot(s) (the “Phase 2 Lots”) such that at least three lots will have been acquired in Phases 1 and 2, not including Lot 2 or Lot 9(c)), no later than the earlier of: (a) three (3) years from closing of the acquisition of the Phase 1 Lots, or (b) five years from substantial completion of the NW Kearney and Johnson ROWs (wherein “substantial completion” for this purpose shall be when the ROWs are open to the public for vehicular use). The remaining Lots to be acquired shall be referred to as the “Phase 3 Lots”. Notwithstanding the foregoing, Closing of Phase 2 shall be extended on a day- for-day basis if the City has not let the contract for the 30% Open Space Design by July 2021 (or the updated date for letting of the 30% Open Space Design contract as that date may be agreed to by the Parties and included in the Infrastructure and Development Plan that will be attached to the DDA) or the final date of execution of the DDA, whichever is later. Closing of Phase 2 may also be extended (concurrently with any extension under the previous clause) to the extent necessary to accommodate any extension associated with the closing of Lot 6 in accordance with Section 3.1.1 above. Continuum shall notify Prosper no later than eighteen (18) months prior to the respective Closings which Lots Continuum elects to Close in Phase 2 and Phase 3, which deadline the Parties anticipate further considering during the DDA negotiations, so long as such deadline does not change the requirement that Commencement of Construction occurs within sixty (60) days of Closing on any Lot.

4.2 Conditions Precedent to Continuum’s Obligation to Close on the Phase 2 Lots. The following conditions precedent must be satisfied before Continuum is obligated to Close the purchase of the Phase 2 Lots (the “Continuum Phase 2 Conditions Precedent”). The Continuum Phase 2 Conditions Precedent are for Continuum’s benefit, and Continuum has the right in its sole and absolute discretion to waive, by delivery of written notice to Prosper, any of the conditions at Continuum’s sole cost and risk. If any of the Continuum Phase 2 Conditions Precedent is not satisfied or waived on or before Closing, or other date as set forth herein, Continuum may (a) terminate the DDA as to any and all Lots not yet acquired by Continuum, or (b) keep the DDA in full force and effect and extend the time for Prosper to satisfy the Continuum Phase 2 Conditions Precedent. If Continuum identifies a Green Loop Affected Lot to be acquired in Phase 2, and (i) the City does not complete the 30% Open Space Design by the date set forth in the Infrastructure Schedule and Development Plan, or (ii) the City timely completes the 30% Open Space Design but such design does not provide a viable option for the vertical development of the Green Loop Affected Lots, as determined by Continuum in its reasonable discretion, then Continuum shall have no obligation to close on a Green Loop Affected Lot. Within ten (10) business days of completion of the 30% Open Space Design, Continuum shall make its Non-Viability Notification to Prosper and may elect to postpone its obligation to close on any other Lot until the outside Closing date for the Phase 3 Lots. In such case Continuum shall forfeit its option to acquire the Lots that are the subject of the Non-Viability Notification and those Lots shall be removed from the Property subject to the DDA. The remedies set forth in this Section 4.2 shall be Continuum’s sole and exclusive remedies for Prosper’s failure to timely satisfy one or more of the Continuum Phase 2 Conditions Precedent.

4.2.1 The City or Prosper has timely completed the 30% Open Space Design in coordination with preliminary designs provided by Continuum for the Green Loop Affected Lots.

4.2.2 If a Green Loop Affected Lot is included as a Phase 2 Lot and Continuum has not given a Non-Viability Notification to Prosper, then, on or before Closing, Continuum shall have agreed to the 30% Open Space design for that portion of the Green Loop that is integrated with the Green Loop Affected Lot.

4.2.3 On the Closing, Prosper shall have performed in all material respects its obligations under (a) the DDA; or, (b) to the extent such obligations impact Continuum and Continuum has not been made responsible for them in the DDA, Prosper's obligations under the requirements of the TDM, the USPS Master Plan, and any obligations under the CBA.

4.2.4 Continuum is satisfied with or has waived all due diligence related to the Phase 2 Lots, which Continuum shall conduct within the time frame set forth in Section 21 below.

4.3 Conditions Precedent to Prosper's Obligation to Close on the Phase 2 Lots. The following conditions precedent must be satisfied before Prosper is obligated to Close the sale of the Phase 2 Lots (the "Prosper Phase 2 Conditions Precedent"). The Prosper Phase 2 Conditions Precedent are intended for Prosper's benefit, and Prosper has the right in its sole and absolute discretion to waive, by delivery of written notice to Continuum, any of the conditions at Prosper's sole cost and risk, subject to the provisions below regarding Failure to Commence or Complete Construction. If any of these conditions is not satisfied or waived on or before Closing, or other date as set forth herein, Prosper may (a) terminate the DDA as to Lots not yet acquired by Continuum, and Continuum will provide Prosper with any design documents prepared by third party designers as of the date of the termination but only if Prosper pays to Developer the actual out-of-pocket costs incurred by Developer for such documents as of the date the DDA is terminated, except for the work Continuum has done for the conceptual design for the Green Loop Affected Lots, which shall be provided to Prosper at no charge; or (b) keep the DDA in full force and effect and extend the time for Continuum to satisfy the Phase 2 Conditions Precedent. The remedies set forth in this Section 4.3 shall be Prosper's sole and exclusive remedies for Continuum's failure to timely satisfy one or more of the Prosper Phase 2 Conditions Precedent.

4.3.1 Closing occurs within the requisite timeframe as set forth in Section 4.1.

4.3.2 If Continuum elects to acquire a Green Loop Affected Lot, then Continuum shall have completed the corresponding design of the buildings impacted by Integrated Portions of the Green Loop.

4.3.3 If Continuum elects to acquire a Green Loop Affected Lot, Continuum shall have agreed to the 30% Open Space Design of that portion of the Green Loop that is integrated with Green Loop Affected Lot.

4.3.4 If Continuum elects to acquire Lot 5 as part of the Phase 2 Lots, then Continuum shall have demonstrated to Prosper's reasonable satisfaction that it has established a partnership, joint venture, or some other formal equity relationship with a minority local firm at least for the development of Lot 5 or any other Lot approved by Prosper in writing.

4.3.5 Continuum shall demonstrate to Prosper's reasonable satisfaction that: (a) Continuum's financing for vertical construction of the Phase 2 Lots will close within forty-five (45) days after closing of the acquisition; (b) all permits necessary to commence site work for the applicable vertical project have been obtained or are ready to be pulled within forty-five (45) days of closing subject only to the payment of permit fees; (c) a general contractor has been hired for the vertical project; (d) the contractor has mobilized for construction or is obligated to do so within forty-five (45) days after closing; and (e) excavation is scheduled to occur within sixty (60) days of Closing.

4.3.6 Continuum shall have Substantially Completed Construction on the Phase 1 Lots, or vertical construction of the Phase 1 Lots shall be progressing such that Substantial Completion is anticipated to occur by the dates set forth in the Infrastructure Schedule and Development Plan.

4.3.7 By Closing, Continuum shall have performed in all material respects its obligations under or the requirements of the TDM, the USPS Master Plan, and the DDA (including Continuum's performance of pass-through CBA obligations set forth in the DDA to the extent that those obligations have become due).

4.4 Conditions Precedent to Continuum's Obligation to Close on the Phase 3 Lots. The following conditions precedent must be satisfied before Continuum is obligated to Close the purchase of the remaining Lots (the "Continuum Phase 3 Conditions Precedent"). The Continuum Phase 3 Conditions Precedent are for Continuum's benefit, and Continuum has the right in its sole and absolute discretion to waive, by delivery of written notice to Prosper, any of the conditions at Continuum's sole cost and risk. If any of these conditions is not satisfied or waived on or before Closing, or other date as set forth herein, Continuum may elect to (a) terminate the DDA as to any and all Lots not yet acquired by Continuum, or (b) keep the DDA in full force and effect and extend the time for Prosper to satisfy the Continuum Phase 3 Conditions Precedent. The remedies set forth in this Section 4.3 shall be Continuum's sole and exclusive remedies for Prosper's failure to timely satisfy one or more of the Continuum Phase 3 Conditions Precedent.

4.4.1 Continuum is satisfied with or has waived all due diligence related to the Phase 3 Lots, which Continuum shall conduct within the time frame set forth in Section 20 below.

4.4.2 If a Green Loop Affected Lot is included as a Phase 3 Lot and Continuum has not given a Non-Viability Notification to Prosper, then Continuum shall have agreed to the 30% Open Space Design of that portion of the Green Loop that is integrated with the Green Loop Affected Lot.

4.4.3 If Continuum elects to acquire a Green Loop Affected Lot, then Continuum shall have completed the corresponding design of the buildings impacted by Integrated Portions of the Green Loop.

4.4.4 On the Closing, Prosper shall have performed in all material respects its obligations under (a) the DDA; or, (b) to the extent such obligations impact Continuum and Continuum has not been made responsible for them in the DDA, Prosper's obligations under the requirements of the TDM, the USPS Master Plan, and any obligations under the CBA.

4.5 Conditions Precedent to Prosper's Obligation to Close the Phase 3 Lots. The following conditions precedent must be satisfied before Prosper is obligated to Close the sale of the Phase 3 Lots (the "Prosper Phase 3 Conditions Precedent"). The Prosper Phase 3 Conditions Precedent are for Prosper's benefit, and Prosper has the right in its sole and absolute discretion to waive, by delivery of written notice to Continuum, any of the conditions at Prosper's sole cost and risk, subject to the provisions herein regarding Failure to Commence or Complete Construction. If any of these conditions is not satisfied or waived on or before Closing, or another date as set forth herein, Prosper at its election may (a) terminate the DDA as to any and all Lots not yet acquired by Continuum, and Continuum will provide Prosper with any design documents prepared by third party designers as of the date of the termination but only if Prosper pays to Developer the actual out-of-pocket costs incurred by Developer for such documents as of the date the DDA is terminated, except for the work Continuum has done for the conceptual design for the Green Loop Affected Lots, which shall be provided to Prosper at no charge; or (b) keep the DDA in full force and effect and extend the time for Continuum to satisfy the Phase 3 Conditions Precedent. The remedies set forth in this Section 4.5 shall be Prosper's sole and exclusive remedies for Continuum's failure to timely satisfy one or more of the Prosper Phase 3 Conditions Precedent.

4.5.1 Closing occurs within the requisite timeframe as set forth in Section 4.1.

4.5.2 If Continuum elects to acquire Lot 5 as part of the Phase 3 Lots, then Continuum shall have demonstrated to Prosper's reasonable satisfaction that it has established a partnership, joint venture, or some other formal equity relationship with a minority local firm at least for the development of Lot 5 or any other Lot approved by Prosper in writing.

4.5.3 If Continuum elects to acquire a Green Loop Affected Lot, then Continuum shall have completed the corresponding design of the buildings impacted by the Integrated Portions of the Green Loop.

4.5.4 Continuum shall demonstrate to Prosper's reasonable satisfaction that: (a) Continuum's financing for vertical construction of the Phase 3 Lots will close within forty-five (45) days after Closing of the acquisition; (b) all permits necessary to commence site work for the applicable vertical project have been obtained or are ready to be pulled within forty-five (45) days of Closing subject only to the payment of permit fees; (c) a general contractor has been hired for the vertical project; (d) the contractor has mobilized for construction or is obligated to do so within forty-five (45) days after Closing; and (e) excavation is scheduled to occur within sixty (60) days of Closing.

4.5.5 Continuum shall have Substantially Completed Construction on the Phase 1 and Phase 2 Lots, or vertical construction of the Phase 1 and Phase 2 Lots shall be progressing such that Substantial Completion is anticipated to occur by the dates set forth in the Infrastructure Schedule and Development Plan.

4.5.6 On the Closing, Continuum shall have performed in all material respects its obligations under or the requirements of the TDM, the USPS Master Plan, and the DDA (including Continuum's performance of pass-through CBA obligations set forth in the DDA in the CBA to the extent that those obligations have become due).

4.6 Subject to the satisfaction of all conditions precedent to close, Continuum will provide at least ninety (90) days prior written notice to Prosper of its desired date to close on each of the Phase 2 Lots and the Phase 3 Lots. Closing shall occur on a mutually agreeable date or the date provided in the closing notice, and at Closing Continuum shall deliver to escrow the Purchase Price for the Phase 2 Lots or the Phase 3 Lots, as applicable, less any Deposits to be credited against the Purchase Price. Prosper will deliver deeds to Continuum conveying fee simple title to the Phase 2 Lots and the Phase 3 Lots, as applicable, at Closing, subject to any title exceptions on each Lot agreed to by Continuum in accordance with title review provisions to be included in the DDA.

4.7 **USPS Relocation.** Continuum shall design, construct and permanently relocate USPS within a building to be constructed on Lot 9c, and USPS' space shall conform to the USPS Relocation Specifications, which are attached to this Term Sheet as **Schedule 4.7**. USPS' space shall be a condominium unit that USPS owns. The space above the relocated USPS space shall be owned and programmed by Continuum in accordance with the DDA and USPS Master Plan. There shall be no reduction in Purchase Price related to the USPS relocation obligation. However, Prosper shall be responsible for all hard and soft costs incurred by Continuum for the design and construction of both the core and shell and interior build out of USPS' space as reasonably necessitated by the USPS Relocation Specifications and all customary and necessary transaction costs related thereto, including condominium costs, fees, Continuum's cost of capital, a proportionate share of the appraised land value, and other costs and expenses set forth in the DDA, so long as such costs are based on a cost allocation methodology to be defined in the DDA. Prosper will provide Continuum with binding funding commitments for all such costs sufficient for Continuum to obtain financing for the building in which USPS will be located.

4.8 Notwithstanding anything in this Agreement to the contrary, and irrespective of when Continuum elects to acquire Lot 9(c), in no circumstance will any of the events set forth in this Section 4.8 occur prior to the earlier of 2030 or the acquisition by Continuum of four Lots (not including 2 and 9(c)), unless

expedited at the sole discretion of Prosper in consultation with PBOT. The applicable date will be tolled on a day-for-day basis with any Tolling initiated by Continuum.

4.8.1 Demolition of the Garage.

4.8.2 Completion of NW Park Ave. (including related Green Loop construction).

4.8.3 Completion of the Park (including related Green Loop construction).

SECTION 5. Tolling Periods. At any time after Commencement of Construction of the Phase 1 Lots, the dates by which Continuum must acquire the Phase 2 Lots and the Phase 3 Lots (each, a “Closing”) will be subject (each a “Tolling Period”) to (a) one extension of time, which shall not exceed twelve (12) months, which Continuum may exercise at no cost, and (b) up to one additional extension that shall not exceed twelve (12) months if Continuum is unable to obtain equity or debt financing for a vertical project on the Phase 2 Lots or the Phase 3 Lots on commercially reasonable terms as determined by Continuum in its sole but reasonable discretion (“Adverse Market Conditions”). Continuum may exercise the Tolling Period for Adverse Market Conditions upon payment to Prosper of the two and one-half percent (2.5%) of the Purchase Price for all outstanding Lots that have not yet been acquired (the “Tolling Fee”). The Tolling Fee shall be nonrefundable and shall not be applicable to the Purchase Price. Any extension of time under a Tolling Period shall toll any obligation of Prosper and the City to satisfy the Continuum Phase 2 Conditions Precedent on a day-for-day basis until the Tolling Period ends.

SECTION 6. The Land/Lot 2. Continuum may acquire Lot 2 or, upon the Parties’ written agreement, lease Lot 2, at any time after completion of the 30% Open Space Design. Continuum’s conceptual design of Lot 2 shall occur concurrently with the 30% Open Space Design of the Park. Closing and construction of the vertical project on Lot 2 shall integrate the Green Loop design and phasing as necessitated by the 30% Open Space Design and USPS Master Plan requirements.

SECTION 7. Purchase Price. The purchase price for each Lot shall be agreed to by the Parties in the DDA. The purchase price for each Lot shall be the fair market value of each Lot as determined by the appraisal process, and the Purchase Price Adjustment process set forth in Section 9 below (“Purchase Price”). For all Lots other than the Phase 1 Lots, any agreement of the Parties other than to sell and purchase, as applicable, fee simple title to the Lots for cash at closing shall be reflected in a written agreement executed by both Parties no later than ninety (90) days prior to the applicable closing. Alternative conveyance methods for the Phase 2 Lots or the Phase 3 Lots may include a sale or ground lease with payment terms (including seller financing), or other mechanisms as may be agreed to by the Parties. Alternative payment terms for the Phase 2 Lots or the Phase 3 Lots may include lump sum cash payments, installment payments, distribution sharing, and/or cash flow participation.

SECTION 8. Appraisal.

8.1 Each Party shall select a qualified appraiser to appraise each Lot on behalf of such Party. Both appraisers shall be given the joint appraisal instructions attached to this Term Sheet as **Schedule 8.1** (“Joint Appraisal Instructions”). Each of Continuum and Prosper shall pay the cost of its appraisal.

8.2 Appraisals of each Lot shall be completed within ninety (90) days of the later of the date upon which the Board or City Council formally approves this Term Sheet. Notwithstanding the foregoing, if either appraiser requests additional time to complete an appraisal, the Party commissioning that appraisal may, by written notice to the other Party, extend the date for completion of that appraisal for up to thirty (30) additional days or as reasonably requested by the appraiser and approved by the Parties.

8.3 The Joint Appraisal Instructions have been developed by the Parties based on the terms in this Term Sheet and do not include any extraordinary assumptions except as may be set forth in this Term Sheet or in such instructions.

8.4 All cost implications to the vertical development due to the community benefits that Continuum or Prosper have agreed or will agree to in negotiations of the CBA (as defined in Section 11) shall be determined outside of the appraisal process and are set forth in Section 11 of this Term Sheet.

8.5 The appraisals will assume the site is clean from an environmental perspective. Responsibility for environmental remediation costs shall be allocated outside of the appraisal process as set forth in the DDA.

8.6 If the two appraised values for any Lot are within ten percent (10%) of one another, then the fair market value for that Lot will be the average of the two appraised values. If the difference between the two appraisals exceeds ten percent (10%), the Parties shall attempt over not more than thirty (30) days to agree on the fair market value for each Lot. If the Parties are unable to reach agreement on the fair market value of the Lots within such thirty (30) day period, then the Parties may stipulate that the two appraisals shall be averaged in accordance with the first sentence of this Section 8.6. If the Party with the lower appraisal does not so stipulate within ten (10) days of the end of the thirty (30) day period during which the Parties attempt to agree on the fair market value, then the Parties' two appraisers shall appoint a third independent appraiser to review both appraisals, and the fair market value of each Lot shall be determined by the third appraiser (i) using the Joint Appraisal Instructions attached to this Term Sheet, (ii) appraising in accordance with USPAP standards for a review appraisal, and (iii) choosing a value between the two original appraised values.

SECTION 9. Purchase Price Adjustment.

9.1 If the Closing for the Phase 2 Lots or the Phase 3 Lots takes place more than one (1) year after the effective date of the last appraisal obtained for the applicable Phase 2 or Phase 3 Lots but before the fifth (5th) anniversary of the effective date of the last appraisal obtained for the applicable Lot or Lots, then the Purchase Price shall be increased by the annual percentage increase in the CPI U (West Size Class A) since the effective date of the last appraisal obtained.

9.2 Subject to any Tolling Period in effect, if the Closing for the Phase 2 Lots or the Phase 3 Lots takes place after the fifth (5th) anniversary of the effective date of the last appraisal obtained for the applicable Phase 2 or Phase 3 Lots, then the Purchase Price shall be increased by the greater of: (a) the percentage increase in the CPI U (West Size Class A); or (b) one-half (½) of the percentage increase in the value of the applicable Lot or Lots based on an updated appraisal performed in accordance with the appraisal process described in Section 9 above.

9.3 As an example, if (a) the Purchase Price for Lot 9b was set forth in the DDA as \$10,000,000 (as determined by the appraisal process set forth in Section 9 above); (b) Closing on Lot 9b takes place six (6) years or more after the effective date of the appraisal and no Tolling Period is in effect; (c) CPI has increased by a total of four percent (4%) since the effective date of the appraisal; and (d) an updated appraisal for Lot 9b (as determined by the appraisal process set forth in Section 9 above) sets the value of Lot 9b at \$12,000,000 (which would be an increase in value of twenty percent (20%)), then the Purchase Price for Lot 9b would increase by 10% (which is half of the percentage increase in the appraised value). In this example, the adjusted Purchase Price for Lot 9b would be \$11,000,000.

SECTION 10. Uses; Permitted Uses.

10.1 Permitted uses on the Lots shall be consistent with USPS Master Plan requirements, the Broadway Corridor Vision and the CBA (defined in Section 11 below).

10.2 If residential development is built on any Lot, and if the applicable residential building code and inclusionary housing requirements are substantially the same as they are on the effective date of the DDA, then Continuum shall include ten percent (10%) of the units at sixty percent (60%) average median income (“AMI”) to satisfy the City’s inclusionary housing rules and regulations, which units shall be onsite and in mixed-income buildings. If the City’s inclusionary housing requirements have substantially changed by the time Developer begins design and construction of a multi-family project on a Lot or Lots, but an option under the City’s inclusionary housing program still exists that allows Continuum to develop ten percent (10%) of the units at sixty percent (60%) AMI onsite and in mixed-income buildings, then Continuum shall select that option. If the City’s inclusionary housing requirements have substantially changed by the time Developer begins design and construction of a multi-family project on a Lot or Lots and there is no longer an option that allows Continuum to comply with the inclusionary housing requirements above, the Parties shall meet and confer regarding what existing inclusionary housing option is the closest to that which the Parties agreed in the DDA and whether any adjustments are needed. To the extent the Parties cannot agree on this point, Continuum may select the option that it believes is the closest to that agreed to in the DDA, so long as the affordable housing is located onsite and in one or more mixed-income buildings.

10.3 **Density:** The Parties acknowledge that the public investment in the infrastructure supporting the Property anticipates a full buildout of the Property in accordance with the USPS Master Plan. Subject to its decision to close on a Lot and Prosper having made FAR allocations to each Lot prior to Continuum acquiring such Lot in accordance with the DDA, Continuum shall develop the Property with at least the minimum densities set forth below.

10.3.1 Phase 1 Lots: 1.0 x USPS Master Plan Minimum GSF (“1.0x”);

10.3.2 Phase 2 Lots: 1.25 x USPS Master Plan Minimum GSF (“1.25x”); and

10.3.3 Phase 3 Lots: 1.5 x USPS Master Plan Minimum GSF (“1.5x”);

Notwithstanding the foregoing, any density achieved on the Phase 1 Lots in excess of 1.0x may be carried forward to the 1.25x requirement for the Phase 2 Lots, the 1.5x requirement for the Phase 3 Lots, or both, and any density achieved on the Phase 2 Lots in excess of 1.25x may be carried forward and applied to the 1.5x requirement for the Phase 3 Lots.

10.4 **FAR Transfers.** Continuum may freely transfer floor area ratio (“FAR”) among Lots it owns or leases.

10.4.1 If Continuum desires to transfer FAR from a Lot that it does not yet own or lease to a Lot Continuum does own or lease, Continuum and Prosper may mutually agree to transfer FAR to such Lot at a market value agreed upon by the Parties. Following the transfer of such FAR to Continuum and only if the remaining density on the Lot from which the FAR was transferred is less than the density assumed in the Joint Appraisal Instructions for such Lot, the Purchase Price for the Lot from which the FAR was transferred shall be reduced by the amount Continuum paid Prosper for the FAR transferred.

10.4.2 Notwithstanding the foregoing, Continuum may not transfer or obtain a transfer of FAR from a Lot in an amount that would leave such Lot with less FAR than needed to meet the minimum density for such Lot as set forth in the DDA and as required by the USPS Master Plan, and Continuum shall be subject to maximum densities, if any, set forth in the USPS Master Plan.

10.4.3 Subject to the repurchase right set forth in Section 14, and subject to the maximum assigned FAR for each Lot as set forth in the Joint Appraisal Instructions (“Maximum Assigned FAR”) (which Maximum Assigned FAR per Lot may be less than the maximum FAR allowed per Lot under the Master Plan due to the Master Plan’s overall FAR limitation for the USPS Property, which is less than the sum of

the maximum FAR per lots on the USPS Property); Continuum and its successors shall retain rights to all Maximum Assigned FAR on Lots acquired or leased, whether used or unused, until all Lots on the Property have been developed.

10.4.4 Any regulatory changes or Lot-specific amendments to the USPS Master Plan that increase the allowed density, height, or both, shall accrue to the benefit of the Party that owns or leases a Lot.

10.5 **Parking.**

10.5.1 The Parties acknowledge that the Station Place Garage located in Portland at 7418 NW Station Way may be available to provide parking to support development on the Property. The Parties agree to negotiate potential parking solutions at Station Place for that purpose.

10.5.2 If Continuum develops excess parking (defined for these purposes as parking that is more than that required and/or allowed under the TDM policy to support Continuum’s development in anticipation of its future development that fails to occur) that remains unused beyond the time periods allowed in the TDM, then Continuum agrees to use commercially reasonable efforts to enter into one or more agreements with developers for the utilization of said excess parking to bring parking ratios into compliance with the TDM. The terms of any such agreement shall provide a cost to the third-party developer that is no greater than Continuum’s cost to develop and carry such excess parking.

SECTION 11. Community Benefits.

11.1 Continuum has participated in negotiations of a term sheet for a community benefits agreement between Prosper and members of the Healthy Community Coalition, which term sheet is attached hereto as Schedule 11.1 (the “CBA Term Sheet”). Continuum also has participated in direct negotiations of legal agreements and commitments with particular members of the coalition.

11.2 The CBA Term Sheet will be used to draft a community benefits agreement (“CBA”), which is anticipated to include construction and post-construction community benefit obligations and will clearly delineate what community benefits are applicable to horizontal development and which are anticipated to apply to vertical development. The CBA is intended to be executed concurrently with the DDA. As described in the CBA Term Sheet, most of the community benefits set forth therein shall be provided by Prosper and the City of Portland; however, certain community benefit provisions applicable to the vertical development and operation of the Property and are anticipated to be incorporated into the DDA (“Continuum Community Benefit Obligations”). Continuum is familiar with the terms and conditions of the CBA Term Sheet and has participated in the negotiations that have shaped and influenced the Continuum Community Benefit Obligations, and the Continuum Community Benefit Obligations have been agreed to by Prosper in the CBA Term Sheet only after consultation with, and agreement by, Continuum. Other than the costs of the Continuum Community Benefit Obligations being absorbed or subsidized by Prosper as set forth in Section 11.5 below, and subject to Section 22 below, Continuum shall fund or otherwise absorb those costs and efforts, as set forth in Section 11.6 below.

11.3 The CBA Term Sheet requires Prosper to obligate Continuum to the Continuum Community Benefit Obligations via the DDA. In acknowledgment of the fact that certain of the Continuum Community Benefit Obligations are over and above what is required by law or existing Prosper policies, Prosper and Continuum have agreed that Prosper will provide certain credits or other offsets to the negotiated Purchase Price of Lots to be acquired by Continuum in the amounts as set forth in Section 11.5 below (with appropriate structural adjustment made to preserve the then-present value of such credits or offsets the extent the Parties agree that the Purchase Price is to be paid other than in cash at closing, such as via a ground lease or seller financing); and that, subject to Section 22 below, Continuum will pay for or absorb the remaining Continuum Community Benefit Obligations as set forth in Section 11.6 below.

11.3.1 The Parties acknowledge and agree that, contingent upon the CBA being executed in substance reflecting the CBA Term Sheet, the credits and offsets set forth in Section 11.5 are the sum total of all credits and offsets that Prosper will contribute or absorb for the Continuum Community Benefit Obligations that are set forth in the CBA or that are required as per Prosper and City policies.

11.3.2 Oversight and Construction Equity Subcommittees. Prosper will be responsible for managing and staffing the Oversight Committee and the Construction Equity Subcommittee and bearing its own costs of the same, which costs will not be passed on to Continuum through the DDA or otherwise. Continuum acknowledges that, notwithstanding the foregoing sentence, the CBA Term Sheet contemplates an active role for Continuum in terms of serving on, voting in, and engaging with the Oversight Committee and Construction Equity Subcommittee.

11.4 Prosper Portland's CBA Contributions to Continuum Community Benefit Obligations. Except to the extent expressly described in this Section 11.4, and subject to Section 22 below, Continuum is responsible for bearing the direct and indirect costs of its performance of the Continuum Community Benefit Obligations. Prosper will credit \$290,000 to the Purchase Price for each Lot (excluding Lots 9(c) and 2) to offset a portion of Continuum's prevailing wage increment.

11.5 Continuum's CBA Contributions. Subject to Section 22 below, Continuum is responsible for paying for or absorbing the Continuum Community Benefit Obligations, including, without limitation:

11.5.1 Any additional prevailing wage increment agreed to in the CBA or required by law, unless the Parties reach an alternative agreement in writing in accordance with Section 21 below (and except to the extent of Prosper's fixed per-Lot contribution described in Section 11.4 of this Term Sheet).

11.5.2 Up to \$1,400,000 to the Construction Equity Fund. Section 5.a.iv.2 of the CBA Term Sheet calls for a total of \$400,000 for each of Lots 5, 6, 7, 8, 9(a) and 9(b) (the "Covered Lots") to be contributed to a Prosper-administered fund to assist diverse workers and businesses (the "Construction Equity Fund"). Continuum shall contribute \$280,000 per Lot for the first five (5) Covered Lots it closes on, up to a maximum Continuum contribution to the Construction Equity Fund of \$1,400,000. Prosper shall be responsible for the remaining balance.

11.5.3 Any and all costs or expenses associated with Continuum's reporting to or conferring with any of the oversight bodies described in the CBA, including without limitation the Broadway Corridor Community Oversight Committee (it being acknowledged by Prosper that, as set forth in Section 11.3.2, Prosper is responsible for costs of managing and staffing such committees).

11.5.4 Any impact on the cost of its construction from CBA obligations (e.g., Continuum's execution or negotiation of, and compliance with, the terms of any project labor agreement; conditions or limitations imposed by the CBA regarding which contractors and subcontractors may participate in construction (including those described in Section 5.a.v of the CBA Term Sheet); or what obligations contractors and subcontractors participating in construction must undertake.

11.5.5 Any sustainability efforts or conditions imposed upon Continuum as described in Section 5.d of the CBA Term Sheet.

11.5.6 Any impact or additional cost associated with leasing, maintaining, operating, owning, or transferring property affected by CBA obligations, including the requirement described in Section 5.b.ii of the CBA Term Sheet that 0.4% of the contract amounts of janitorial and security contracts be contributed to a third-party nonprofit.

11.5.7 Any costs (whether out of pocket costs, time, effort, or otherwise) of coordinating with tenants in accordance with Section 5.f of the CBA Term Sheet.

11.5.8 All indirect (e.g., administrative burden; cost increases due to effects on which contractors or subcontractors are available and at what price, etc.) cost increases attributable to any provisions in the CBA that affect Continuum or its Lots, to the extent those agreements and provisions are set forth in the DDA and are consistent in all material respects with the CBA Term Sheet.

11.6 In addition to the foregoing, Continuum has executed a contract with Service Employees International, Local 49 (“SEIU”) requiring Continuum to utilize vendors from SEIU’s list of responsible contractors for various services provided to certain commercial office spaces built within vertical projects on the Lots, including without limitation, janitorial and security services. Although this agreement is separate from, and not a part of, the CBA, Continuum also expressly acknowledges that any direct or indirect costs on Continuum’s part of performing its obligations under its agreement with SEIU are Continuum’s, and not Prosper’s, to bear.

SECTION 12. Infrastructure and Vertical Development. The draft Infrastructure Schedule and Development Plan attached as Schedule 12 to this Term Sheet (“Infrastructure Schedule and Development Plan”) is a table that describes deadlines and the schedule for various conditions precedent, including the Phase 1 Infrastructure and 30% Open Space Design, and vertical development of Phase 1 Lots. The Infrastructure and Development Plan also sets forth who is responsible to build the Phase 1 Infrastructure. The Infrastructure Schedule and Development Plan will be revisited and revised in the DDA as necessary to conform to the final approved USPS Master Plan and to update dates and schedules. In addition to the items shown on the Infrastructure Schedule and Development Plan, the City or Prosper will pay to create each Lot as a legal lot of record by a date that shall be established in the DDA. Prosper will also enter into IGAs with City bureaus and a LID will be created as reasonably necessary to implement certain aspects of the Infrastructure Schedule and Development Plan in a manner that is consistent with the USPS Master Plan, the DDA, and Continuum’s vertical development plans.

SECTION 13. Sources & Uses/Funding & Financing. Attached to this Term Sheet as Schedule 13 is the Funding and Finance Plan. If an LID is used to fund a portion of the Phase 1 Infrastructure or other public infrastructure on the USPS Property, the amount of the LID assessed against the entire USPS Property shall not exceed \$18,000,000, and such LID shall not be assessed against the Property sooner than the date of completion of construction of all infrastructure that is funded by the LID.

SECTION 14. Commencement and Substantial Completion of Construction/Remedies and Repurchase Right.

14.1 Subject to force majeure and notice and cure periods defined and set forth in the DDA, if Developer fails to Commence Construction on a Lot or to Substantially Complete construction of a Lot by the dates set forth in the Infrastructure Schedule and Development Plan to be attached to the fully executed DDA, then Prosper shall have the following remedies:

14.1.1 In the case of a failure to timely Commence Construction, and subject to the rights of Mortgagees and other parties holding interests in the Project, Prosper shall have the right to deliver to Continuum notice of such failure with a demand that within forty-five (45) days of Continuum’s receipt of such notice that Continuum begin excavation for the vertical project to be built on the applicable Lot. If Continuum Commences Construction after day forty-five (45) but within one hundred eighty (180) days of its receipt of such notice, Continuum shall pay Prosper a per diem fee equal to two and one-half percent (2.5%) of the Purchase Price for the applicable Lot. For example, if the Purchase Price of the applicable Lot is \$10,000,000 and Continuum Commences Construction on the 60th day after receipt of Prosper’s notice, then Continuum shall pay to Prosper a fee in the amount of \$10,273.97 (((10,000,000 x .025)/365)

x 15). If Continuum fails to Commence Construction within such one hundred eighty (180) day period, then Prosper may repurchase the Lot for an amount equal to the Purchase Price and then re-enter and take possession of the Property and terminate the DDA with respect to the Lot at issue and any and all Lots not yet acquired by Continuum. Within thirty (30) days of written request following a termination of the DDA under this Section 15.1.1, Developer shall provide Prosper with work product prepared by third parties, including design documents and engineering documents as of the date of the termination but only if Prosper pays to Developer the actual out-of-pocket costs incurred by Developer for such documents and work product within such thirty (30) day period, except for the work Continuum has done for the conceptual design for the Green Loop Affected Lots, which shall be provided to Prosper at no charge. Prosper's repurchase right shall automatically terminate for a Lot when Continuum Commences Construction on such Lot.

14.1.2 As used in this Term Sheet, "Commence Construction" means that the financing for vertical construction on a Lot has closed, all permits necessary to commence site work for the applicable vertical project have been obtained or are ready to be pulled subject only to the payment of permit fees, a general contractor has been hired, the contractor has mobilized for construction, and either (A) excavation is occurring on the Lot, in which case permits must have been obtained, or (B) Developer has provided Prosper with reasonable evidence of an executed completion guaranty in favor of the construction lender for the applicable Lot. At the beginning of each calendar quarter throughout construction, Continuum shall provide to Prosper a report summarizing the progress of vertical construction on all Lots.

14.1.3 As used in this Term Sheet, "Substantially Complete" means that construction on a Lot is completed in accordance with the USPS Master Plan's general program requirements and the DDA, except for punch list items which do not substantially prevent the use of such improvements for the purposes intended by Continuum, and a temporary certificate of occupancy has been obtained for the building(s) on such Lot.

SECTION 15. Public Process. Developer will conduct outreach as required as part of the City's regulatory processes. In addition, Developer shall participate in public engagement and stakeholder meetings to be led by Prosper throughout term of DDA.

SECTION 16. Exclusivity. From the Effective Date until the date that is one hundred eighty days (180) days thereafter, Prosper shall not (a) negotiate or agree to sell or transfer all or any portion of the Property or Land or any interest in the Property or Land, or (b) negotiate, enter or agree to enter into a development agreement for all or any portion of the Property or Land with any party other than Continuum. This Section does not prohibit Prosper from negotiating with public entities, such as PHB, Parks, or PBOT, in connection with roles anticipated for such entities in connection with the USPS Property.

SECTION 17. Term. Unless extended by mutual agreement of the Parties, this Term Sheet shall terminate on the date that is one hundred eighty (180) days from the Effective Date.

SECTION 18. PHB Rights. The Parties acknowledge that PHB has a percentage interest in the USPS Property. During the term of this Term Sheet, Prosper will use commercially reasonable and diligent efforts to obtain a release from PHB of its interest in the Property.

SECTION 19. Prosper Portland Policies. Developer shall comply with Prosper's Equity Policy (including Business Equity and Workforce Equity programs) and Prosper's Green Building Policy, unless policies agreed to in the CBA and negotiated and incorporated into the DDA are stricter.

SECTION 20. Due Diligence; Environmental Remediation. The DDA will include periods of time during which Continuum may conduct standard buyer due diligence on the Lots, including environmental due diligence. For the Phase 1 Lots, the due diligence period will be one hundred eighty (180) days from

the latest of: (a) completion of demolition of all structures on the Phase 1 Lots; (b) remediation of hazardous materials from the Phase 1 Lots as set forth in this Section 20 below marked as (A), (B), (C) and (D); and (c) creation of the Phase 1 Lots as legal lots capable of being transferred. For each of the Phase 2 Lots and the Phase 3 Lots, Continuum will have a one hundred and eighty (180) day due diligence period that begins after all Lots are legal lots capable of being transferred and (i) for the Phase 2 Lots, not later than 180 days prior to the Closing of the Phase 2 Lots, as contemplated by the provisions regarding closing deadlines set forth in Section 4.1 above, and (ii) for the Phase 3 Lots, not later than one hundred eighty (180) days prior to Closing of the Phase 3 Lots, subject to the provisions regarding closing deadlines set forth in Section 4.1 above. With respect to hazardous materials and other environmental issues revealed by Continuum's due diligence, at a minimum, Prosper will pay all incremental costs of environmental remediation of the Lots as further described in the DDA, Prosper will also pay the cost of demolition and abatement of: (A) USPS P&DC (Main Building); (B) the Vehicle Maintenance Facility; (C) the electrical transformer building; and (D) previously identified "hot spots" including the NW Corner soils remediation (MGP). Subject to its due diligence conditions precedent, if further remediation is necessary, Continuum shall have the right to terminate the DDA as set forth in Sections 3.2, 4.2 and 4.4 above, as applicable.

SECTION 21. Prevailing Wage. Developer intends to seek with Prosper or the City a pre-determination letter from the Oregon Bureau of Labor and Industries ("BOLI") regarding whether Oregon prevailing wage rate laws, including ORS 279C.800-870 and related administrative rules and regulations, apply to Developer's construction of vertical projects on the Property. Developer's obligations under the DDA are subject to Developer obtaining a determination that is substantively consistent with, and does not impose any materially greater obligations on Continuum than, those contemplated in the CBA Term Sheet. The foregoing shall not limit Continuum's ability to contractually bind itself to pay prevailing wage on all or a portion of its vertical projects in the CBA or DDA.

SECTION 22. Financial Infeasibility. The Parties acknowledge that there are various financial assumptions made in this Term Sheet that will be established or more fully clarified as the Parties negotiate the final DDA. Prior to signing the DDA, if either Party finds that the terms or development contemplated by this Term Sheet are not financially feasible, the Parties will reconvene to discuss the issues presented and attempt to renegotiate for sixty (60) days to adjust the economic structure and financial terms set forth in this Term Sheet. Prosper Board approval may be required if any renegotiated terms materially modify those set forth in this Term Sheet.

SECTION 23. Restrictions on Use. Within thirty (30) days of Continuum's notification to Prosper Portland that a specific Lot shall be developed as a hotel by an anticipated date certain, the Parties will record against the lots south of NW Johnson Street (the "Southern Lots") a restrictive covenant providing that, until the earlier of Closing of Continuum's acquisition of the Phase 3 Lots and 2033, no hotel or other hospitality project shall be pursued or developed on the Southern Lots. In addition, within ten (10) business days of Continuum commencing construction of at least 100,000 square feet of office space on a Lot, the Parties will record against the Southern Lots a restrictive covenant prohibiting the development of any office space larger than 50,000 square feet for a period of twenty-four (24) months. The restrictive covenants described in this Section 23 shall contain language that explicitly terminates said covenants upon the respective termination events set forth herein.

SECTION 24. Notices. All notices given under this Term Sheet shall be in writing and may be delivered, with all applicable delivery and postage charges prepaid, by: (a) personal delivery or messenger; (b) nationally recognized overnight courier service; (c) certified mail through the United States Postal Service, return receipt requested; or (d) e-mail, and addressed as follows:

Prosper Portland:	Prosper Portland
	Kimberly Branam, Executive Director

220 NW Second Ave., Suite 200
Portland OR 97209
Email: BranamK@prosperportland.us

With a copy to: Prosper Portland
Alison Kean, General Counsel
220 NW Second Ave., Suite 200
Portland OR 97209
Email: KeanA@prosperportland.us

Developer: Continuum Partners LLC
Mark Falcone, CEO
1881 16th Street
Denver CO 80201
Email: mark.falcone@Developerpartners.com

With a copy to: Dina Alexander
111 SW Columbia Street, Suite 700
Portland OR 97201
Email: dalexander@radlerwhite.com

Notices shall be deemed received by the addressee upon the earlier of actual delivery or refusal of a Party to accept delivery thereof; provided that notices sent by email shall be deemed given on the date received if and only if delivered prior to 6:00 p.m. Pacific Time and if simultaneously sent by another means allowed hereunder. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision. Notices may be given by counsel to a Party on behalf of such Party.

SECTION 25. Confidentiality/Public Records.

25.1 Developer understands that Prosper is a public entity subject to the Oregon Public Records Law, government audit requirements, and public review and oversight. Records of Prosper may be required to be disclosed publicly unless exempted. Exemptions are few, narrowly tailored and often conditional. Prosper will not voluntarily disclose confidential material to private third parties. All written materials obtained by Prosper during the course of negotiations are considered confidential by Continuum. However, such confidentiality will not guarantee that such material will not be subject to a public records request and subsequent disclosure. Prosper will inform Developer of any and all public records request that would involve material received from Developer related to the transaction contemplated by this Term Sheet or the DDA, so that Developer may participate in seeking any available legal protection of the material. Confidential information does not include material, data or information that (a) was known to Prosper prior to its receipt thereof from Developer, (b) is generally available to the public or that has been obtained from a third party having the right to disclose the same, or (c) is independently developed by or on behalf of a Party without reference to any materials or information received from the other Party.

25.2 If Prosper receives a Public Records request for material that is confidential under Section 24.1, Prosper will notify Developer's attorney in writing before complying with such request and shall provide Developer with a reasonable time within the statutorily-prescribed time period for Public Records

responses, to assert to Prosper and discuss with Prosper’s counsel legal arguments as to whether such records fall within an exemption to the Public Records Act. Prosper will work cooperatively with Developer to protect confidential information to the extent that Prosper reasonably believes an exemption to the Public Records Act applies.

SECTION 26. Non-Binding. Notwithstanding anything to the contrary set forth in this Term Sheet, except for the terms and conditions contained in Sections 16, 17, 24, 25, 27 and this Section 26, this Term Sheet is not binding in any manner, and creates no obligations, representations, warranties or covenants (whether express or implied) by either party in favor of either Party in any manner.

SECTION 27. Miscellaneous. Each Party has reviewed this Term Sheet and agrees that the rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Term Sheet. No provision of this Term Sheet shall be deemed to have been waived by either Party unless the waiver is in writing and signed by that Party. As used in this Term Sheet, (a) “shall” means mandatory and imperative, (b) “including” means including without limitation, and (c) “business day” means any day other than a Saturday, Sunday or holiday observed by the City of Portland. This Term Sheet may be executed in one or more identical counterparts, each of which shall be deemed an original and all of which will collectively constitute one agreement.

SECTION 28. Exhibits and Schedules: The following Exhibits and Schedules are attached to and incorporated into this Term Sheet:

- Exhibit A: Depiction of Broadway Corridor and USPS Property
- Schedule 2: Depiction of Lots
- Schedule 3.2.2: Funding and Finance Plan
- Schedule 4.7: USPS Relocation Specifications
- Schedule 8.1: Joint Appraisal Instructions
- Schedule 11.1: CBA Term Sheet
- Schedule 12: Infrastructure Schedule and Development Plan

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[Signature page]

Developer:

Continuum Partners, LLC

Mark Falcone, CEO

Date:_____

Prosper:

Portland Development Commission, dba Prosper Portland

Kimberly Branam, Executive Director

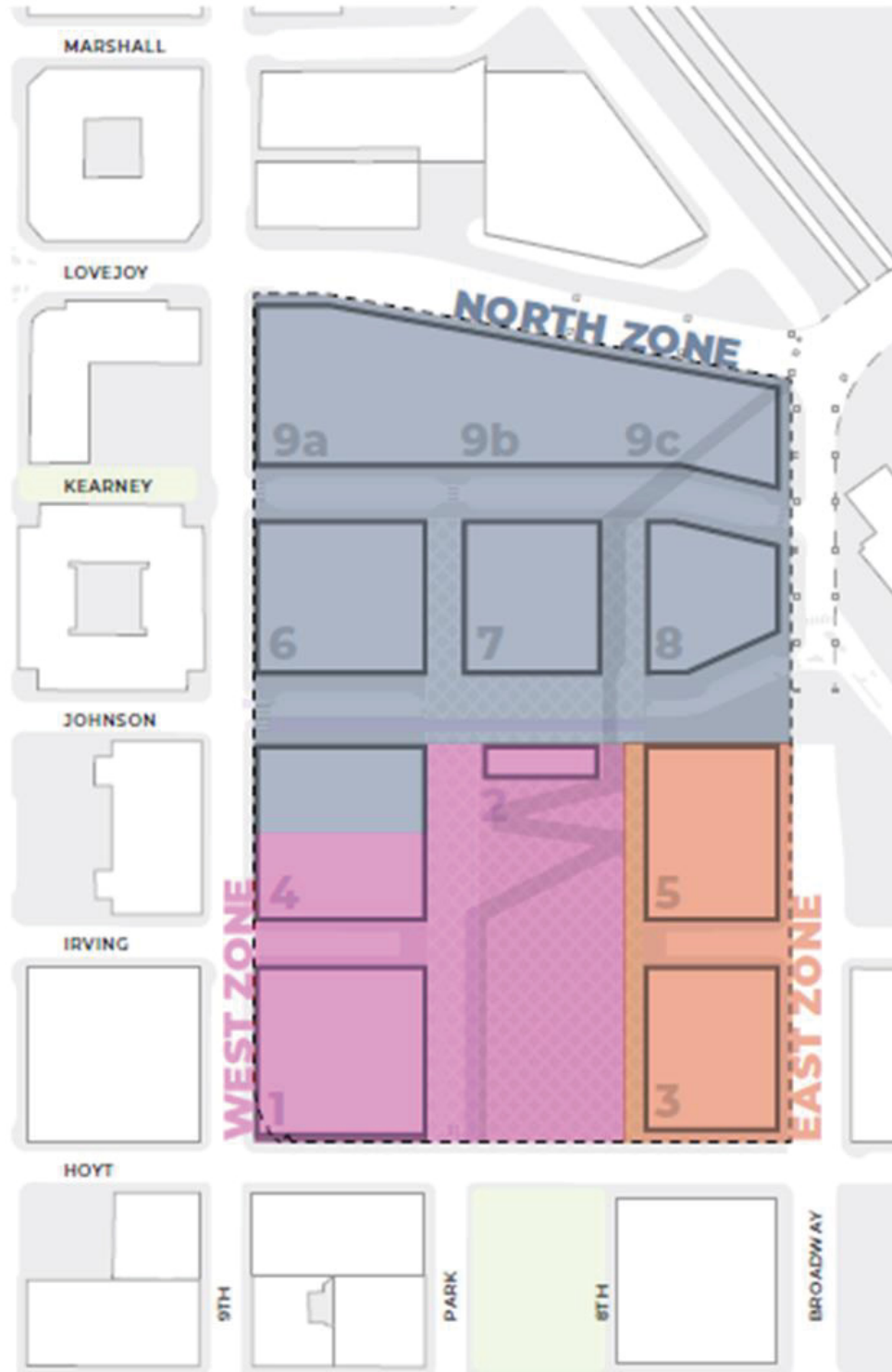
Date:_____

Approved as to Form:

Legal Counsel for Prosper Portland

Date:_____

Exhibit A
Depiction of USPS Property



BROADWAY CORRIDOR FUNDING AND FINANCING PLAN

COMPONENT		PROJECTED PUBLIC FUNDING SOURCES						PROJECTED PRIVATE FUNDING SOURCES					
	Cost Estimate incl. soft costs (Jan 2020)	Prosper Portland	PBOT	Parks	BES	Water	TIF Defeasance	SUBTOTAL PUBLIC	Continuum	LID	Other Developers (incl. Aff Hsg)	SUBTOTAL PRIVATE	TOTAL
Site Prep													
USPS Relocation - Interim (Parking Garage)	\$ 4,500,000	\$ 4,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,500,000	\$ -	\$ -	\$ -	\$ -	\$ 4,500,000
USPS Relocation - Permanent	\$ 6,500,000	\$ 6,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,500,000	\$ -	\$ -	\$ -	\$ -	\$ 6,500,000
USPS Demolition & Abatement (P&DC, VME, Hot Spots)	\$ 24,300,000	\$24,300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 24,300,000	\$ -	\$ -	\$ -	\$ -	\$ 24,300,000
Parking Garage Demo	\$ 3,200,000	\$ 3,200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,200,000	\$ -	\$ -	\$ -	\$ -	\$ 3,200,000
Subtotal	\$ 38,600,000	\$38,600,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 38,600,000	\$ -	\$ -	\$ -	\$ -	\$ 38,600,000
Streets, Signals, Utilities													
Johnson, Kearney, Park (Curb to Curb) + Signals	\$ 27,600,000	\$ -	\$ 4,600,000	\$ -	\$ -	\$ -	\$ -	\$ 4,600,000	\$ -	\$ 23,000,000	\$ -	\$ 23,000,000	\$ 27,600,000
Johnson - Final Back of Curb	\$ 3,100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,600,000	\$ -	\$ 500,000	\$ 3,100,000	\$ 3,100,000
Kearney - Final Back of Curb	\$ 1,600,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,600,000	\$ -	\$ -	\$ 1,600,000	\$ 1,600,000
Off-site Sanitary Sewer, Storm	\$ 7,000,000	\$ -	\$ -	\$ -	\$ -	\$7,000,000	\$ -	\$ 7,000,000	\$ -	\$ -	\$ -	\$ -	\$ 7,000,000
Off-site Water	\$ 800,000	\$ -	\$ -	\$ -	\$ -	\$800,000	\$ -	\$ 800,000	\$ -	\$ -	\$ -	\$ -	\$ 800,000
Subtotal	\$ 40,100,000	\$ -	\$ 4,600,000	\$ -	\$7,000,000	\$800,000	\$ -	\$ 12,400,000	\$ 4,200,000	\$ 23,000,000	\$ 500,000	\$ 27,700,000	\$ 40,100,000
Open Space and Green Loop													
NW Broadway Bridge/Green Loop signal reconfiguration	\$ 900,000	\$ 100,000	\$ 800,000	\$ -	\$ -	\$ -	\$ -	\$ 900,000	\$ -	\$ -	\$ -	\$ -	\$ 900,000
Green Loop Gateway Plaza at Broadway	\$ 9,500,000	\$ 4,200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,200,000	\$ 5,300,000	\$ -	\$ -	\$ 5,300,000	\$ 9,500,000
Green Loop Elevated Alleyway (8th Ave)	\$ 5,000,000	\$ 5,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000,000	\$ -	\$ -	\$ -	\$ -	\$ 5,000,000
Green Loop Kearney Bridge	\$ 3,100,000	\$ 3,100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,100,000	\$ -	\$ -	\$ -	\$ -	\$ 3,100,000
Green Loop Johnson Bridge	\$ 3,100,000	\$ 3,100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,100,000	\$ -	\$ -	\$ -	\$ -	\$ 3,100,000
Pavilion Building (Parcel 2)	TBD	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	TBD	\$ -	\$ -	\$ -	TBD
Green Loop Climb / Sculptural Landform	\$ 11,300,000	\$ -	\$ 8,900,000	\$ 2,400,000	\$ -	\$ -	\$ -	\$ 11,300,000	\$ -	\$ -	\$ -	\$ -	\$ 11,300,000
Flexible Open Space w/ western Green Loop ped path	\$ 9,000,000	\$ -	\$ -	\$ 9,000,000	\$ -	\$ -	\$ -	\$ 9,000,000	\$ -	\$ -	\$ -	\$ -	\$ 9,000,000
Subtotal	\$ 41,900,000	\$15,600,000	\$ 9,700,000	\$11,400,000	\$ -	\$ -	\$ -	\$ 36,600,000	\$ 5,300,000	\$ -	\$ -	\$ 5,300,000	\$ 41,900,000
Accessways on Private Property													
NW Park Ave plaza (between NW Johnson & NW Kearney)	\$ 800,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 800,000	\$ -	\$ -	\$ 800,000	\$ 800,000
NW 8th Ave plaza (between NW Johnson & NW Kearney)	\$ 900,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 900,000	\$ -	\$ -	\$ 900,000	\$ 900,000
NW Irving driveway - East	\$ 2,300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,200,000	\$ -	\$ 1,200,000	\$ 2,300,000	\$ 2,300,000
NW Irving driveway - West	\$ 1,100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000
NW 8th Ave ped path incl. private utilities (south of Johnson)	\$ 2,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000
Subtotal	\$ 7,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,800,000	\$ -	\$ 4,700,000	\$ 7,500,000	\$ 7,500,000
CBA													
Construction Technical Assistance Fund - Private ¹	\$ 4,000,000	\$ 2,600,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,600,000	\$ 1,400,000	\$ -	\$ -	\$ 1,400,000	\$ 4,000,000
Prevailing Wage Fund ²	\$ 2,900,000	\$ 2,900,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,900,000	\$ -	\$ -	\$ -	\$ -	\$ 2,900,000
Operating Fund	TBD	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	TBD	\$ -	\$ -	\$ -	TBD
Small Business Affordable Commercial Fund	\$ 3,000,000	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ 3,000,000
Oversight	\$ 3,000,000	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ 3,000,000
Subtotal	\$ 12,900,000	\$11,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,500,000	\$ 1,400,000	\$ -	\$ -	\$ 1,400,000	\$ 12,900,000
Line of Credit													
TIF Defeasance	\$ 35,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$35,000,000	\$ 35,000,000	\$ -	\$ -	\$ -	\$ -	\$ 35,000,000
TOTAL	\$ 176,000,000	\$65,700,000	\$14,200,000	\$11,400,000	\$7,000,000	\$800,000	\$35,000,000	\$ 134,100,000	\$ 13,700,000	\$23,000,000	\$ 5,200,000	\$ 42,000,000	\$ 176,000,000

all cost estimates are rounded to the nearest \$100,000

(1) Public Construction Technical Assistance Fund contributions included in demolition and infrastructure cost estimates

(2) Additional costs impacts to be carried by developers

Construction of the Replacement USPS Retail Space

Capitalized terms used, but not defined, in this Schedule 4.7 are defined in the Purchase and Sale Agreement between Prosper Portland and USPS dated May 5, 2016 (the “PSA” or the “Agreement”).

A.1 Replacement Retail Facility. Continuum agrees to construct a turn-key replacement retail facility for USPS (the “Replacement Retail Facility”). The Replacement Retail Facility shall consist of:

- 1) Gross square footage: Approximately 15,102 sq ft
- 2) Net interior square footage: Approximately 13,584 sq ft
- 3) Number of retail counters: 5
- 4) Number of SSK machines: 2
- 5) PO Boxes:
 - a. Size 1 (12/module): 1644
 - b. Size 2 (8/module): 1256
 - c. Size 3 (4/module): 644
 - d. Size 4 (2/module): 184
 - e. Size 5 (1/module): 38
 - f. Parcel Locker Sections: 32
 - g. Total PO Box and Locker Sections: 149
- 6) Number of employees: 10
- 7) Loading Docks (including dock equipment): 1 - 30” dock; 1 - 48” dock
- 8) Parking:
 - a. Employee parking: 10 spaces + 1 handicap accessible space
 - b. Customer parking: 32 spaces + 2 handicap accessible spaces
 - c. Call-in customer parking: 5 spaces (near the loading docks)

A.2 Location of Replacement Retail Facility. The location of the Replacement Retail Facility shall be identified in the Retail Services Plan and shall be approved by USPS prior to any design or construction related to the Replacement Retail Facility. The Retail Services Plan shall account for favorable completion of the following processes and procedures, which must be completed prior to final determination of the location of the Replacement Retail Facility: a) satisfactory completion of the processes required under 39 CFR 241.4, 39 CFR 778, and 39 U.S.C 409(f)(5) regulations; b) satisfactory completion of NEPA regulations and compliance with Handbook RE-6, Facilities Environmental Guide, dated October 2015; and c) site approval through a USPS site selection meeting (which may consider, but is not limited to considering, such items as: environmental conditions, financial considerations, title search and other due diligence, physical feasibility, safety, as well as the location’s ability to serve USPS customers).

A.3 Design Standards. The Replacement Retail Facility shall contain areas and spaces, improvements and appurtenances furnished as provided in accordance with specifications, details, and handbooks, including but not limited to the with United States Postal Service Standard Design Criteria, Handbook AS-503, October 1, 2015; and Handbook RE-4, Standards for Facility Accessibility, dated March 2005 (collectively, the “Design Standards”) which are made a part of this Schedule 4.7. A CD containing Handbook AS-503, October 1, 2015 has previously been provided to Prosper Portland and Prosper Portland has provided or will provide the same to Continuum upon request.

A.4 Design Documents. Continuum will be responsible for producing construction drawings and plans in accordance with the Design Standards, and in accordance with applicable codes and ordinances.

Continuum will provide the USPS with copies of the construction drawings and plans at the following intervals/milestones: (i) 10% design; (ii) 30-50% design; (iii) 90% design; and (iv) 100% design. The USPS will review and provide comments to Continuum within ten (10) business days from receipt and Continuum must cause to have the comments incorporated into the next draft of the designs. The 100% plans must be reviewed and approved by USPS (the “Approved Plans”); USPS shall have thirty (30) days to complete the review of the 100% plans. Except as otherwise provided below, the USPS review of construction drawings and plans will be general and may not be construed as: 1) permitting any departure from the Design Standards; or 2) relieving Continuum of responsibility for any errors, including details, dimensions, and materials.

If drawings or plans show variations from the Standard Designs, Continuum must describe the variations in the letter of transmittal. If acceptable, USPS may approve any or all variations in writing. If Continuum fails to describe these variations, it will not be relieved of the responsibility for executing the work in accordance with the Design Standards, even though the drawings or plans have been reviewed by the USPS.

A.5 General Stipulations.

(a) Continuum will be responsible for site conditions including but not limited to subsurface or latent physical conditions or unknown physical conditions of an unusual nature differing materially from those ordinarily encountered.

(b) Continuum shall have the right to hold a pre-construction conference with USPS prior to construction of the Replacement Retail Facility.

A.6 Order of Precedence. In the event of any conflict or discrepancy between the Agreement and this Schedule 4.7 pertaining to the design, permitting, and construction of the Replacement Retail Facility, the terms of this Schedule 4.7 shall control; in connection with all other matters, the terms of the Agreement shall control.

A.7 Bonds.

(a) Continuum must submit Performance and Payment Bonds within twenty (20) days of request by the USPS. No work or services under the Agreement may be commenced until required bonds have been furnished and Continuum has received written notice from the USPS that the bonds are acceptable.

(b) Continuum agrees to post at the job site in a prominent place, a Photostat or certified copy of the bonds, where they can easily be seen by all persons who have furnished, or have been requested to furnish labor, material, or both, used or reasonably required for use in the performance of the Agreement.

A.8 General Requirements.

(a) Unless otherwise exempted within the PSA, Continuum must employ the services of an architect-engineer, who is licensed to practice in the state in which the Replacement Retail Facility is located, to prepare complete specifications and working drawings including architectural, structural, mechanical, electrical, and site improvement work for the construction of the Replacement Retail Facility in accordance with all requirements in the Agreement. All final drawings must bear the appropriate

registration seal. All fees or charges required for architect/engineer services, for necessary permits or approvals, for connection charges, or for similar fees incidental to construction of the Replacement Retail Facility must be at Continuum's sole cost and expense.

(b) All submissions required by USPS must be correlated, checked, and signed by a responsible official of the architect-engineer's firm and must be accompanied by a certification in the following format:

"I certify that all phases of this project (1) have been coordinated and checked for accuracy, (2) are complete in accordance with all applicable requirements, (3) consistent with the specifications of PSA Exhibit H, and (4) are in compliance with local building codes and USPS Design Standards."

(c) All improvements, including new building(s) and all appurtenances thereto, must be designed and constructed in conformity with all applicable laws, ordinances, and regulations which relate to construction, safety, and sanitation or, in the absence of such codes, ordinances or regulations, in conformity with one of the following codes: International Conference of Building Officials or Uniform Building Code. The final drawings must be signed and sealed by the architect-engineer with this statement:

"This building has been designed and must be constructed in strict accordance with the _____ building (regulations) (code) dated _____."

(d) The minimum requirements established by the Agreement must not be construed as lowering the standards established by the local, county, or state laws, ordinances, or regulations. When such local, county or state requirements are more stringent than the minimum requirements set forth in the Agreement, the more stringent requirements must govern.

(e) Continuum must be responsible, in all cases, for the proper design and coordination of architectural, structural, plumbing, electrical, heating, ventilation, air conditioning, site elements, etc., for the Replacement Retail Facility.

(f) Unless otherwise specified, no construction activity at the site may be commenced until Continuum has:

- (1) Obtained all necessary permits and approvals to proceed with the work; and
- (2) Received written approval of the Approved Plans.

(g) Only a USPS Contracting Officer may initiate or direct changes or modifications to the Replacement Retail Facility. If any USPS initiated changes cause an increase in the costs of the Replacement Retail Facility, then Continuum shall deliver to USPS an estimate of such increased costs. If the parties are unable to mutually agree upon the increased costs or any value-engineering of such USPS initiated changes within five (5) days after Continuum's delivery of such estimate notice, then Continuum shall not perform such USPS initiated changes. The USPS shall reimburse Continuum for any such increased costs associated with any USPS initiated changes.

(h) Acknowledgement of receipt of any drawings and specifications by the USPS shall not be construed as waiving or changing any requirements set forth in this Schedule 4.7 unless a deviation, waiver, or other change is specifically identified and approved by the designated USPS official(s).

(i) Changes or modifications to the Approved Plans which may be required during construction must be approved in writing by the USPS prior to proceeding with such changes.

(j) Continuum must keep, at the site, copies of the drawings and specifications and must at all times give the USPS access to them.

(k) Following completion of the Replacement Retail Facility and acceptance of the premises by the USPS, Continuum shall provide the USPS with a complete set of as-built drawings in CAD or other electronic format. The USPS shall have full right to use the as-built drawings for the purposes of using, operating, altering, and maintaining the premises without any further compensation to Continuum. The USPS shall have no right to use or replicate the as-built drawings with respect to any other site.

A.9 Licenses, Permits, Indemnification.

(a) Continuum is, without additional expense to the USPS, responsible for: identifying and complying with zoning requirements, if applicable; obtaining, and paying for, any necessary licenses and permits required for privately owned buildings; and complying with any applicable federal, state, and municipal laws, and regulations, in connection with providing the Replacement Retail Facility.

(b) Continuum shall indemnify and hold harmless the USPS and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of actions, expenses, and/or liabilities (including the cost of defense) resulting from, brought for, or on account of any personal injury or death or property damage received or sustained by any persons or property, growing out of, occurring, or attributable to any work performed under or related to the Agreement.

A.10 Storage of Equipment. The USPS may, without additional compensation, store, assemble, and install USPS-owned furnishings and equipment in the premises at any time prior to completion date. Such action by the USPS shall not be construed as constituting occupancy. Such action must be accomplished in a manner which will not unreasonably interfere with Continuum's completion of work under the Agreement.

A.11 Inspection.

(a) Continuum must, without charge, replace any material, correct any workmanship or supply omitted work found by the USPS not to comply with the Agreement and Approved Plans, unless in its sole and absolute discretion, the USPS consents to accept such material or workmanship or omitted work.

(b) The premises and building must be accessible for inspection by the authorized representative of the USPS to determine whether the Replacement Retail Facility is being constructed in accordance with the Agreement and Approved Plans and/or acceptance inspection of construction of the Replacement Retail Facility. Failure of the USPS to identify deficient work or materials shall not shift the responsibility for correction of such deficient work to the USPS.

(c) If Continuum does not replace rejected material, correct rejected workmanship, or supply omitted work, then in addition to any other remedies available to it, the USPS may, remain in the under the Lease Agreement at the USPS Property.

(d) Continuum must give USPS at least sixty (60) days advance written notice of the date Continuum anticipates that the Replacement Retail Facility will be fully completed and ready for inspection and tests; Continuum shall be charged with any additional costs of inspection actually incurred and paid for by the USPS if the Replacement Retail Facility is not completed at the time specified by Continuum for its inspection.

A.12 Construction Management. USPS may send USPS employees and/or engage one or more consultants for construction project management and oversight to ensure that the Replacement Retail Facility is in compliance with the Approved Plans and USPS Design Standards. If USPS engages one or more consultants, Continuum will reimburse USPS for such costs up to \$250,000.

A.13 Warranty (Construction).

(a) Continuum warrants that all work will be free from defective or inferior materials, equipment, and workmanship.

(b) If, within one year of acceptance of the Replacement Retail Facility by USPS, the USPS finds that warranted work needs to be repaired or changed because materials, equipment, or workmanship were inferior, defective, or not in accordance with the Agreement and the Approved Plans, Continuum must promptly and without additional expense to the USPS:

- (1) Place in a satisfactory condition all of the warranted work; and
- (2) Satisfactorily correct all damage to equipment, the site, the building, or its contents that is the result of such unsatisfactory work; and
- (3) Satisfactorily correct any work, materials, or equipment disturbed in fulfilling the warranty.

(c) Continuum must obtain each transferable guarantee or warranty of equipment, materials, or installation furnished by any manufacturer, or installer in the ordinary course of the business or trade. Continuum must obtain and furnish to the USPS all information required to make any such guarantee or warranty legally binding and effective, and must submit both the information and the guarantee or warranty to the USPS in sufficient time to permit the USPS to meet any time limit requirements specified in the guarantee or warranty or, if no time limit is specified, before completion and acceptance of all work under the Agreement.

A.14 Safety and Health Standards.

(a) Continuum must:

- (1) comply with applicable Occupational Safety and Health Standards, Title 29 Code of Federal Regulations (CFR) (including but not limited to Parts 1910 and 1926), promulgated pursuant to the authority of the Occupational Safety and Health Act of 1970 (OSHA);
- (2) comply with any other applicable federal, state, or local regulation governing workplace safety to the extent they are not in conflict with (1) above; and
- (3) take all other proper precautions to protect the health and safety of:
 - (a) any laborer or mechanic employed by the Landlord in performance of the Agreement; and
 - (b) USPS employees; and
 - (c) the public.

(b) Continuum must include this clause in all subcontracts hereunder and require its inclusion in all subcontracts of a lower tier.

A.15 Clauses Required to Implement Policies, Statutes, or Executive Orders.

(a) *Incorporation by Reference.* The following clauses are incorporated in this Schedule 4.7 by reference. The text of incorporated terms may be found in the Postal Service's *Supplying Principles and Practices*, accessible at www.usps.com/publications.

Clause 9-1, Convict Labor (March 2006)

Clause 9-2, Contract Work Hours and Safety Standards Act – Overtime Compensation (March 2006) (for work over \$2,000)

Clause 9-4, Compliance by States With Labor Standards (March 2006) (for work over \$2,000)

Clause 9-5, Contract Work Hours and Safety Standards Act – Safety Standards (March 2006)

Note: For purposes of applying the above standard clauses to the Agreement, the terms "supplier," "contractor," and "buyer" are synonymous with "Buyer," and the term "contract" is synonymous with "Schedule 4.7."

(b) Examination of Records. The USPS or its authorized representative will have access to and the right to examine any of Continuum's directly pertinent records involving transactions related to the Agreement. Continuum will make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, for 3 years following the final payment for construction covered by the Agreement. As used in this clause, "records" includes books, documents, account procedures and practices, and other data, regardless of type or form.

A.16 Contract Disputes Act. Any disputes that arise under this Schedule 4.7 shall be subject to the Contract Disputes Act, 41 USC § 7101 et seq. ("CDA").

A.17 USPS Consents and Approvals. Notwithstanding anything in the foregoing, any USPS consents and/or approvals required in conjunction with this Schedule 4.7 shall be in writing to be effective and binding on USPS.

**Prosper Portland – Continuum
Joint Appraisal Instructions
(USPS Property North of NW Johnson Street Plus Lots 2 and 5)
[REDACTED], 2020**

- 1) **Introduction.** Appraiser has agreed to submit to Prosper Portland (“Prosper”) and Continuum Partners, LLC (“Developer” and together with Prosper, the “Contracting Parties”), an independent appraisal for eight parcels on the approximately 13.33 acre site commonly known as the “USPS Site” (each, a “Lot” and collectively, the “Lots”). The following appraisal instructions (the “Instructions”) are intended to detail the scope, standards, process and guidelines for the appraisal. In addition to these Instructions, the appraisal shall be prepared in compliance with the Uniform Standards of Professional Appraisal Practice and other applicable provisions of law.
- 2) **Subject Property.** Lots 2, 5, 6, 7, 8, 9(a), 9(b) and 9(c) of the USPS Site, each of which Lot is located north of NW Johnson Street, except for Lots 2 and 5, which are located south of NW Johnson Street, and depicted on Exhibit A attached to these instructions.
- 3) **Property Interests/Value Considerations**
 - a) The appraiser shall value the Lots as of the following agreed upon valuation date: [REDACTED], 2020] but shall consider the Master Plan requirements and public infrastructure (streets, water, sewer, signals, etc) that will be in place as of the date of the first acquisition.
 - b) The appraiser shall establish a value for each Lot based on the highest and best use for the land, subject to the Parties’ agreement regarding maximum allowable densities per Lot in terms of Assigned Gross Square Footage and Assigned Maximum FAR for each Lot, as follows:
 - Lot 2: GSF: 16,200; FAR: 3
 - Lot 5: GSF: 581,220; FAR: 18
 - Lot 6: GSF: 405,223; FAR: 11.26
 - Lot 7: GSF: 328,343; FAR: 11.26
 - Lot 8: GSF: 265,646; FAR: 11.26
 - Lot 9a: GSF: 438,316; FAR: 11.26
 - Lot 9b: GSF: 356,146; FAR: 11.26
 - Lot 9c: GSF: 63,609; FAR: 3
 - c) The appraiser shall also consider the minimum allowable density for each Lot as prescribed in the DDA as follows:
 - (1) The first two lots acquired shall be at the Master Plan Minimum GSF (“1.0x”);
 - (2) The second two lots acquired shall be at 1.25 x Master Plan Minimum GSF (“1.25s”); and
 - (3) The last lots acquired shall be at 1.5 x Master Plan Minimum GSF (“1.5x”);
 - (4) Notwithstanding the foregoing, any density achieved on the Phase 1 Lots in excess of 1.0x may be carried forward to the 1.25x requirement for the Phase 2 Lots, the 1.5x requirement for the Phase 3 Lots, or both, and any density achieved on the Phase 2 Lots

in excess of 1.25x may be carried forward and applied to the 1.5x requirement for the Phase 3 Lots.

d) FAR Transfers.

- (1) Purchaser may freely transfer FAR among Lots it owns or leases.
- (2) If Purchaser desires to transfer FAR from a Lot that it does not yet own or lease to a Lot Purchase does own or lease, the Parties may mutually agree to transfer FAR to such Lot at a market value agreed upon by the Parties.
- (3) Notwithstanding the foregoing, Purchaser may not transfer or obtain a transfer of FAR from a Lot in an amount that would leave such Lot with less FAR than needed to meet the minimum density for such Lot as set forth in the DDA and as required by the USPS Master Plan.
- (4) Purchaser and its successors shall retain rights to all Maximum Assigned FAR on Lots acquired or leased, whether used or unused, until all Lots on the Property have been developed.
- (5) Any regulatory changes or Lot-specific amendments to the USPS Master Plan that increase the allowed density, height, or both, shall accrue to the benefit of the Party that owns or leases a Lot.
- (6) Total buildable FAR could be impacted by the ultimate Green Loop design, as determined by the Open Space and Green Loop concept design.

e) The appraiser shall use a sales comparison approach and shall establish a value for each Lot expressed as price per square foot of land. Such valuation shall also consider the following for each Lot:

- (1) the Central Employment (EX) zoning for each Lot;
- (2) the Central City Master Plan (“CCMP”) to which the Lots are subject, which allows for above-grade parking consistent with Portland City Code (“Code”) and the fact that such parking is also included in calculations of floor area ratio (“FAR”). Consideration shall be given to District parking requirements relative to requirements among the comparables selected.
- (3) the cost of local improvement districts and other special assessments;
- (4) zoning, design and other overlays, if any, and their impact on the development potential of the parcels;
- (5) allowed/prohibited/non-conforming/conditional uses and implications on future uses if sold;
- (6) conditions and restrictions contained in the CCMP that do not apply to property outside of the CCMP area; and
- (7) the condition of each Lot at time of development in consideration of the multi-phase delivery of infrastructure, services and amenities. Because delivery of the Phase 1 infrastructure is a condition precedent to Closing on the lots, the appraiser shall be instructed to make an assumption that substantial completion of Phase 1 infrastructure will occur before the lots are acquired; so that the Lots should be considered to be fully served by said infrastructure. If the agreement regarding infrastructure timing is substantially different, a value adjustment may be necessary in the future.
- (8) Below-the line costs for adaptations needed on Lots 7, 8 and 9(c) to accommodate portions of the Green Loop infrastructure that will be constructed on top of or otherwise affixed to development on those Lots.

- (9) The Appraiser shall be instructed that under the Master Plan, the maximum allowed FAR is what is entitled in the Master Plan without ability to access bonuses, including but not limited to bonuses available under the City’s Inclusionary Housing program.
- f) All other methodologies other than those specifically addressed within these Instructions shall, to the extent practical, be based on market-derived data and methodologies as formulated in a typical fair-market value appraisal.
- g) The appraiser should interview representatives of Prosper and Developer regarding value opportunities and constraints as part of the scope of work. Names of the representatives shall be submitted under separate cover.
- h) The appraiser shall assume that all Lots are clean from an environmental perspective.

4) Appraiser Qualifications. The appraiser shall be a State-Certified General Real Property Appraiser in Oregon and be in good standing with the licensing authority where the credential was issued. The appraiser must also hold a current MAI membership designation from the Appraisal Institute. Additionally, the appraiser must have worked for at least ten (10) years in either a national firm or a regional firm based in Oregon and have experience with Portland, Oregon real property transactions involving the product types that are the subject of the appraisal. The appraiser must maintain independence from Prosper and Developer.

5) Confidentiality. The appraiser acknowledges that it or its employees, agents or subcontractors, in the course of performing the work contemplated by these Instructions, may be exposed to or acquire information that is the confidential information of the Contracting Parties. Any and all information obtained by the appraiser from the Contracting Parties during the course of its work shall be considered confidential; provided, however, that the following will not be deemed “confidential” for purposes of this Section 5: (a) material, data or information that was known to the appraiser prior to its receipt from the Contracting Parties; (b) material, data or information that is generally available to the public or that has been obtained from a third party having the right to disclose the same; (c) material, data or information that is independently developed by the appraiser without reference to any materials or information received from the Prosper or Developer; or (d) material, data or information that is subject to disclosure pursuant to applicable public records law, the Contracting Parties and the appraiser acknowledging that Prosper is a public body subject to such law. The appraiser agrees to hold confidential information in confidence, using at least the same degree of care that the appraiser 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 contemplated by these Instructions.

6) Delivery

The appraiser shall deliver the appraisal no later than [, 2020] to the parties listed below:

Prosper Portland: Prosper Portland
Kimberly Branam, Executive Director
222 NW Fifth Ave.
Portland OR 97209

Email: BranamK@prosperportland.us

With a copy to:

Prosper Portland
Alison Kean, General Counsel
222 NW Fifth Ave.
Portland OR 97209
Email: KeanA@prosperportland.us

Developer: Developer Continuum Partners LLC
Mark Falcone, CEO
1881 16th Street
Denver CO 80201
Email: mark.falcone@Developerpartners.com

With a copy to Dina Alexander
111 SW Columbia Street, Suite 700
Portland OR 97201
Email: dalexander@radlerwhite.com

Community Benefits Agreement Term Sheet

Broadway Corridor

Prosper Portland (“**Prosper**”); the consortium of constituent organizations identified in Section 1 of this Term Sheet as the Healthy Communities Coalition (“**HCC**”); and the City of Portland Housing Bureau (“**PHB**”; and, together with Prosper and HCC, collectively the “**Parties**”) are currently negotiating in good faith in an attempt to reach agreement on terms and conditions of an anticipated Community Benefits Agreement (the “**CBA**”). Continuum Partners, LLC (“**Continuum**”) is also participating and advising the Parties in these negotiations. This document (this “**Term Sheet**”) is intended to set forth the anticipated terms and conditions of the CBA. This Term Sheet is not a binding legal document, but rather it is intended to assist HCC, Prosper, PHB, and Continuum in setting forth their mutual understandings and expectations regarding the anticipated CBA.

Background

- A. On October 14, 2015, the Prosper Portland Board of Commissioners adopted the Broadway Corridor Framework Plan (the “**2015 Framework Plan**”), which was then adopted by the Portland City Council (“**City Council**”) on November 5, 2015. The 2015 Framework Plan provides a guiding framework for development of the entire 32-acre area within the River District TIF District commonly known as “**Broadway Corridor**,” and more specifically, a feasibility analysis of the acquisition and redevelopment of the 13.33-acre United States Postal Service site, located at 715 NW Hoyt Street (the “**USPS Property**”). The USPS Property was acquired by Prosper in 2016.
- B. On November 8, 2017, Prosper issued a Request for Qualifications (the “**RFQ**”) seeking a development partner that would: (a) advise Prosper and its consultants on the development plan for Broadway Corridor; (b) advise Prosper and its consultants on their preparation of a master plan for the redevelopment of the USPS Property; and (c) engage in exclusive negotiations with Prosper regarding the redevelopment of the Prosper-controlled portion of the USPS Property. On April 11, 2018 (the “**RFQ Selection Date**”), pursuant to Resolution No. 7268, the Prosper Board of Commissioners approved the selection of Continuum as the preferred developer to advise Prosper on the Broadway Corridor Development Plan and the USPS Master Plan and with whom Prosper would exclusively negotiate a non-binding term sheet or memorandum of understanding that describes in general terms the conditions, contingencies, and commitments of Continuum and Prosper. The following guiding principles were set forth in the RFQ to inform the planning, design, development and construction of Broadway Corridor:
 - a. Accountability. There will be a robust, proactive, and transparent strategy of communication, public engagement, implementation and oversight.
 - b. Connectedness. Prosper and Continuum will leverage regional and local assets to strengthen multimodal transportation connections and improve accessibility to and through the area for all.
 - c. Equity. Prosper and Continuum will work to promote racial equity, reduce disparities, and provide meaningful community benefits.

- d. Prosperity. The Project should foster economic and wealth prosperity for all through opportunities for innovation, creativity, education, and economic growth in the region.
 - e. Resiliency. The Project should demonstrate leadership in sustainability, health and integration of the built and natural environments, and should promote human interaction with the environment.
 - f. Vibrancy. The Project should be unique, aesthetically stunning, and should contribute to the creation of a mixed-use community that welcomes and reflects diversity, integrates private and public spaces, and enriches the quality of life for existing and new Portlanders of all ages, cultures and backgrounds.
- C. The USPS Property, the Prosper-owned parcel bounded by NW Hoyt, NW Broadway, NW Glisan, and NW 6th (Property ID No. R141463) (“**Block R**”), and the Prosper-owned parcels under and to the northwest of the Broadway Bridge on NW Naito Parkway currently serving as the site of an Oregon Harbor of Hope Navigation Center (Property ID Nos. R508394 and R508395) (“**One Waterfront**”) are collectively referred to in this Term Sheet as the “**Development Site**.” This Term Sheet is intended to apply to the entire Development Site (with certain exceptions for PHB-sponsored development), but it does not cover other sites within Broadway Corridor or elsewhere unless expressly indicated to the contrary.
- D. The USPS Property is anticipated to be developed in phases; the development of each of the numbered blocks identified on Exhibit A (*Map of Site*) (each a “**Parcel**”) will occur at different times over an extended period.
- E. Prosper is currently working with Continuum to negotiate terms and conditions of a binding Disposition and Development Agreement (the “**Continuum DDA**”) that would govern the development of Parcels 5, 6, 7, 8, 9a, 9b and 9c of the USPS Property (as shown on Exhibit A). Prosper may, in the future, negotiate one or more agreements for the disposition and development of property within the Development Site with other private developers (each such agreement between Prosper and a private developer, including the Continuum DDA, is referred to herein as a “**DDA**”).
- F. It is anticipated that PHB will own and seek a development partner(s) for Parcel 4. As described in this Term Sheet, the development of Parcel 4 and other PHB-sponsored development within the Development Site (potentially including Block R or One Waterfront) is anticipated to be subject to PHB’s policies and requirements, but will only be subject to certain specifically identified provisions in the CBA (as described in Section 5.c of this Term Sheet). Between PHB-sponsored development and the application of the City of Portland’s Inclusionary Housing program to all other residential on the Development Site, subject to available financing, Broadway Corridor is expected to generate 720 new affordable housing units.
- G. The development of Broadway Corridor will benefit Portlanders in many ways, even beyond the community benefits specifically being negotiated as part of the CBA. These non-CBA-related public benefits include the potential addition of thousands of quality jobs, hundreds of units of

affordable housing (as described above), new and vibrant public space, high-density development that will reduce automobile dependency in the urban core, major new funding for diverse workers and businesses through COEP (separate from the set-asides specifically described in this Term Sheet), worker protections through a separate workforce-related agreement negotiated between Continuum and SEIU (which agreement is not subject to the provisions of this Term Sheet or the CBA), additional funding for the arts through the City of Portland's Percent for Art program, and much more. The CBA will include an acknowledgment recognizing the scale and importance of these other public benefits.

- H. The development and implementation of Broadway Corridor, including the provision of community benefits, is further informed, influenced, and governed by the USPS Master Plan submitted by Prosper for City review and approval in October 2019 (the "**USPS Master Plan**").

Understandings and Anticipated CBA Terms

1. **Parties.** The parties to the CBA will be Prosper, Portland Housing Bureau (for purposes of Section 5.c (Affordable Housing)), and the following organizations comprising the Healthy Communities Coalition: **[LIST OF HCC SIGNATORIES TO BE FINALIZED PRIOR TO SUBMISSION OF THIS TERM SHEET TO COUNCIL / PROSPER BOARD FOR APPROVAL]**. Continuum will not be a party.
2. **Structure of CBA Requirements.**
 - a. HCC, Prosper and PHB each acknowledge that, to the extent the CBA imposes requirements intended to be applicable to Continuum, other developers (whether private for-profit, non-profit, or otherwise), or City bureaus, the CBA will make Prosper and PHB responsible (in addition to any obligations intended to apply directly to Prosper or PHB, such as relating to funding contributions, compliance monitoring, enforcement, etc.) for passing through these requirements in its agreements (e.g., DDAs; intergovernmental agreements) with these third parties. DDAs will also include provisions making developers responsible for passing through applicable terms to contractors and tenants, if applicable, and establish consequences to be negotiated for developer for contractor / tenant violations of these passed-through obligations. Therefore, the Parties will seek the prior review and approval of such terms in the CBA from Continuum and other applicable entities prior to execution.
 - b. Prosper is responsible for enforcing and monitoring compliance of CBA obligations passed through to Continuum or other private developers in DDAs and will use best efforts to do so. Prosper specifically agrees to do the following:
 - i. as described in Exhibit B (Oversight Committee Structure) to this Term Sheet, Prosper will respond in writing to the Oversight Committee's recommendations regarding non-compliance with such obligations within the period of time set forth in Exhibit B detailing whether it believes non-compliance has occurred, whether it believes further investigation is warranted, and what remedies (if any) Prosper intends to seek to address alleged non-compliance;
 - ii. Prosper will investigate allegations of material non-compliance that appear to have a reasonable basis in fact, should further information be needed to establish whether such non-compliance has actually occurred;

- iii. where the Oversight Committee’s recommendation includes evidence that clearly establishes material non-compliance with a passed-through CBA obligation, Prosper will, in accordance with the applicable provisions of the DDA (which is anticipated to include a warning and reasonable opportunity for cure), pursue one or more remedies available in the DDA that are reasonably designed to bring about compliance.
 - iv. Prosper will include remedies in each DDA for failure to comply with passed-through CBA obligations, including potential liquidated damages for violations of the Business Equity Policy and Workforce Training and Hiring Programs (as either program is augmented by the CBA) (the “**BEP / WTHP**”). Other remedies will be negotiated on a case-by-case basis between Prosper and private developers.
 - v. To the extent liquidated damages are recovered by Prosper for violations of the BEP / WTHP (as augmented by the CBA), Prosper will confer with the BCCOC regarding the use of funds, with the intention that such funds will be used for business and workforce assistance consistent with the set-aside described in Section 5.a.iv.
 - c. The Parties acknowledge that neither of the foregoing will constitute violations of Section 4:
 - (i) HCC bringing a complaint or allegation of a violation of a CBA obligation (or passed-through CBA obligation) to the Oversight Committee or otherwise bringing a complaint in accordance with the dispute resolution process provided in the CBA (as summarized in Section 9 (Dispute Resolution for Alleged Breach of CBA)); and
 - (ii) public discussion of ideas or concerns about Broadway Corridor so long as such discussion is consistent with HCC’s obligations in Section 4.
3. **Scope.** The CBA applies to the development of the Development Site unless otherwise noted (e.g., *many* sections will not apply to PHB-sponsored development on the Development Site).
4. **HCC’s Commitments.** HCC and each of its constituent organizations agree to:
- a. Fully support and agree not to take actions to slow down or oppose the development of the Development Site through advocacy or other means; provided, however, that this obligation is contingent upon no “Repugnant Use¹” occurring on the site. In the event that a PLA (as

¹ “**Repugnant Use**” means a proposed, intended, or actual use of the site that is far outside of the anticipated corporate / office / residential / retail / park / infrastructure uses of the Development Site and is objectively and inarguably in conflict with the guiding principles (Accountable; Connected; Equitable; Prosperous; Resilient; Vibrant) of the Broadway Corridor development (as outlined in the Broadway Corridor Request for Qualifications on November 8, 2017), such as fossil fuel production facilities, toxic waste dumps, public or private prisons, or ICE detention facilities. Any use or activity on or relating to the Development Site is conclusively presumed to be a non-Repugnant use absent clear and convincing evidence presented by HCC to the Oversight Committee to the contrary, a unanimous written vote of all HCC signatories to the CBA, and a 2/3 majority vote of the Oversight Committee. For the avoidance of doubt, the following activities are per se not Repugnant Uses: any uses or proposed uses of the

defined in Section 5.a.v.1) is not successfully negotiated and executed for a particular building (or buildings) by the time vertical construction of the building commences, as described in Section 5.a.v.1 below, HCC and its constituent organizations shall not be in breach for strikes, pickets, informational bannerings, and other concerted activity consistent with the National Labor Relations Act so long as such activities pertain to such building (or buildings) and not to other buildings which are subject to an executed PLA in the Development Site, infrastructure investments in or supporting the Development Site, or Broadway Corridor generally, and only pertain to the specific labor issues in dispute and persons or entities with whom the dispute resides. This paragraph (a) does not modify or reduce any other HCC obligations in Section 4.

- b.** Take joint steps with Prosper Portland, Continuum and City Bureaus to support the vision of the Broadway Corridor and implementation of the CBA.
 - i. This includes cooperating to pursue funding for public-benefit elements of the development, including, without limitation:
 - 1. *Explore Transit Pass Subsidies:* HCC will work with TriMet to explore resources for free or subsidized transit passes for USPS Property workers and affordable housing residents.
 - 2. *Portland Clean Energy Fund:* Qualifying HCC members will work with Prosper Portland, Continuum and future owners and tenants to explore developing proposals eligible for PCEF funding.
 - 3. *Metro/Housing Bonds:* HCC members will work with Prosper Portland, developers, and public agencies to explore resources for affordable housing.
 - ii. Ensuring the third-party nonprofit organization for the worker assistance fund (see Section 5.b below) is established;
 - iii. Providing guidance and community perspective through oversight, including participating in the Oversight Committee (see Section 6 below);
 - iv. Supporting deliverables and outcomes contemplated within the CBA and/or Prosper and PHB's policies, such as achievement of equitable contracting and workforce goals and job quality standards; and
 - v. Taking other steps as to be determined through the CBA negotiation process.
 - vi. HCC and its constituent organizations support the deliverables and outcomes described in Section 5.a (Construction Equity). However, neither HCC nor its constituent members will be legally obligated to or legally responsible for the deliverables and outcomes contemplated by the CBA and/or Prosper policy on any

Development Site or actions taken that are permitted by this Term Sheet or the CBA; office development of any type; residential development of any type; retail development of any type; government offices or facilities (other than facilities used as prisons or detention centers or offices of agencies primarily charged with detention of undocumented persons) of any type; and any other activities, infrastructure, parks, greenspace, or uses for the Development Site contemplated in this Term Sheet or the CBA, the Broadway Corridor Master Plan, the Broadway Corridor Transportation Demand Management Plan, or the Broadway Corridor Request for Qualifications issued November 8, 2017.

construction within the Broadway Corridor that is not subject to a PLA (as defined in Section 5.a.v.1 below) or, in the case of the construction of infrastructure, the City's CBA or an agreement substantially consistent with the City's CBA as described in this Term Sheet.

- c. The CBA will establish reasonable parameters around what will suffice for compliance with the obligations described in this Section 4 in order to avoid excessive timing burdens on HCC representatives. These parameters may include, by way of example and not limitation, requiring timely prior notice from Prosper regarding meetings to be attended by HCC representatives, limiting the number of meetings that must be attended and/or the number of persons required to attend, developing a form letter that can be signed by HCC representatives and circulated to public agencies, lenders, and other partners to avoid duplicative review, and so forth.

5. Prosper Portland's Commitments. The CBA will provide for the following:

- a. Construction Equity. The Parties desire to promote social and racial equity and reduce economic disparities. The Parties have a strong commitment to utilizing BIPOC²-owned and woman-owned firms and to create high quality construction jobs for a diverse workforce. In furtherance of these goals:

- i. ***City of Portland-Contracted Infrastructure Work:***

- 1. City Council will direct City bureaus to aggregate the cost of all City-constructed infrastructure in connection with the redevelopment of the USPS Property. (The term "infrastructure" does not include PHB-sponsored affordable housing.)
 - 2. This would voluntarily make the infrastructure work subject to the City's model Community Benefits Agreement (Resolution No. 37329, adopted November 8, 2017) (the "**City's CBA**").
 - 3. The City's CBA would be modified to expand the existing DBE exemption from the core employee section of the City's CBA to also include MBEs and WBEs.

- ii. ***Prosper's Contracts for Demolition of USPS P&DC Facility – City's CBA Applied:*** Prosper would comply with the substantive requirements of the City's CBA (with the modification described in the preceding clause (i)) with respect to the demolition of the former USPS Processing and Distribution Facility. Further, HCC acknowledges that Prosper's construction wage policy requires payment of prevailing wages for Prosper-contracted demolition and remediation work even where State law does not require it.

- iii. ***USPS P&DC Facility Local Hiring Goals:*** Prosper will establish a goal that at least 15% of project hours on the USPS P&DC Facility demolition would be worked by Portland-Vancouver-Hillsboro Metropolitan Statistical Area residents. (See Section 5.a.v.3 for

² BIPOC stands for Black, Indigenous, and all People of Color.

equivalent local hiring goal for private, vertical development in the Development Site.)

iv. ***Public & Private Funding Set-Asides for Diverse Workforce and Business Assistance:***

The following amounts will be set aside for assistance to BIPOC /women workers and BIPOC / women-owned businesses in the construction trades in a manner similar to the City’s Community Opportunities and Enhancement Program (COEP):

1. *Demolition of P&DC Facility:* An amount equal to 1.0% of the hard demolition cost of the USPS P&DC Facility, capped at \$200,000 in the aggregate, is to be set aside at the time of the demolition.
2. *Private, Vertical Construction:* Prosper will work with Continuum and other private developers to set aside a fixed amount of \$400,000 each for blocks 1, 3, 5, 6, 7, 8, 9a, 9b (as shown on Exhibit A), Block R and One Waterfront (except that if PHB sponsors the development of Block R or One Waterfront, such block will be excluded from the set-aside) at the time each block commences vertical construction, for a total of up to \$4,000,000. After the 10th anniversary of the CBA, Prosper and HCC will engage with the Oversight Committee to confer regarding, among other things, whether up to \$3 million could be made available from higher than anticipated land sale proceeds or lower than anticipated oversight costs, as an additional contribution to this set-aside or for other priorities identified by the Oversight Committee and partners. (Prosper will provide an informational update to the same effect after the 5th anniversary of the CBA).

v. ***Prosper’s DDAs for Private, Vertical Construction (Continuum & Subsequent Private Developers of Non-Affordable Housing Projects):***

1. *Project Labor Agreements:*

- Prosper will require Continuum and other private developers to direct their general contractor(s) (once identified) to negotiate in good faith towards a construction project labor agreement for each project it develops within the Development Site with construction trades (each a “PLA”). If a PLA is not successfully negotiated for a project, certain backstop requirements will nonetheless apply to the construction (these requirements are identified in the penultimate bullet point of this Section 5.a.v.1).
- The PLA that Continuum / other developers will direct its general contractor(s) to seek to negotiate will, at a minimum, include: (1) incorporation of all workforce equity provisions described in the CBA (e.g., Prosper’s Workforce Training and Hiring Policy, as modified by the CBA); (2) incorporation of all required contracting equity provisions (e.g., Prosper’s Business Equity Policy, as modified by the CBA); (3) a requirement that all contractors and subcontractors be

Responsible Contractors;³ (4) 48 hour rule to dispatch priority workers; (5) Unions agree to prioritize dispatch of targeted workers, where allowable; (6) a No Disruption/Labor-Management Harmony clause; and (7) a “core employee” limitation to be negotiated (i.e., a provision whereby the number of non-union-referred employees will be capped in some manner), except that any core employee limitation provision would not apply to hiring by non-union DMWBE firms.

³ For purposes of this Section 5.v.1, “**Responsible Contractor**” means a contractor or subcontractor that:

- a. Is an Oregon Bureau of Labor and Industries (BOLI) registered training agent, at the time of construction, working with an approved apprenticeship program that has been in existence for 3 years or more unless there are no apprenticeship programs for the particular trade in which the contractor works or a waiver is granted by the BCCOC;
- b. Provides a full family healthcare option for all craft employees employed through the company, which health care option shall be consistent with area standards in the Portland metropolitan region; provided, however, that (1) COBID-certified firms with stated Development Site-wide total contract or subcontract values of \$1,000,000 or less (factoring in any amendments, change orders, or modifications of any kind made within 12 months of the original contract date) are exempt from this requirement, and (2) it is understood that Continuum or other private developers may request that the Prosper Board expand this exemption beyond COBID-certified firms (i.e., to all firms with stated Development Site-wide total contract or subcontract amounts less than the aforementioned threshold), and the Prosper Board has authority to do so should it determine that not doing so would adversely impact the development of Broadway Corridor.
- c. Has an acceptable safety record (defined as having no final finding (after exhaustion of all appeals) of a willful or major violation with OSHA) during the three (3) year period immediately preceding the date a general contractor awards a bid to perform work;
- d. Participates or is willing to participate in a pre-hire drug screen for all employees to ensure the highest standard of safety;
- e. Is in compliance with all Construction Contractor's Board and Workers' Compensation requirements;
- f. Promotes the use of local vendors, suppliers, contractors, subcontractors, and encourages the hiring of local area workforce, which will return long-term community benefits;
- g. Does not have any wage theft violations or civil rights violations (in a final decision after exhaustion of all appeals) on file with the US DOL (Department of Labor) or BOLI;
- h. Does not appear on BOLI's debarred contractor list during the three (3) year period immediately preceding the date a general contractor awards a bid to perform work on the Broadway Corridor project; and
- i. Commits to participate in regular scheduled meetings with the Prosper, prime contractor, and labor/worker representatives throughout the project.

- Regardless of whether a PLA is or is not successfully negotiated for any project within the Development Site: (a) Prosper’s DDAs will still require Continuum (or other private developers, as applicable) to comply with all workforce equity provisions and contracting equity provisions in the CBA, as are identified in this Term Sheet (including Prosper’s policies, as modified, as outlined below); and (b) Continuum (or other private developers, as applicable) will be obligated to ensure that all its contractors and subcontractors on the Development Site are Responsible Contractors.
 - If Prosper is not able to secure an agreement with at least one Small Local Developer⁴ for at least one Parcel after issuing at least one request for proposals or comparable solicitation seeking development proposals for parcels South of Johnson with a priority for Small Local Developers, then Prosper can request an exemption to the requirement to negotiate in good faith toward a PLA from the Oversight Committee.
2. *Prevailing Wages:* Prosper will require Continuum and other private developers that it contracts with to treat vertical core and shell construction on the Development Site as if it is subject to the prevailing wage requirements of ORS 279C.800 et seq. Prosper will also impose the same requirement on developers of projects within the Development Site with respect to tenant improvement construction projects of greater than 100,000 square feet for any single tenant. These requirements will apply regardless of whether the projects would otherwise be subject to the prevailing wage requirements of ORS 279C.800 et seq.
3. *Private Local Hiring Goal:* Any Prosper DDAs pertaining to the Development Site will include a local hiring goal equivalent to that stated in Section 5.a.iii (with respect to the USPS P&DC Facility demolition).
4. *Prosper Policies and Increased Certified Firm and Equitable Workforce Goals:* Prosper’s DDA(s) pertaining to the Development Site will, at a minimum, require developers to comply with Prosper’s Business Equity Policy and Workforce Training and Hiring Program. However, the CBA will require Prosper to augment these policies in its DDAs pertaining to the Development Site. Specifically:
- Prosper will augment its aspirational goals for certified firm utilization to 22% (with sub-goals of 12% M/DBE and 5% W/DBE).

⁴ “Small Local Developer” means a developer headquartered in the Portland, Oregon area and that meets size criteria to be negotiated in the CBA.

- Prosper will maintain its 30% minority / 15% women aggregate hours-worked aspirational goals at the journey / apprentice levels and its mandatory goal that 20% of hours worked are by apprentices.
 - In addition to the above aggregate hours-worked goals, Prosper will establish an aspirational goal that of the total hours worked by any trade: (a) 22% are worked by minorities at the apprentice level; (b) 22% are worked by minorities at the journey level; (c) 14% are worked by women at the apprentice level; and (d) 9% are worked by women at the journey level.
- 5. *Additional Continuum-Led Efforts to Increase Contractor Diversity*: In addition to complying with Prosper’s policies (with the modifications described above), Prosper’s DDAs will require Continuum (or other private developers Prosper contracts with on the Development Site) to (1) identify subcontracting opportunities for DMWBE and BIPOC / women-owned firms to successfully bid and build the capacity of these firms for larger contracts in the future, and (2) require subcontractors with scopes of over \$250,000 to provide targeted second-tier subcontractor work scopes where feasible to provide additional opportunities for participation by such firms.
- 6. *Funding Set-Aside*: As indicated in Section 5.a.iv, Prosper will require a funding set-aside for assistance to BIPOC / women workers and BIPOC / women-owned businesses with respect to Prosper-sponsored private, vertical construction on the Development Site.
- b. Operations Equity. The Parties desire to ensure that the people who will perform work on the Development Site are treated fairly and with dignity and respect by their employers and by those who control their wages and working conditions. The parties desire that these jobs are good jobs, with living wages and benefits, and respect for workers’ voices on the job. The parties recognize that economic equity for people who perform work is an integral part of sustainable economic development and that those workers who perform service sector jobs have historically been denied economic equity. In furtherance of these goals the parties agree to the following:
 - i. ***Pathway for COBID-certified Firms***. The Parties will collaborate to support COBID-certified firms in related industries to become more competitive based on raising employee job-quality standards. If additional funding sources are identified, or if existing programs or resources can be leveraged, such collaboration could include technical assistance to COBID-certified firms by Prosper Portland or another entity.
 - ii. ***Funds for Workforce Development, Compliance Monitoring, and Enforcement***
 - 1. The CBA will provide that an amount equal to 0.4% of the contract price of third-party janitorial and security services in office buildings shall be set aside by the contracting party and contributed to a third-party nonprofit organization, to be determined by HCC or its constituent organizations, to be used for workforce development, compliance monitoring, and enforcement of applicable workforce-related laws and regulations. This

obligation will last with respect to each building within the Development Site until the tenth (10th) anniversary of the issuance of the final certificate of occupancy for the particular building, provided that if, before the obligation expires, ownership is transferred to a third-party unrelated to the then-owner, the obligation will last for the remainder of such ten (10) year period or three (3) years from the date of transfer to the successor, whichever is greater.

2. Uses of funds may include:
 - a. Trainings on the prevention of workplace harassment and discrimination, green cleaning, English for Speakers of other Languages, computers, citizenship, etc.
 - b. Enforcement of applicable employment law
3. HCC must ensure that the organization receiving funds provides an annual in-person presentation and written report on its activities and expenditures to the Oversight Committee, including an accounting of the funds received from Broadway Corridor owners and tenants and of the expenditures on trainings and services provided to Broadway Corridor workers, and a copy of any annual report that may be required by the Securities and Exchange Commission or the Department of Labor. To the extent the Oversight Committee identifies any irregularities in the information received from the organization, the Oversight Committee may request additional information or may conduct further investigation, at its cost, to address concerns. The organization will cooperate fully in such investigation.
4. Organizations receiving funds must meet one or more of the following criteria:
 - a. A non-profit organization, such as a 501(c)(3) and/or 501(c)(4) organization as defined by the Internal Revenue Code, a Taft-Hartley trust, or similar organization, and
 - b. An organization where a substantial portion of their operating budget (over 50%) relates to development, enforcement of rights for working people, or training workers on their rights, where the organization has a record of 10 or more years of direct involvement in the relevant industry. Experience requirement may be waived when organization can show partnership with a qualifying labor organization, or
 - c. A membership organization, excluding a labor union, whose members are substantially (50% or more) employed in the relevant industry
4. Funds may not be disbursed directly to:
 - a. An employer in a related industry

- b. A labor union in a related industry, as defined by 501(c)(5) of the Internal Revenue Code
- c. Affordable Housing. The Parties and PHB desire to increase the supply of safe, high-quality affordable housing in Portland, and that all Portlanders have access to the amenities and opportunities provided by the redevelopment of the Development Site. In furtherance of this goal:
 - i. **Generally**: As noted in the recitals, PHB anticipates seeking a developer partner to develop Parcel 4 as affordable residential, and PHB may also sponsor development of Block R or One Waterfront.
 - ii. **On-Site Affordable Housing**: Unless inapplicable due to future changes to residential building code or inclusionary zoning policies (as will be described more particularly in DDAs), to the extent Continuum or another private developer constructs residential units on the Development Site, Inclusionary Housing requirements will be complied with by selection of the on-site 10% of units @60% AMI option.
 - iii. **Intentional Tenanting and Outreach**: PHB will require in its Notice of Funding Availability (NOFA) a marketing, outreach and resident services plan that addresses prospective tenants' historic roots in the area and whether they have been subject to displacement, which has particularly affected the Indigenous, Black, Japanese-American, and Chinese-American communities. PHB will convene a stakeholder group to meet at least twice to advise on the of the intentional tenanting and outreach plan requirements to be included in its NOFAs. The stakeholder group will include representation from community-based housing advocacy organizations from the Black, Indigenous, Chinese and Japanese American culturally-specific serving community based organizations of other people of color, LGBTQ+ and/or people with disabilities organizations.
 - iv. **HCC Participation on Selection Advisory Committees**: PHB will use a competitive process to select developers/owners of PHB-sponsored development within the Development Site. PHB will work with HCC to include an HCC representative on a selection advisory committee for its affordable housing developments within Broadway Corridor, subject to PHB's policies and practices regarding conflicts of interest and committee diversity.
 - v. **ADA Accessibility**: PHB will seek to increase opportunities to include Type A accessible units within the developments on Parcel 4, taking into account the overall goals for reaching its affordable housing unit targets and the desire for family-sized units within the Corridor. PHB will also require affordable housing owners/developers to establish waitlist management or priority access practices for those who identify as needing a Type A accessible unit in accordance with fair housing, landlord/tenant laws and requirements from other financing partners. PHB will also require that at least 5% of units developed on Parcel 4 will be accessible to persons with mobility disabilities and 2% for persons with hearing or visual disabilities.

- vi. **Augmented PHB Construction Equity Policies:** PHB will set its goals for contractor diversity to 30% DMWESB-SDV hard cost subcontracts (with sub-goals of 12% D/MBE and 5% WBE) and 20% DMWESB-SDV professional services contracts (*e.g.*, architecture, legal, etc.) for PHB-sponsored development within the Development Site. PHB will also require compliance with the City of Portland Workforce Training and Hiring Program.
 - vii. **Continuing Discussions Regarding Construction Equity:** PHB will continue to engage in discussions with HCC and other community stakeholders regarding vehicles for improving construction equity outcomes in the affordable housing context, taking into consideration the unique financial, regulatory and other challenges of affordable housing development and ownership. To this end, PHB commits to convene two to four meetings bringing together members of HCC, representatives of organizations seeking to advance equity in construction for communities of color and women, and affordable housing developers to discuss advancing construction equity in affordable housing developments, generally and within the Corridor.
 - viii. **Accountability:** PHB will report on a regular basis to the Oversight Committee regarding its progress towards reaching its goals for affordable housing in the Development Site, its certified firm participation goals, and its workforce diversity goals.
- d. **Sustainability.** The Parties desire to adhere to high environmental standards in all phases of project design and implementation, and to leverage regional and local assets to strengthen multimodal transportation connections and improve sustainable transportation options for all. In furtherance of these goals:
- i. **Green Building Policy:** At a minimum, Prosper DDAs will require compliance with Prosper's Green Building Policy (requiring LEED Gold construction for commercial and mixed-use buildings that are 50,000+ square feet and residential buildings that are 30+ units).
 - ii. **Transportation Demand Management Plan:** HCC acknowledges that Prosper is pursuing a Transportation Demand Management Plan in connection with the USPS Master Plan application, which will encourage more efficient use of the existing transit system and encourage use of transit modes other than single occupancy vehicles (SOVs).
 - iii. **Efforts to Attain Carbon Neutrality:** To the extent funding resources are identified, Prosper, City bureaus and utilities will collaborate to explore the extent to which one or more buildings within the site can be carbon neutral. As means of pursuing this goal, Prosper will explore possibilities including the below:
 - 1. **District Energy; Off-site Renewable Energy:** To the extent funding resources are identified, Prosper, City bureaus and utility companies will collaborate to explore the extent to which a district energy system could be implemented and/or the extent to which off-site solar energy could

- be implemented. So long as there is no adverse impact on project funding and schedule, the Parties will seek to achieve this locally if possible.
2. **Renewable Energy:** Continuum is also committed to use good faith efforts to utilize 100% renewable energy for its vertical construction to the extent the utilities are available.
 - iv. ***Incorporation of Building Efficiency Process into DDA Review Standards:*** Any Prosper DDA would establish standards for approval/disapproval of building designs based on the private developers' good faith efforts to meet certain building efficiency processes.
- e. **Business Equity.** The Parties wish to create opportunities for BIPOC and underrepresented local businesses and foster equitable wealth creation opportunities for BIPOC and underrepresented businesses of all sizes. The Parties wish to do this not just in connection with construction, but also to intentionally explore ways to advance equity by working together to assist businesses and considering property investment and ownership structures. In furtherance of these goals:
- i. ***Support for Affordable Commercial Tenants; Intentional Programming:***
 1. Prosper will establish a \$3,000,000 fund for grants and low-cost loans to support affordable commercial tenantry and affordability-conscious programming in the Broadway Corridor area (which may include properties in the immediate vicinity of the Development Site such as Union Station).
 2. Depending on the source of these funds, the funding may be restricted in whole or in part to capital costs (e.g., tenant improvements), but if non-restricted funding sources are identified Prosper may consider funding expenses other than capital expenses.
 3. When expending these funds, Prosper will work in good faith with Continuum and other private developers to: (a) prioritize underrepresented businesses and local businesses, including minority-owned businesses and businesses owned by persons with disabilities, with an aspirational goal of 30% or more of assisted businesses being minority-owned, (b) encourage the provision of reasonably-priced goods and services in the vicinity of Broadway Corridor, including affordable child care and food/beverage options, and (c) right-size tenant spaces and identify locations to create opportunities for smaller or start-up businesses.
 - ii. ***Exploration of Community Ownership Models:*** Prosper Portland will work in good faith with Continuum to explore community ownership models that could be implemented within one or more of the development phases.
 - iii. ***Supporting Local Businesses:*** Prosper will encourage private developers and prospective tenants to promote the use of local vendors, suppliers, contractors and subcontractors, and workers.
- f. **Tenantry.** The Parties desire to provide high quality employment opportunities for Portlanders through the development of a major new employment center in the central city. In furtherance of this goal:

- i. **Orientation of Major Tenants:** Major tenants (meaning tenants with either 100 or more employees anticipated on-site or who lease 50,000 or more square feet of space) will be required to meet with two representatives of the Oversight Committee (see Section 6) following their execution of a lease, one of which will be the Prosper representative and the other of which will be designated by the Oversight Committee, to become oriented with the guiding principles set forth in Recital B and discuss opportunities for the tenant to support these principles and values.
 - ii. **Criteria for Marketing to Tenants:** Continuum will refer to the guiding principles (Accountable; Connected; Equitable; Prosperous; Resilient; Vibrant) of the Broadway Corridor development (as outlined in the Broadway Corridor Request for Qualifications on November 8, 2017) in its tenant recruitment and marketing materials and will strive to ensure that the tenant mix advance these principles. Continuum, HCC and Prosper’s Economic Development Department will work together to refine how these values would be reflected in tenant recruitment and marketing materials.
 - iii. **Enterprise Zone:** Any companies receiving an Enterprise Zone tax abatement within the USPS Property will be required to provide community benefits meeting or exceeding any requirements of the CBA that are applicable to tenants. Applicable Enterprise Zone tax abatement agreements will not waive or eliminate any applicable CBA requirements. To the extent legally feasible, Prosper will share information pertinent to the outcomes of the CBA from companies receiving Enterprise Zone tax abatements with the Oversight Committee.
 - iv. **Portland Means Progress:** Prosper will work with Continuum and other private developers to explore how to encourage prospective tenants to become involved with the Portland Means Progress program, which is a City-wide initiative to hire local BIPOC youth, buy more from local BIPOC-owned businesses and take the next step in diversity, equity and inclusion.
6. **Oversight.** The Parties desire to maintain accountability to the community by implementing a robust, proactive and transparent strategy that is a responsible expenditure of public funds, attracts private investment, and delivers targeted and equitable public benefits, with clear and enforceable milestones and metrics specifically aligned with the goals of the CBA. In furtherance of this goal, the CBA will require Prosper to form and staff a committee of public and private stakeholders to advise on implementation of community benefits across the Development Site (the “**Oversight Committee**”). The Oversight Committee will be in accordance with Exhibit B (Oversight Committee Structure) attached to this Term Sheet.
7. **Term of Obligations.** The CBA will provide that (i) all construction-related obligations for each given project will be in effect through the final completion of the initial construction of the project, including tenant improvements, as applicable, (ii) the Oversight Committee obligations will continue except as may be modified in Exhibit B, and (iii) all other obligations will expire when fully performed (e.g., construction-related obligations expire after final completion of initial construction, including tenant

improvements, as applicable, and any applicable reporting is complete) or at the times specifically noted in the CBA.

- 8. Development Contingency.** The Parties acknowledge that the community benefits anticipated in this Term Sheet require the development of the Development Site and related funding allocations are roughly calibrated based on underlying development and land value assumptions. To that end, the CBA will include the following provisions:

- a. **Contingency for Adverse Development Circumstance.** If an “Adverse Development Circumstance”⁵ occurs, either Prosper Portland or HCC could re-convene negotiations by sending a written notice (the “**Re-convened Negotiations Notice**”) to the other with a description of the Adverse Development Circumstance.
- b. **Contingency for Significant Adverse Financial Impact.** If an “Adverse Financial Circumstance”⁶ occurs, then either Prosper or HCC could send a Re-convened Negotiations Notice to the other with a description of the significant adverse impact to financial resources.
- c. **Re-Convened Negotiations; Potential Termination of CBA.** Upon delivery of a Re-convened Negotiations Notice, Prosper and HCC shall re-convene negotiations. These re-convened negotiations would take place for up to three months from the delivery of the Re-convened Negotiations Notice. The goal of the re-convened negotiations will be to reach agreement on an amendment or modification to the CBA that adjusts and/or re-prioritizes the CBA’s community benefits obligations to address the specific financial, economic or practical challenges for the development of the Development Site, while nonetheless preserving agreed to community benefit obligations wherever possible. If Prosper and HCC are unable to reach agreement on amended CBA terms within three (3) months of the delivery of the Re-

⁵ “Adverse Development Circumstance” means the occurrence of any one or more of the following circumstances:

1. failure to reach agreement on a DDA with Continuum by **March 31, 2021**;
2. failure to reach agreement on a DDA (or multiple DDAs) with developers of a majority of the Development Site parcels not anticipated to be developed by Continuum by **December 31, 2029**;
3. termination of a DDA once executed by a developer due in whole or in part to general economic conditions in the City of Portland real estate development market; or
4. failure of a developer to timely meet a DDA closing or development milestone within one year from the outside dates initially required in a DDA.

⁶ “Adverse Financial Circumstance” means a circumstance that significantly adversely impacts the resources available for the performance or delivery of community benefits obligations described in this CBA or the funding of infrastructure, environmental remediation, or other necessary costs for the development of the Development Site in a manner consistent with the USPS Master Plan, the Continuum DDA, the CBA, and other DDAs from time to time. Adverse Financial Circumstances include, by way of example and not of limitation, (a) a circumstance in which the economy is such that a significant reduction in land sale price is required in order for development to be financially feasible, and (b) a determination or ruling by a public authority having jurisdiction that would materially increase infrastructure, remediation, labor, or other costs relative to existing assumptions. The CBA will include an appendix or other detail showing certain baseline assumptions regarding costs for reference when determining whether an Adverse Financial Circumstance has occurred.

convened Negotiations Notice, either Party may seek either Prosper or HCC may terminate the CBA by written notice to the other Party.

9. Dispute Resolution for Alleged Breach of CBA.

- a. The CBA will establish a dispute resolution process for all claims that a Party has breached one of its obligations under the CBA. The dispute resolution process will require the disputants to first meet and confer to seek to amicably resolve the dispute. If the disputants are unable to do so, the dispute must then be brought to the Oversight Committee for discussion and attempted resolution, and then to the Prosper Portland Board of Commissioners for the same purpose. The preceding steps must occur before a Party may file any lawsuit or otherwise take any action to seek legal redress. Any attempt to seek legal redress, including any lawsuit filed, without exhausting all steps in the agreed-upon dispute resolution process to be outlined in the CBA, will be prohibited. The specific timing and procedural requirements of the dispute resolution process remain to be negotiated in the CBA.
- b. The remedies of the prevailing disputant will be limited to either, but not both, specific performance or termination of the CBA.
- c. The CBA will include notice and cure periods to be negotiated as well as other reasonable safeguard mechanisms to ensure that claims are brought in a timely manner, that estoppels or other assurances can be timely given or deemed given, and that the process for bringing and resolving claims is as orderly and efficient as practicable.

10. Non-Binding. Notwithstanding anything to the contrary set forth in this Term Sheet, this Term Sheet is not binding in any manner, and creates no representations, warranties, or covenants (whether express or implied) in favor of any entity in any manner. This Term Sheet is solely intended to serve as a basis for documenting the current understandings of the Parties in anticipation of the negotiation and execution of a binding CBA following due authorization from the Prosper Portland Board and City Council.

[Signature Page Follows]

This non-binding Term Sheet is made by the Parties as of the latest of the dates indicated.

PROSPER PORTLAND

By: _____
Kimberly Branam, Executive Director

Date: _____, 2020

Approved as to Form:

Prosper Portland Legal Counsel

CITY OF PORTLAND HOUSING BUREAU

By: _____
Shannon Callahan, Director

Date: _____, 2020

Approved as to Form:

City Attorney

[HCC CONSTITUENT ORGANIZATION 1]

[HCC CONSTITUENT ORGANIZATION 2]

[HCC CONSTITUENT ORGANIZATION 3]

[ETC.]

[Exhibits Follow]

Exhibit A
to Term Sheet
(Map of USPS Property Parcels)



Exhibit B

to Term Sheet

(Oversight Committee Structure)

Summary of the Broadway Corridor CBA Oversight Committee (BCCOC)

- Comprised of key parties: Prosper, developers, HCC representatives, and Broadway Corridor adjacent small business owners and community members
- Ensures compliance with the CBA
- Advises Prosper on remedies, acts as a problem-solving body, and may make recommendations on actions needed
- Creates ad hoc subcommittee, as necessary, in addition to Construction Equity Subcommittee
- Prosper Portland’s Executive Director makes final decisions (provided that the BCCOC may seek intervention by the Prosper Portland Board or City Council as described in the “Noncompliance” section below)
- Provides annual report to the Prosper Portland Board of Commissioners and Portland City Council
- Review of the charter and role after years five and ten
- Budget of \$50k per year for ten years

Purpose

The Broadway Corridor CBA Oversight Committee (BCCOC) is established within the Community Benefits Agreement (CBA) for the Broadway Corridor redevelopment. The BCCOC will monitor, support the implementation of, and ensure compliance with the Broadway Corridor CBA, in alignment with the vision of the Broadway Corridor.

Composition

The CBA will detail the specific process for appointment of members and determining the composition of BCCOC, with the goal that there be some flexibility on the part of the Parties to adjust the composition described in this section should the BCCOC believe that it is necessary to ensure compliance and support implementation of the CBA terms. Members of the BCCOC initially will be nominated by each constituent party and appointed by Prosper Portland. The committee will initially be made up of no more than 11 individuals with the Prosper Portland representative serving as a non-voting member (except as described below). Members will be responsible for familiarizing themselves with the CBA and working to uphold it and support the values it embodies.

The Healthy Communities Coalition (HCC) shall nominate five (5) HCC representatives. HCC’s nominees will come from at least four (4) different HCC constituent organizations representing a diversity of relevant experience. Further details regarding the composition of HCC’s representatives may be described in the CBA.

Prosper shall nominate:

- One (1) Prosper Portland representative (non-voting)

- One developer representative from each developer (i.e., a Continuum representative so long as the Continuum DDA is in effect, an affordable housing developer representative when such a developer is selected, etc), capped at two total developer representatives.
- One (1) Old Town / Chinatown, Broadway Corridor, or Pearl District representative
- One (1) BIPOC-owned small business representative
- One (1) representative with demonstrated expertise in sustainability / green building

HCC and Prosper may engage with each other from time to time to discuss desired criteria for BCCOC members and prospective nominees, provided that neither HCC nor Prosper will have the right to veto the other's nominees.

The CBA will detail the specific process for appointment of members and determining the composition of the Construction Equity Subcommittee (CES). Members of the CES initially will be nominated by majority vote of the BCCOC (except for the Prosper Portland representative, who will be nominated by Prosper Portland). Membership should reflect those with specific involvement in active projects within the Development Site. Following nomination, members of the CES will be appointed by Prosper Portland. The subcommittee will initially be made up of no more than 10 individuals with the Prosper Portland representative serving as a non-voting member. Composition of the Construction Equity Subcommittee shall include:

- One (1) Prosper Portland representative (non-voting)
- One developer representative from each developer (i.e., a Continuum representative so long as the Continuum DDA is in effect, an affordable housing developer representative when such a developer is selected, etc.), capped at two total developer representatives
- One (1) Carpenters representative
- One (1) Building Trades representative
- One (1) representative from a union-shop contractor certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID)
- One (1) Open Shop COBID-certified Contractor Firm representative
- One (1) Community-Based Organization representative
- One (1) Pre-Apprenticeship Program representative
- One (1) representative from a major general contractor
- One (1) representative from a local minority contractors' association

Prosper Portland's representative may vote in the event of a tie-vote of the BCCOC or CES, notwithstanding that the Prosper Portland representative is otherwise a non-voting member.

Length of Terms

Appointees serve for a period of two years with no limit on the number of terms served.

Meetings

The BCCOC meeting frequency shall be based on development and phasing. The BCCOC shall meet quarterly at a minimum and may adjust to meet more frequently as necessary. The Construction Equity

Subcommittee shall meet no less than monthly during the life of the initial construction and development on the Development Site (as defined in the CBA Term Sheet).

Prosper Portland or its representatives shall staff and serve as the overall administrator of the BCCOC and its subcommittees.

Roles and Responsibilities

The BCCOC shall have authority to:

- Review implementation of the CBA and work with implementation bodies to resolve issues that arise in implementation;
- Advise Prosper Portland on proactive actions Parties could take to ensure outcomes and goals within the CBA are met;
- Review project employers engaged in E-Zone Programs' compliance with E-Zone public benefit requirements;
- Request necessary data from the Parties in order to track performance of and compliance with the terms of the CBA, in a format that clearly aligns with tracking the goals and targets of the CBA;
- Recommend that Prosper Portland take a specific action in accordance with an executed DDA to enforce the policy or policies within the CBA;
- Advise Prosper regarding how to best monitor, implement and enforce applicable policies (e.g., augmented Prosper Portland Business Equity Policy and Workforce Training and Hiring Program) and CBA provisions as they will be reflected in the DDA;
- Direct the establishment of ad hoc subcommittees for oversight of additional areas of the CBA (subcommittees shall report to the BCCOC); and
- Select an annual cohort of community members to receive training on all facets of the CBA and develop the leadership skills to support implementation including oversight through a training curriculum that includes key aspects of CBA implementation (i.e. interviewing construction workers, working with subcommittees based on a cohort member's interest to learn more about the work of that committee etc.).
- Report not less than annually with the Prosper Portland Board and City Council regarding CBA performance.

The Construction Equity Subcommittee shall have authority to:

- Monitor and make recommendations to Prosper Portland to ensure compliance with the Construction Equity provisions contained within the CBA;
- Meet with prime contractors and subcontractors before work commences to hear local hiring and diversity plans for each bid package to ensure compliance with the CBA;
- Meet no less than monthly to review data developers and contractors are required to provide to Prosper Portland, including the workforce and contracting usage rates and other information specified in the CBA, in order to assist Prosper Portland in ensuring compliance with the equity goals. Reports on data provided to Prosper Portland shall be provided to the CES by Prosper Portland not less than seven (7) calendar days prior to a monthly meeting;

- Work with Parties to resolve issues that arise during construction and advise the BCCOC on proactive actions Parties could take to ensure outcomes and goals within the CBA are met; and
- Recommend to the BCCOC that Prosper Portland take a specific action to enforce the policy or policies within the CBA. Prosper Portland will respond in writing to the recommendation as early as practically feasible, but in any event not more than thirty (30) days from the date the recommendation is delivered to Prosper Portland. Prosper Portland's response will indicate whether it intends to accept, reject, or accept with modifications (specifying what the modifications are), or whether it intends to undertake an investigation or seek additional information to determine how to address the recommendation.

Reporting Requirements

Parties shall determine, at the beginning of a particular phase of a project, the necessary records of information reasonably necessary to monitor compliance with the terms of the CBA. Parties shall provide these records if requested by another party and if there are no legal or contractual prohibitions from doing so.

The BCCOC shall produce an annual report on implementation of the CBA to the Prosper Portland Board and City Council. Each subcommittee shall be responsible for evaluating implementation of their scope of the CBA, both successes and challenges, and reporting to the BCCOC so that this information can be included in the annual report.

Noncompliance

If the BCCOC believes that there is non-compliance with any provision of the CBA (whether by Prosper Portland or HCC), it will make a written recommendation to Prosper Portland's Executive Director regarding a potential resolution of such alleged non-compliance and/or what available remedies Prosper Portland should seek to enforce. The BCCOC may, by simple majority vote, seek the intervention of the Prosper Portland Board and/or Portland City Council should the BCCOC not agree with Prosper Portland's response to the alleged non-compliance.

Role Review

After a period of 5 years and again after 10 years, Prosper Portland, HCC, Continuum (so long as the Continuum DDA is in effect), and any applicable developers shall review the charter and role of the BCCOC and its subcommittees. Parties may choose to adjust the role of the BCCOC or subcommittees after 5 years by consensus (the process for which will be described with particularity in the CBA). If after 10 years enough operational activity is present on the Broadway Corridor, and the BCCOC and subcommittee roles are substantially completed, Prosper may initiate a closeout of the committee and/or subcommittees and create an inclusion-centered operations body. To the extent the close-out in 10 years (should it occur) results in substantial cost savings, Prosper Portland will discuss with the BCCOC and will consider in good faith the potential allocation of all or a portion of the anticipated cost savings to assistance to BIPOC / women workers and BIPOC / women-owned businesses similar to that described in Section 5.a.iv.2 of the Term Sheet.

Budget

The BCCOC shall have an operating budget of \$50,000 per year for the first ten years of operation. This budget may be used to provide stipends, training to an annual cohort, childcare, meeting meals, etc. Prosper shall administer this budget.

Continuum Close Phase 1

[illegible]

Community Benefits Agreement Term Sheet

Broadway Corridor

Prosper Portland (“**Prosper**”); the consortium of constituent organizations identified in Section 1 of this Term Sheet as the Healthy Communities Coalition (“**HCC**”); and the City of Portland Housing Bureau (“**PHB**”; and, together with Prosper and HCC, collectively the “**Parties**”) are currently negotiating in good faith in an attempt to reach agreement on terms and conditions of an anticipated Community Benefits Agreement (the “**CBA**”). Continuum Partners, LLC (“**Continuum**”) is also participating and advising the Parties in these negotiations. This document (this “**Term Sheet**”) is intended to set forth the anticipated terms and conditions of the CBA. This Term Sheet is not a binding legal document, but rather it is intended to assist HCC, Prosper, PHB, and Continuum in setting forth their mutual understandings and expectations regarding the anticipated CBA.

Background

- A. On October 14, 2015, the Prosper Portland Board of Commissioners adopted the Broadway Corridor Framework Plan (the “**2015 Framework Plan**”), which was then adopted by the Portland City Council (“**City Council**”) on November 5, 2015. The 2015 Framework Plan provides a guiding framework for development of the entire 32-acre area within the River District TIF District commonly known as “**Broadway Corridor**,” and more specifically, a feasibility analysis of the acquisition and redevelopment of the 13.33-acre United States Postal Service site, located at 715 NW Hoyt Street (the “**USPS Property**”). The USPS Property was acquired by Prosper in 2016.
- B. On November 8, 2017, Prosper issued a Request for Qualifications (the “**RFQ**”) seeking a development partner that would: (a) advise Prosper and its consultants on the development plan for Broadway Corridor; (b) advise Prosper and its consultants on their preparation of a master plan for the redevelopment of the USPS Property; and (c) engage in exclusive negotiations with Prosper regarding the redevelopment of the Prosper-controlled portion of the USPS Property. On April 11, 2018 (the “**RFQ Selection Date**”), pursuant to Resolution No. 7268, the Prosper Board of Commissioners approved the selection of Continuum as the preferred developer to advise Prosper on the Broadway Corridor Development Plan and the USPS Master Plan and with whom Prosper would exclusively negotiate a non-binding term sheet or memorandum of understanding that describes in general terms the conditions, contingencies, and commitments of Continuum and Prosper. The following guiding principles were set forth in the RFQ to inform the planning, design, development and construction of Broadway Corridor:
 - a. Accountability. There will be a robust, proactive, and transparent strategy of communication, public engagement, implementation and oversight.
 - b. Connectedness. Prosper and Continuum will leverage regional and local assets to strengthen multimodal transportation connections and improve accessibility to and through the area for all.
 - c. Equity. Prosper and Continuum will work to promote racial equity, reduce disparities, and provide meaningful community benefits.

- d. Prosperity. The Project should foster economic and wealth prosperity for all through opportunities for innovation, creativity, education, and economic growth in the region.
 - e. Resiliency. The Project should demonstrate leadership in sustainability, health and integration of the built and natural environments, and should promote human interaction with the environment.
 - f. Vibrancy. The Project should be unique, aesthetically stunning, and should contribute to the creation of a mixed-use community that welcomes and reflects diversity, integrates private and public spaces, and enriches the quality of life for existing and new Portlanders of all ages, cultures and backgrounds.
- C. The USPS Property, the Prosper-owned parcel bounded by NW Hoyt, NW Broadway, NW Glisan, and NW 6th (Property ID No. R141463) (“**Block R**”), and the Prosper-owned parcels under and to the northwest of the Broadway Bridge on NW Naito Parkway currently serving as the site of an Oregon Harbor of Hope Navigation Center (Property ID Nos. R508394 and R508395) (“**One Waterfront**”) are collectively referred to in this Term Sheet as the “**Development Site**.” This Term Sheet is intended to apply to the entire Development Site (with certain exceptions for PHB-sponsored development), but it does not cover other sites within Broadway Corridor or elsewhere unless expressly indicated to the contrary.
- D. The USPS Property is anticipated to be developed in phases; the development of each of the numbered blocks identified on Exhibit A (*Map of Site*) (each a “**Parcel**”) will occur at different times over an extended period.
- E. Prosper is currently working with Continuum to negotiate terms and conditions of a binding Disposition and Development Agreement (the “**Continuum DDA**”) that would govern the development of Parcels 5, 6, 7, 8, 9a, 9b and 9c of the USPS Property (as shown on Exhibit A). Prosper may, in the future, negotiate one or more agreements for the disposition and development of property within the Development Site with other private developers (each such agreement between Prosper and a private developer, including the Continuum DDA, is referred to herein as a “**DDA**”).
- F. It is anticipated that PHB will own and seek a development partner(s) for Parcel 4. As described in this Term Sheet, the development of Parcel 4 and other PHB-sponsored development within the Development Site (potentially including Block R or One Waterfront) is anticipated to be subject to PHB’s policies and requirements, but will only be subject to certain specifically identified provisions in the CBA (as described in Section 5.c of this Term Sheet). Between PHB-sponsored development and the application of the City of Portland’s Inclusionary Housing program to all other residential on the Development Site, subject to available financing, Broadway Corridor is expected to generate 720 new affordable housing units.
- G. The development of Broadway Corridor will benefit Portlanders in many ways, even beyond the community benefits specifically being negotiated as part of the CBA. These non-CBA-related public benefits include the potential addition of thousands of quality jobs, hundreds of units of

affordable housing (as described above), new and vibrant public space, high-density development that will reduce automobile dependency in the urban core, major new funding for diverse workers and businesses through COEP (separate from the set-asides specifically described in this Term Sheet), worker protections through a separate workforce-related agreement negotiated between Continuum and SEIU (which agreement is not subject to the provisions of this Term Sheet or the CBA), additional funding for the arts through the City of Portland's Percent for Art program, and much more. The CBA will include an acknowledgment recognizing the scale and importance of these other public benefits.

- H. The development and implementation of Broadway Corridor, including the provision of community benefits, is further informed, influenced, and governed by the USPS Master Plan submitted by Prosper for City review and approval in October 2019 (the “**USPS Master Plan**”).

Understandings and Anticipated CBA Terms

1. **Parties.** The parties to the CBA will be Prosper, Portland Housing Bureau (for purposes of Section 5.c (Affordable Housing)), and the following organizations comprising the Healthy Communities Coalition: **[LIST OF HCC SIGNATORIES TO BE FINALIZED PRIOR TO SUBMISSION OF THIS TERM SHEET TO COUNCIL / PROSPER BOARD FOR APPROVAL]**. Continuum will not be a party.
2. **Structure of CBA Requirements.**
 - a. HCC, Prosper and PHB each acknowledge that, to the extent the CBA imposes requirements intended to be applicable to Continuum, other developers (whether private for-profit, non-profit, or otherwise), or City bureaus, the CBA will make Prosper and PHB responsible (in addition to any obligations intended to apply directly to Prosper or PHB, such as relating to funding contributions, compliance monitoring, enforcement, etc.) for passing through these requirements in its agreements (e.g., DDAs; intergovernmental agreements) with these third parties. DDAs will also include provisions making developers responsible for passing through applicable terms to contractors and tenants, if applicable, and establish consequences to be negotiated for developer for contractor / tenant violations of these passed-through obligations. Therefore, the Parties will seek the prior review and approval of such terms in the CBA from Continuum and other applicable entities prior to execution.
 - b. Prosper is responsible for enforcing and monitoring compliance of CBA obligations passed through to Continuum or other private developers in DDAs and will use best efforts to do so. Prosper specifically agrees to do the following:
 - i. as described in Exhibit B (Oversight Committee Structure) to this Term Sheet, Prosper will respond in writing to the Oversight Committee's recommendations regarding non-compliance with such obligations within the period of time set forth in Exhibit B detailing whether it believes non-compliance has occurred, whether it believes further investigation is warranted, and what remedies (if any) Prosper intends to seek to address alleged non-compliance;
 - ii. Prosper will investigate allegations of material non-compliance that appear to have a reasonable basis in fact, should further information be needed to establish whether such non-compliance has actually occurred;

- iii. where the Oversight Committee’s recommendation includes evidence that clearly establishes material non-compliance with a passed-through CBA obligation, Prosper will, in accordance with the applicable provisions of the DDA (which is anticipated to include a warning and reasonable opportunity for cure), pursue one or more remedies available in the DDA that are reasonably designed to bring about compliance.
 - iv. Prosper will include remedies in each DDA for failure to comply with passed-through CBA obligations, including potential liquidated damages for violations of the Business Equity Policy and Workforce Training and Hiring Programs (as either program is augmented by the CBA) (the “**BEP / WTHP**”). Other remedies will be negotiated on a case-by-case basis between Prosper and private developers.
 - v. To the extent liquidated damages are recovered by Prosper for violations of the BEP / WTHP (as augmented by the CBA), Prosper will confer with the BCCOC regarding the use of funds, with the intention that such funds will be used for business and workforce assistance consistent with the set-aside described in Section 5.a.iv.
 - c. The Parties acknowledge that neither of the foregoing will constitute violations of Section 4:
 - (i) HCC bringing a complaint or allegation of a violation of a CBA obligation (or passed-through CBA obligation) to the Oversight Committee or otherwise bringing a complaint in accordance with the dispute resolution process provided in the CBA (as summarized in Section 9 (Dispute Resolution for Alleged Breach of CBA)); and
 - (ii) public discussion of ideas or concerns about Broadway Corridor so long as such discussion is consistent with HCC’s obligations in Section 4.
3. **Scope.** The CBA applies to the development of the Development Site unless otherwise noted (e.g., *many* sections will not apply to PHB-sponsored development on the Development Site).
4. **HCC’s Commitments.** HCC and each of its constituent organizations agree to:
- a. Fully support and agree not to take actions to slow down or oppose the development of the Development Site through advocacy or other means; provided, however, that this obligation is contingent upon no “Repugnant Use¹” occurring on the site. In the event that a PLA (as

¹ “**Repugnant Use**” means a proposed, intended, or actual use of the site that is far outside of the anticipated corporate / office / residential / retail / park / infrastructure uses of the Development Site and is objectively and inarguably in conflict with the guiding principles (Accountable; Connected; Equitable; Prosperous; Resilient; Vibrant) of the Broadway Corridor development (as outlined in the Broadway Corridor Request for Qualifications on November 8, 2017), such as fossil fuel production facilities, toxic waste dumps, public or private prisons, or ICE detention facilities. Any use or activity on or relating to the Development Site is conclusively presumed to be a non-Repugnant use absent clear and convincing evidence presented by HCC to the Oversight Committee to the contrary, a unanimous written vote of all HCC signatories to the CBA, and a 2/3 majority vote of the Oversight Committee. For the avoidance of doubt, the following activities are per se not Repugnant Uses: any uses or proposed uses of the

defined in Section 5.a.v.1) is not successfully negotiated and executed for a particular building (or buildings) by the time vertical construction of the building commences, as described in Section 5.a.v.1 below, HCC and its constituent organizations shall not be in breach for strikes, pickets, informational bannerings, and other concerted activity consistent with the National Labor Relations Act so long as such activities pertain to such building (or buildings) and not to other buildings which are subject to an executed PLA in the Development Site, infrastructure investments in or supporting the Development Site, or Broadway Corridor generally, and only pertain to the specific labor issues in dispute and persons or entities with whom the dispute resides. This paragraph (a) does not modify or reduce any other HCC obligations in Section 4.

- b.** Take joint steps with Prosper Portland, Continuum and City Bureaus to support the vision of the Broadway Corridor and implementation of the CBA.
 - i. This includes cooperating to pursue funding for public-benefit elements of the development, including, without limitation:
 - 1. *Explore Transit Pass Subsidies:* HCC will work with TriMet to explore resources for free or subsidized transit passes for USPS Property workers and affordable housing residents.
 - 2. *Portland Clean Energy Fund:* Qualifying HCC members will work with Prosper Portland, Continuum and future owners and tenants to explore developing proposals eligible for PCEF funding.
 - 3. *Metro/Housing Bonds:* HCC members will work with Prosper Portland, developers, and public agencies to explore resources for affordable housing.
 - ii. Ensuring the third-party nonprofit organization for the worker assistance fund (see Section 5.b below) is established;
 - iii. Providing guidance and community perspective through oversight, including participating in the Oversight Committee (see Section 6 below);
 - iv. Supporting deliverables and outcomes contemplated within the CBA and/or Prosper and PHB's policies, such as achievement of equitable contracting and workforce goals and job quality standards; and
 - v. Taking other steps as to be determined through the CBA negotiation process.
 - vi. HCC and its constituent organizations support the deliverables and outcomes described in Section 5.a (Construction Equity). However, neither HCC nor its constituent members will be legally obligated to or legally responsible for the deliverables and outcomes contemplated by the CBA and/or Prosper policy on any

Development Site or actions taken that are permitted by this Term Sheet or the CBA; office development of any type; residential development of any type; retail development of any type; government offices or facilities (other than facilities used as prisons or detention centers or offices of agencies primarily charged with detention of undocumented persons) of any type; and any other activities, infrastructure, parks, greenspace, or uses for the Development Site contemplated in this Term Sheet or the CBA, the Broadway Corridor Master Plan, the Broadway Corridor Transportation Demand Management Plan, or the Broadway Corridor Request for Qualifications issued November 8, 2017.

construction within the Broadway Corridor that is not subject to a PLA (as defined in Section 5.a.v.1 below) or, in the case of the construction of infrastructure, the City's CBA or an agreement substantially consistent with the City's CBA as described in this Term Sheet.

- c. The CBA will establish reasonable parameters around what will suffice for compliance with the obligations described in this Section 4 in order to avoid excessive timing burdens on HCC representatives. These parameters may include, by way of example and not limitation, requiring timely prior notice from Prosper regarding meetings to be attended by HCC representatives, limiting the number of meetings that must be attended and/or the number of persons required to attend, developing a form letter that can be signed by HCC representatives and circulated to public agencies, lenders, and other partners to avoid duplicative review, and so forth.

5. Prosper Portland's Commitments. The CBA will provide for the following:

- a. Construction Equity. The Parties desire to promote social and racial equity and reduce economic disparities. The Parties have a strong commitment to utilizing BIPOC²-owned and woman-owned firms and to create high quality construction jobs for a diverse workforce. In furtherance of these goals:

- i. ***City of Portland-Contracted Infrastructure Work:***

- 1. City Council will direct City bureaus to aggregate the cost of all City-constructed infrastructure in connection with the redevelopment of the USPS Property. (The term "infrastructure" does not include PHB-sponsored affordable housing.)
 - 2. This would voluntarily make the infrastructure work subject to the City's model Community Benefits Agreement (Resolution No. 37329, adopted November 8, 2017) (the "**City's CBA**").
 - 3. The City's CBA would be modified to expand the existing DBE exemption from the core employee section of the City's CBA to also include MBEs and WBEs.

- ii. ***Prosper's Contracts for Demolition of USPS P&DC Facility – City's CBA Applied:*** Prosper would comply with the substantive requirements of the City's CBA (with the modification described in the preceding clause (i)) with respect to the demolition of the former USPS Processing and Distribution Facility. Further, HCC acknowledges that Prosper's construction wage policy requires payment of prevailing wages for Prosper-contracted demolition and remediation work even where State law does not require it.

- iii. ***USPS P&DC Facility Local Hiring Goals:*** Prosper will establish a goal that at least 15% of project hours on the USPS P&DC Facility demolition would be worked by Portland-Vancouver-Hillsboro Metropolitan Statistical Area residents. (See Section 5.a.v.3 for

² BIPOC stands for Black, Indigenous, and all People of Color.

equivalent local hiring goal for private, vertical development in the Development Site.)

iv. ***Public & Private Funding Set-Asides for Diverse Workforce and Business Assistance:***

The following amounts will be set aside for assistance to BIPOC /women workers and BIPOC / women-owned businesses in the construction trades in a manner similar to the City’s Community Opportunities and Enhancement Program (COEP):

1. *Demolition of P&DC Facility:* An amount equal to 1.0% of the hard demolition cost of the USPS P&DC Facility, capped at \$200,000 in the aggregate, is to be set aside at the time of the demolition.
2. *Private, Vertical Construction:* Prosper will work with Continuum and other private developers to set aside a fixed amount of \$400,000 each for blocks 1, 3, 5, 6, 7, 8, 9a, 9b (as shown on Exhibit A), Block R and One Waterfront (except that if PHB sponsors the development of Block R or One Waterfront, such block will be excluded from the set-aside) at the time each block commences vertical construction, for a total of up to \$4,000,000. After the 10th anniversary of the CBA, Prosper and HCC will engage with the Oversight Committee to confer regarding, among other things, whether up to \$3 million could be made available from higher than anticipated land sale proceeds or lower than anticipated oversight costs, as an additional contribution to this set-aside or for other priorities identified by the Oversight Committee and partners. (Prosper will provide an informational update to the same effect after the 5th anniversary of the CBA).

v. ***Prosper’s DDAs for Private, Vertical Construction (Continuum & Subsequent Private Developers of Non-Affordable Housing Projects):***

1. *Project Labor Agreements:*

- Prosper will require Continuum and other private developers to direct their general contractor(s) (once identified) to negotiate in good faith towards a construction project labor agreement for each project it develops within the Development Site with construction trades (each a “PLA”). If a PLA is not successfully negotiated for a project, certain backstop requirements will nonetheless apply to the construction (these requirements are identified in the penultimate bullet point of this Section 5.a.v.1).
- The PLA that Continuum / other developers will direct its general contractor(s) to seek to negotiate will, at a minimum, include: (1) incorporation of all workforce equity provisions described in the CBA (e.g., Prosper’s Workforce Training and Hiring Policy, as modified by the CBA); (2) incorporation of all required contracting equity provisions (e.g., Prosper’s Business Equity Policy, as modified by the CBA); (3) a requirement that all contractors and subcontractors be

Responsible Contractors;³ (4) 48 hour rule to dispatch priority workers; (5) Unions agree to prioritize dispatch of targeted workers, where allowable; (6) a No Disruption/Labor-Management Harmony clause; and (7) a “core employee” limitation to be negotiated (i.e., a provision whereby the number of non-union-referred employees will be capped in some manner), except that any core employee limitation provision would not apply to hiring by non-union DMWBE firms.

³ For purposes of this Section 5.v.1, “**Responsible Contractor**” means a contractor or subcontractor that:

- a. Is an Oregon Bureau of Labor and Industries (BOLI) registered training agent, at the time of construction, working with an approved apprenticeship program that has been in existence for 3 years or more unless there are no apprenticeship programs for the particular trade in which the contractor works or a waiver is granted by the BCCOC;
- b. Provides a full family healthcare option for all craft employees employed through the company, which health care option shall be consistent with area standards in the Portland metropolitan region; provided, however, that (1) COBID-certified firms with stated Development Site-wide total contract or subcontract values of \$1,000,000 or less (factoring in any amendments, change orders, or modifications of any kind made within 12 months of the original contract date) are exempt from this requirement, and (2) it is understood that Continuum or other private developers may request that the Prosper Board expand this exemption beyond COBID-certified firms (i.e., to all firms with stated Development Site-wide total contract or subcontract amounts less than the aforementioned threshold), and the Prosper Board has authority to do so should it determine that not doing so would adversely impact the development of Broadway Corridor.
- c. Has an acceptable safety record (defined as having no final finding (after exhaustion of all appeals) of a willful or major violation with OSHA) during the three (3) year period immediately preceding the date a general contractor awards a bid to perform work;
- d. Participates or is willing to participate in a pre-hire drug screen for all employees to ensure the highest standard of safety;
- e. Is in compliance with all Construction Contractor's Board and Workers' Compensation requirements;
- f. Promotes the use of local vendors, suppliers, contractors, subcontractors, and encourages the hiring of local area workforce, which will return long-term community benefits;
- g. Does not have any wage theft violations or civil rights violations (in a final decision after exhaustion of all appeals) on file with the US DOL (Department of Labor) or BOLI;
- h. Does not appear on BOLI's debarred contractor list during the three (3) year period immediately preceding the date a general contractor awards a bid to perform work on the Broadway Corridor project; and
- i. Commits to participate in regular scheduled meetings with the Prosper, prime contractor, and labor/worker representatives throughout the project.

- Regardless of whether a PLA is or is not successfully negotiated for any project within the Development Site: (a) Prosper’s DDAs will still require Continuum (or other private developers, as applicable) to comply with all workforce equity provisions and contracting equity provisions in the CBA, as are identified in this Term Sheet (including Prosper’s policies, as modified, as outlined below); and (b) Continuum (or other private developers, as applicable) will be obligated to ensure that all its contractors and subcontractors on the Development Site are Responsible Contractors.
 - If Prosper is not able to secure an agreement with at least one Small Local Developer⁴ for at least one Parcel after issuing at least one request for proposals or comparable solicitation seeking development proposals for parcels South of Johnson with a priority for Small Local Developers, then Prosper can request an exemption to the requirement to negotiate in good faith toward a PLA from the Oversight Committee.
2. *Prevailing Wages:* Prosper will require Continuum and other private developers that it contracts with to treat vertical core and shell construction on the Development Site as if it is subject to the prevailing wage requirements of ORS 279C.800 et seq. Prosper will also impose the same requirement on developers of projects within the Development Site with respect to tenant improvement construction projects of greater than 100,000 square feet for any single tenant. These requirements will apply regardless of whether the projects would otherwise be subject to the prevailing wage requirements of ORS 279C.800 et seq.
3. *Private Local Hiring Goal:* Any Prosper DDAs pertaining to the Development Site will include a local hiring goal equivalent to that stated in Section 5.a.iii (with respect to the USPS P&DC Facility demolition).
4. *Prosper Policies and Increased Certified Firm and Equitable Workforce Goals:* Prosper’s DDA(s) pertaining to the Development Site will, at a minimum, require developers to comply with Prosper’s Business Equity Policy and Workforce Training and Hiring Program. However, the CBA will require Prosper to augment these policies in its DDAs pertaining to the Development Site. Specifically:
- Prosper will augment its aspirational goals for certified firm utilization to 22% (with sub-goals of 12% M/DBE and 5% W/DBE).

⁴ “Small Local Developer” means a developer headquartered in the Portland, Oregon area and that meets size criteria to be negotiated in the CBA.

- Prosper will maintain its 30% minority / 15% women aggregate hours-worked aspirational goals at the journey / apprentice levels and its mandatory goal that 20% of hours worked are by apprentices.
 - In addition to the above aggregate hours-worked goals, Prosper will establish an aspirational goal that of the total hours worked by any trade: (a) 22% are worked by minorities at the apprentice level; (b) 22% are worked by minorities at the journey level; (c) 14% are worked by women at the apprentice level; and (d) 9% are worked by women at the journey level.
- 5. *Additional Continuum-Led Efforts to Increase Contractor Diversity:* In addition to complying with Prosper's policies (with the modifications described above), Prosper's DDAs will require Continuum (or other private developers Prosper contracts with on the Development Site) to (1) identify subcontracting opportunities for DMWBE and BIPOC / women-owned firms to successfully bid and build the capacity of these firms for larger contracts in the future, and (2) require subcontractors with scopes of over \$250,000 to provide targeted second-tier subcontractor work scopes where feasible to provide additional opportunities for participation by such firms.
- 6. *Funding Set-Aside:* As indicated in Section 5.a.iv, Prosper will require a funding set-aside for assistance to BIPOC / women workers and BIPOC / women-owned businesses with respect to Prosper-sponsored private, vertical construction on the Development Site.
- b. Operations Equity. The Parties desire to ensure that the people who will perform work on the Development Site are treated fairly and with dignity and respect by their employers and by those who control their wages and working conditions. The parties desire that these jobs are good jobs, with living wages and benefits, and respect for workers' voices on the job. The parties recognize that economic equity for people who perform work is an integral part of sustainable economic development and that those workers who perform service sector jobs have historically been denied economic equity. In furtherance of these goals the parties agree to the following:
 - i. ***Pathway for COBID-certified Firms.*** The Parties will collaborate to support COBID-certified firms in related industries to become more competitive based on raising employee job-quality standards. If additional funding sources are identified, or if existing programs or resources can be leveraged, such collaboration could include technical assistance to COBID-certified firms by Prosper Portland or another entity.
 - ii. ***Funds for Workforce Development, Compliance Monitoring, and Enforcement***
 - 1. The CBA will provide that an amount equal to 0.4% of the contract price of third-party janitorial and security services in office buildings shall be set aside by the contracting party and contributed to a third-party nonprofit organization, to be determined by HCC or its constituent organizations, to be used for workforce development, compliance monitoring, and enforcement of applicable workforce-related laws and regulations. This

obligation will last with respect to each building within the Development Site until the tenth (10th) anniversary of the issuance of the final certificate of occupancy for the particular building, provided that if, before the obligation expires, ownership is transferred to a third-party unrelated to the then-owner, the obligation will last for the remainder of such ten (10) year period or three (3) years from the date of transfer to the successor, whichever is greater.

2. Uses of funds may include:
 - a. Trainings on the prevention of workplace harassment and discrimination, green cleaning, English for Speakers of other Languages, computers, citizenship, etc.
 - b. Enforcement of applicable employment law
3. HCC must ensure that the organization receiving funds provides an annual in-person presentation and written report on its activities and expenditures to the Oversight Committee, including an accounting of the funds received from Broadway Corridor owners and tenants and of the expenditures on trainings and services provided to Broadway Corridor workers, and a copy of any annual report that may be required by the Securities and Exchange Commission or the Department of Labor. To the extent the Oversight Committee identifies any irregularities in the information received from the organization, the Oversight Committee may request additional information or may conduct further investigation, at its cost, to address concerns. The organization will cooperate fully in such investigation.
4. Organizations receiving funds must meet one or more of the following criteria:
 - a. A non-profit organization, such as a 501(c)(3) and/or 501(c)(4) organization as defined by the Internal Revenue Code, a Taft-Hartley trust, or similar organization, and
 - b. An organization where a substantial portion of their operating budget (over 50%) relates to development, enforcement of rights for working people, or training workers on their rights, where the organization has a record of 10 or more years of direct involvement in the relevant industry. Experience requirement may be waived when organization can show partnership with a qualifying labor organization, or
 - c. A membership organization, excluding a labor union, whose members are substantially (50% or more) employed in the relevant industry
4. Funds may not be disbursed directly to:
 - a. An employer in a related industry

- b. A labor union in a related industry, as defined by 501(c)(5) of the Internal Revenue Code
- c. Affordable Housing. The Parties and PHB desire to increase the supply of safe, high-quality affordable housing in Portland, and that all Portlanders have access to the amenities and opportunities provided by the redevelopment of the Development Site. In furtherance of this goal:
 - i. **Generally**: As noted in the recitals, PHB anticipates seeking a developer partner to develop Parcel 4 as affordable residential, and PHB may also sponsor development of Block R or One Waterfront.
 - ii. **On-Site Affordable Housing**: Unless inapplicable due to future changes to residential building code or inclusionary zoning policies (as will be described more particularly in DDAs), to the extent Continuum or another private developer constructs residential units on the Development Site, Inclusionary Housing requirements will be complied with by selection of the on-site 10% of units @60% AMI option.
 - iii. **Intentional Tenanting and Outreach**: PHB will require in its Notice of Funding Availability (NOFA) a marketing, outreach and resident services plan that addresses prospective tenants' historic roots in the area and whether they have been subject to displacement, which has particularly affected the Indigenous, Black, Japanese-American, and Chinese-American communities. PHB will convene a stakeholder group to meet at least twice to advise on the of the intentional tenanting and outreach plan requirements to be included in its NOFAs. The stakeholder group will include representation from community-based housing advocacy organizations from the Black, Indigenous, Chinese and Japanese American culturally-specific serving community based organizations of other people of color, LGBTQ+ and/or people with disabilities organizations.
 - iv. **HCC Participation on Selection Advisory Committees**: PHB will use a competitive process to select developers/owners of PHB-sponsored development within the Development Site. PHB will work with HCC to include an HCC representative on a selection advisory committee for its affordable housing developments within Broadway Corridor, subject to PHB's policies and practices regarding conflicts of interest and committee diversity.
 - v. **ADA Accessibility**: PHB will seek to increase opportunities to include Type A accessible units within the developments on Parcel 4, taking into account the overall goals for reaching its affordable housing unit targets and the desire for family-sized units within the Corridor. PHB will also require affordable housing owners/developers to establish waitlist management or priority access practices for those who identify as needing a Type A accessible unit in accordance with fair housing, landlord/tenant laws and requirements from other financing partners. PHB will also require that at least 5% of units developed on Parcel 4 will be accessible to persons with mobility disabilities and 2% for persons with hearing or visual disabilities.

- vi. **Augmented PHB Construction Equity Policies:** PHB will set its goals for contractor diversity to 30% DMWESB-SDV hard cost subcontracts (with sub-goals of 12% D/MBE and 5% WBE) and 20% DMWESB-SDV professional services contracts (*e.g.*, architecture, legal, etc.) for PHB-sponsored development within the Development Site. PHB will also require compliance with the City of Portland Workforce Training and Hiring Program.
 - vii. **Continuing Discussions Regarding Construction Equity:** PHB will continue to engage in discussions with HCC and other community stakeholders regarding vehicles for improving construction equity outcomes in the affordable housing context, taking into consideration the unique financial, regulatory and other challenges of affordable housing development and ownership. To this end, PHB commits to convene two to four meetings bringing together members of HCC, representatives of organizations seeking to advance equity in construction for communities of color and women, and affordable housing developers to discuss advancing construction equity in affordable housing developments, generally and within the Corridor.
 - viii. **Accountability:** PHB will report on a regular basis to the Oversight Committee regarding its progress towards reaching its goals for affordable housing in the Development Site, its certified firm participation goals, and its workforce diversity goals.
- d. **Sustainability.** The Parties desire to adhere to high environmental standards in all phases of project design and implementation, and to leverage regional and local assets to strengthen multimodal transportation connections and improve sustainable transportation options for all. In furtherance of these goals:
- i. **Green Building Policy:** At a minimum, Prosper DDAs will require compliance with Prosper's Green Building Policy (requiring LEED Gold construction for commercial and mixed-use buildings that are 50,000+ square feet and residential buildings that are 30+ units).
 - ii. **Transportation Demand Management Plan:** HCC acknowledges that Prosper is pursuing a Transportation Demand Management Plan in connection with the USPS Master Plan application, which will encourage more efficient use of the existing transit system and encourage use of transit modes other than single occupancy vehicles (SOVs).
 - iii. **Efforts to Attain Carbon Neutrality:** To the extent funding resources are identified, Prosper, City bureaus and utilities will collaborate to explore the extent to which one or more buildings within the site can be carbon neutral. As means of pursuing this goal, Prosper will explore possibilities including the below:
 - 1. **District Energy; Off-site Renewable Energy:** To the extent funding resources are identified, Prosper, City bureaus and utility companies will collaborate to explore the extent to which a district energy system could be implemented and/or the extent to which off-site solar energy could

be implemented. So long as there is no adverse impact on project funding and schedule, the Parties will seek to achieve this locally if possible.

2. **Renewable Energy:** Continuum is also committed to use good faith efforts to utilize 100% renewable energy for its vertical construction to the extent the utilities are available.
- iv. ***Incorporation of Building Efficiency Process into DDA Review Standards:*** Any Prosper DDA would establish standards for approval/disapproval of building designs based on the private developers' good faith efforts to meet certain building efficiency processes.
- e. **Business Equity.** The Parties wish to create opportunities for BIPOC and underrepresented local businesses and foster equitable wealth creation opportunities for BIPOC and underrepresented businesses of all sizes. The Parties wish to do this not just in connection with construction, but also to intentionally explore ways to advance equity by working together to assist businesses and considering property investment and ownership structures. In furtherance of these goals:
 - i. ***Support for Affordable Commercial Tenants; Intentional Programming:***
 1. Prosper will establish a \$3,000,000 fund for grants and low-cost loans to support affordable commercial tenancing and affordability-conscious programming in the Broadway Corridor area (which may include properties in the immediate vicinity of the Development Site such as Union Station).
 2. Depending on the source of these funds, the funding may be restricted in whole or in part to capital costs (e.g., tenant improvements), but if non-restricted funding sources are identified Prosper may consider funding expenses other than capital expenses.
 3. When expending these funds, Prosper will work in good faith with Continuum and other private developers to: (a) prioritize underrepresented businesses and local businesses, including minority-owned businesses and businesses owned by persons with disabilities, with an aspirational goal of 30% or more of assisted businesses being minority-owned, (b) encourage the provision of reasonably-priced goods and services in the vicinity of Broadway Corridor, including affordable child care and food/beverage options, and (c) right-size tenant spaces and identify locations to create opportunities for smaller or start-up businesses.
 - ii. ***Exploration of Community Ownership Models:*** Prosper Portland will work in good faith with Continuum to explore community ownership models that could be implemented within one or more of the development phases.
 - iii. ***Supporting Local Businesses:*** Prosper will encourage private developers and prospective tenants to promote the use of local vendors, suppliers, contractors and subcontractors, and workers.
- f. **Tenancing.** The Parties desire to provide high quality employment opportunities for Portlanders through the development of a major new employment center in the central city. In furtherance of this goal:

- i. **Orientation of Major Tenants:** Major tenants (meaning tenants with either 100 or more employees anticipated on-site or who lease 50,000 or more square feet of space) will be required to meet with two representatives of the Oversight Committee (see Section 6) following their execution of a lease, one of which will be the Prosper representative and the other of which will be designated by the Oversight Committee, to become oriented with the guiding principles set forth in Recital B and discuss opportunities for the tenant to support these principles and values.
 - ii. **Criteria for Marketing to Tenants:** Continuum will refer to the guiding principles (Accountable; Connected; Equitable; Prosperous; Resilient; Vibrant) of the Broadway Corridor development (as outlined in the Broadway Corridor Request for Qualifications on November 8, 2017) in its tenant recruitment and marketing materials and will strive to ensure that the tenant mix advance these principles. Continuum, HCC and Prosper’s Economic Development Department will work together to refine how these values would be reflected in tenant recruitment and marketing materials.
 - iii. **Enterprise Zone:** Any companies receiving an Enterprise Zone tax abatement within the USPS Property will be required to provide community benefits meeting or exceeding any requirements of the CBA that are applicable to tenants. Applicable Enterprise Zone tax abatement agreements will not waive or eliminate any applicable CBA requirements. To the extent legally feasible, Prosper will share information pertinent to the outcomes of the CBA from companies receiving Enterprise Zone tax abatements with the Oversight Committee.
 - iv. **Portland Means Progress:** Prosper will work with Continuum and other private developers to explore how to encourage prospective tenants to become involved with the Portland Means Progress program, which is a City-wide initiative to hire local BIPOC youth, buy more from local BIPOC-owned businesses and take the next step in diversity, equity and inclusion.
6. **Oversight.** The Parties desire to maintain accountability to the community by implementing a robust, proactive and transparent strategy that is a responsible expenditure of public funds, attracts private investment, and delivers targeted and equitable public benefits, with clear and enforceable milestones and metrics specifically aligned with the goals of the CBA. In furtherance of this goal, the CBA will require Prosper to form and staff a committee of public and private stakeholders to advise on implementation of community benefits across the Development Site (the “**Oversight Committee**”). The Oversight Committee will be in accordance with Exhibit B (Oversight Committee Structure) attached to this Term Sheet.
7. **Term of Obligations.** The CBA will provide that (i) all construction-related obligations for each given project will be in effect through the final completion of the initial construction of the project, including tenant improvements, as applicable, (ii) the Oversight Committee obligations will continue except as may be modified in Exhibit B, and (iii) all other obligations will expire when fully performed (e.g., construction-related obligations expire after final completion of initial construction, including tenant

improvements, as applicable, and any applicable reporting is complete) or at the times specifically noted in the CBA.

- 8. Development Contingency.** The Parties acknowledge that the community benefits anticipated in this Term Sheet require the development of the Development Site and related funding allocations are roughly calibrated based on underlying development and land value assumptions. To that end, the CBA will include the following provisions:

- a. **Contingency for Adverse Development Circumstance.** If an “Adverse Development Circumstance”⁵ occurs, either Prosper Portland or HCC could re-convene negotiations by sending a written notice (the “**Re-convened Negotiations Notice**”) to the other with a description of the Adverse Development Circumstance.
- b. **Contingency for Significant Adverse Financial Impact.** If an “Adverse Financial Circumstance”⁶ occurs, then either Prosper or HCC could send a Re-convened Negotiations Notice to the other with a description of the significant adverse impact to financial resources.
- c. **Re-Convened Negotiations; Potential Termination of CBA.** Upon delivery of a Re-convened Negotiations Notice, Prosper and HCC shall re-convene negotiations. These re-convened negotiations would take place for up to three months from the delivery of the Re-convened Negotiations Notice. The goal of the re-convened negotiations will be to reach agreement on an amendment or modification to the CBA that adjusts and/or re-prioritizes the CBA’s community benefits obligations to address the specific financial, economic or practical challenges for the development of the Development Site, while nonetheless preserving agreed to community benefit obligations wherever possible. If Prosper and HCC are unable to reach agreement on amended CBA terms within three (3) months of the delivery of the Re-

⁵ “Adverse Development Circumstance” means the occurrence of any one or more of the following circumstances:

1. failure to reach agreement on a DDA with Continuum by **March 31, 2021**;
2. failure to reach agreement on a DDA (or multiple DDAs) with developers of a majority of the Development Site parcels not anticipated to be developed by Continuum by **December 31, 2029**;
3. termination of a DDA once executed by a developer due in whole or in part to general economic conditions in the City of Portland real estate development market; or
4. failure of a developer to timely meet a DDA closing or development milestone within one year from the outside dates initially required in a DDA.

⁶ “Adverse Financial Circumstance” means a circumstance that significantly adversely impacts the resources available for the performance or delivery of community benefits obligations described in this CBA or the funding of infrastructure, environmental remediation, or other necessary costs for the development of the Development Site in a manner consistent with the USPS Master Plan, the Continuum DDA, the CBA, and other DDAs from time to time. Adverse Financial Circumstances include, by way of example and not of limitation, (a) a circumstance in which the economy is such that a significant reduction in land sale price is required in order for development to be financially feasible, and (b) a determination or ruling by a public authority having jurisdiction that would materially increase infrastructure, remediation, labor, or other costs relative to existing assumptions. The CBA will include an appendix or other detail showing certain baseline assumptions regarding costs for reference when determining whether an Adverse Financial Circumstance has occurred.

convened Negotiations Notice, either Party may seek either Prosper or HCC may terminate the CBA by written notice to the other Party.

9. Dispute Resolution for Alleged Breach of CBA.

- a. The CBA will establish a dispute resolution process for all claims that a Party has breached one of its obligations under the CBA. The dispute resolution process will require the disputants to first meet and confer to seek to amicably resolve the dispute. If the disputants are unable to do so, the dispute must then be brought to the Oversight Committee for discussion and attempted resolution, and then to the Prosper Portland Board of Commissioners for the same purpose. The preceding steps must occur before a Party may file any lawsuit or otherwise take any action to seek legal redress. Any attempt to seek legal redress, including any lawsuit filed, without exhausting all steps in the agreed-upon dispute resolution process to be outlined in the CBA, will be prohibited. The specific timing and procedural requirements of the dispute resolution process remain to be negotiated in the CBA.
- b. The remedies of the prevailing disputant will be limited to either, but not both, specific performance or termination of the CBA.
- c. The CBA will include notice and cure periods to be negotiated as well as other reasonable safeguard mechanisms to ensure that claims are brought in a timely manner, that estoppels or other assurances can be timely given or deemed given, and that the process for bringing and resolving claims is as orderly and efficient as practicable.

10. Non-Binding. Notwithstanding anything to the contrary set forth in this Term Sheet, this Term Sheet is not binding in any manner, and creates no representations, warranties, or covenants (whether express or implied) in favor of any entity in any manner. This Term Sheet is solely intended to serve as a basis for documenting the current understandings of the Parties in anticipation of the negotiation and execution of a binding CBA following due authorization from the Prosper Portland Board and City Council.

[Signature Page Follows]

This non-binding Term Sheet is made by the Parties as of the latest of the dates indicated.

PROSPER PORTLAND

By: _____
Kimberly Branam, Executive Director

Date: _____, 2020

Approved as to Form:

Prosper Portland Legal Counsel

CITY OF PORTLAND HOUSING BUREAU

By: _____
Shannon Callahan, Director

Date: _____, 2020

Approved as to Form:

City Attorney

[HCC CONSTITUENT ORGANIZATION 1]

[HCC CONSTITUENT ORGANIZATION 2]

[HCC CONSTITUENT ORGANIZATION 3]

[ETC.]

[Exhibits Follow]

Exhibit A
to Term Sheet
(Map of USPS Property Parcels)



Exhibit B

to Term Sheet

(Oversight Committee Structure)

Summary of the Broadway Corridor CBA Oversight Committee (BCCOC)

- Comprised of key parties: Prosper, developers, HCC representatives, and Broadway Corridor adjacent small business owners and community members
- Ensures compliance with the CBA
- Advises Prosper on remedies, acts as a problem-solving body, and may make recommendations on actions needed
- Creates ad hoc subcommittee, as necessary, in addition to Construction Equity Subcommittee
- Prosper Portland’s Executive Director makes final decisions (provided that the BCCOC may seek intervention by the Prosper Portland Board or City Council as described in the “Noncompliance” section below)
- Provides annual report to the Prosper Portland Board of Commissioners and Portland City Council
- Review of the charter and role after years five and ten
- Budget of \$50k per year for ten years

Purpose

The Broadway Corridor CBA Oversight Committee (BCCOC) is established within the Community Benefits Agreement (CBA) for the Broadway Corridor redevelopment. The BCCOC will monitor, support the implementation of, and ensure compliance with the Broadway Corridor CBA, in alignment with the vision of the Broadway Corridor.

Composition

The CBA will detail the specific process for appointment of members and determining the composition of BCCOC, with the goal that there be some flexibility on the part of the Parties to adjust the composition described in this section should the BCCOC believe that it is necessary to ensure compliance and support implementation of the CBA terms. Members of the BCCOC initially will be nominated by each constituent party and appointed by Prosper Portland. The committee will initially be made up of no more than 11 individuals with the Prosper Portland representative serving as a non-voting member (except as described below). Members will be responsible for familiarizing themselves with the CBA and working to uphold it and support the values it embodies.

The Healthy Communities Coalition (HCC) shall nominate five (5) HCC representatives. HCC’s nominees will come from at least four (4) different HCC constituent organizations representing a diversity of relevant experience. Further details regarding the composition of HCC’s representatives may be described in the CBA.

Prosper shall nominate:

- One (1) Prosper Portland representative (non-voting)

- One developer representative from each developer (i.e., a Continuum representative so long as the Continuum DDA is in effect, an affordable housing developer representative when such a developer is selected, etc), capped at two total developer representatives.
- One (1) Old Town / Chinatown, Broadway Corridor, or Pearl District representative
- One (1) BIPOC-owned small business representative
- One (1) representative with demonstrated expertise in sustainability / green building

HCC and Prosper may engage with each other from time to time to discuss desired criteria for BCCOC members and prospective nominees, provided that neither HCC nor Prosper will have the right to veto the other's nominees.

The CBA will detail the specific process for appointment of members and determining the composition of the Construction Equity Subcommittee (CES). Members of the CES initially will be nominated by majority vote of the BCCOC (except for the Prosper Portland representative, who will be nominated by Prosper Portland). Membership should reflect those with specific involvement in active projects within the Development Site. Following nomination, members of the CES will be appointed by Prosper Portland. The subcommittee will initially be made up of no more than 10 individuals with the Prosper Portland representative serving as a non-voting member. Composition of the Construction Equity Subcommittee shall include:

- One (1) Prosper Portland representative (non-voting)
- One developer representative from each developer (i.e., a Continuum representative so long as the Continuum DDA is in effect, an affordable housing developer representative when such a developer is selected, etc.), capped at two total developer representatives
- One (1) Carpenters representative
- One (1) Building Trades representative
- One (1) representative from a union-shop contractor certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID)
- One (1) Open Shop COBID-certified Contractor Firm representative
- One (1) Community-Based Organization representative
- One (1) Pre-Apprenticeship Program representative
- One (1) representative from a major general contractor
- One (1) representative from a local minority contractors' association

Prosper Portland's representative may vote in the event of a tie-vote of the BCCOC or CES, notwithstanding that the Prosper Portland representative is otherwise a non-voting member.

Length of Terms

Appointees serve for a period of two years with no limit on the number of terms served.

Meetings

The BCCOC meeting frequency shall be based on development and phasing. The BCCOC shall meet quarterly at a minimum and may adjust to meet more frequently as necessary. The Construction Equity

Subcommittee shall meet no less than monthly during the life of the initial construction and development on the Development Site (as defined in the CBA Term Sheet).

Prosper Portland or its representatives shall staff and serve as the overall administrator of the BCCOC and its subcommittees.

Roles and Responsibilities

The BCCOC shall have authority to:

- Review implementation of the CBA and work with implementation bodies to resolve issues that arise in implementation;
- Advise Prosper Portland on proactive actions Parties could take to ensure outcomes and goals within the CBA are met;
- Review project employers engaged in E-Zone Programs' compliance with E-Zone public benefit requirements;
- Request necessary data from the Parties in order to track performance of and compliance with the terms of the CBA, in a format that clearly aligns with tracking the goals and targets of the CBA;
- Recommend that Prosper Portland take a specific action in accordance with an executed DDA to enforce the policy or policies within the CBA;
- Advise Prosper regarding how to best monitor, implement and enforce applicable policies (e.g., augmented Prosper Portland Business Equity Policy and Workforce Training and Hiring Program) and CBA provisions as they will be reflected in the DDA;
- Direct the establishment of ad hoc subcommittees for oversight of additional areas of the CBA (subcommittees shall report to the BCCOC); and
- Select an annual cohort of community members to receive training on all facets of the CBA and develop the leadership skills to support implementation including oversight through a training curriculum that includes key aspects of CBA implementation (i.e. interviewing construction workers, working with subcommittees based on a cohort member's interest to learn more about the work of that committee etc.).
- Report not less than annually with the Prosper Portland Board and City Council regarding CBA performance.

The Construction Equity Subcommittee shall have authority to:

- Monitor and make recommendations to Prosper Portland to ensure compliance with the Construction Equity provisions contained within the CBA;
- Meet with prime contractors and subcontractors before work commences to hear local hiring and diversity plans for each bid package to ensure compliance with the CBA;
- Meet no less than monthly to review data developers and contractors are required to provide to Prosper Portland, including the workforce and contracting usage rates and other information specified in the CBA, in order to assist Prosper Portland in ensuring compliance with the equity goals. Reports on data provided to Prosper Portland shall be provided to the CES by Prosper Portland not less than seven (7) calendar days prior to a monthly meeting;

- Work with Parties to resolve issues that arise during construction and advise the BCCOC on proactive actions Parties could take to ensure outcomes and goals within the CBA are met; and
- Recommend to the BCCOC that Prosper Portland take a specific action to enforce the policy or policies within the CBA. Prosper Portland will respond in writing to the recommendation as early as practically feasible, but in any event not more than thirty (30) days from the date the recommendation is delivered to Prosper Portland. Prosper Portland's response will indicate whether it intends to accept, reject, or accept with modifications (specifying what the modifications are), or whether it intends to undertake an investigation or seek additional information to determine how to address the recommendation.

Reporting Requirements

Parties shall determine, at the beginning of a particular phase of a project, the necessary records of information reasonably necessary to monitor compliance with the terms of the CBA. Parties shall provide these records if requested by another party and if there are no legal or contractual prohibitions from doing so.

The BCCOC shall produce an annual report on implementation of the CBA to the Prosper Portland Board and City Council. Each subcommittee shall be responsible for evaluating implementation of their scope of the CBA, both successes and challenges, and reporting to the BCCOC so that this information can be included in the annual report.

Noncompliance

If the BCCOC believes that there is non-compliance with any provision of the CBA (whether by Prosper Portland or HCC), it will make a written recommendation to Prosper Portland's Executive Director regarding a potential resolution of such alleged non-compliance and/or what available remedies Prosper Portland should seek to enforce. The BCCOC may, by simple majority vote, seek the intervention of the Prosper Portland Board and/or Portland City Council should the BCCOC not agree with Prosper Portland's response to the alleged non-compliance.

Role Review

After a period of 5 years and again after 10 years, Prosper Portland, HCC, Continuum (so long as the Continuum DDA is in effect), and any applicable developers shall review the charter and role of the BCCOC and its subcommittees. Parties may choose to adjust the role of the BCCOC or subcommittees after 5 years by consensus (the process for which will be described with particularity in the CBA). If after 10 years enough operational activity is present on the Broadway Corridor, and the BCCOC and subcommittee roles are substantially completed, Prosper may initiate a closeout of the committee and/or subcommittees and create an inclusion-centered operations body. To the extent the close-out in 10 years (should it occur) results in substantial cost savings, Prosper Portland will discuss with the BCCOC and will consider in good faith the potential allocation of all or a portion of the anticipated cost savings to assistance to BIPOC / women workers and BIPOC / women-owned businesses similar to that described in Section 5.a.iv.2 of the Term Sheet.

Budget

The BCCOC shall have an operating budget of \$50,000 per year for the first ten years of operation. This budget may be used to provide stipends, training to an annual cohort, childcare, meeting meals, etc. Prosper shall administer this budget.



RESOLUTION NO. 7390

RESOLUTION TITLE:

AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH CONTINUUM PARTNERS, LLC AND A COMMUNITY BENEFITS AGREEMENT WITH THE HEALTHY COMMUNITIES COALITION; AND REQUESTING AND RECOMMENDING VARIOUS CITY COUNCIL ACTIONS TO FACILITATE THE DEVELOPMENT OF THE BROADWAY CORRIDOR


Adopted by the Prosper Portland Commission on August 12, 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 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 Serena Stoudamire Wesley	<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: August 18, 2020
Pam Feigenbutz, Recording Secretary	