

Appendix E**Exhibit C - Environmental Matters****INTERGOVERNMENTAL AGREEMENT****Between Prosper Portland and the Portland Housing Bureau**

Prosper Portland is obligated to complete environmental cleanup to DEQ's satisfaction, pursuant to the Consent Judgment. This obligation includes addressing known and any unknown contamination on and off the USPS Property. Prosper Portland and PHB agree to allocate responsibilities for Environmental Matters as provided in the sections below.

1. Sub-Parcel Area Boundaries

- A.** The Consent Judgment provides for division of obligations through the creation and recognition by DEQ of Sub-Parcels. The term "Sub-Parcel" as used in the Consent Judgment and this Agreement means a portion of the USPS Property identified for purposes of segregating the benefits and burdens of the Consent Judgment from the rest of the USPS Property regardless of specific tax lot.
- B.** The areas to be recognized as Sub-Parcels under the Consent Judgment and transferred to PHB are the PHB Parcels, defined in the Agreement.

2. Conditions of Sub-Parcels at Transfer**A. General Conditions**

- i. Prosper Portland will transfer Sub-Parcels to PHB in a condition that meets the Consent Judgment requirements for hot spot removal (including contaminated media identification, removal, and disposal), confirmation sampling, and additional hot spot removal if warranted by confirmation sampling or otherwise required by DEQ.
- ii. Prosper Portland agrees to complete demolition of the P&DC building, parking garage, and temporary post office prior to the Sub-Parcel that is Block 4B or the Irving Driveway being transferred to PHB.
- iii. In any portion of the PHB Parcels where Prosper Portland excavates to complete demolition, Prosper Portland will ensure such excavated portions comply with the Consent Judgment regarding any "Pre-Construction" activities that affect the temporary cap on the USPS Property.
- iv. For any portion of the Sub-Parcels where Prosper Portland excavates to complete demolition, Prosper Portland will perform waste characterization and obtain DEQ's approval for all soil and crushed concrete that is disposed offsite or reused on-site, as "Pre-Construction" activity under the Consent Judgment.
- v. Prosper Portland will communicate and coordinate with DEQ and pay DEQ oversight costs regarding a Sub-Parcel until PHB enters into a Cost Recovery Agreement with DEQ in accordance with Section 5, below.
- vi. Prosper Portland will fund, maintain, and monitor all aspects of interim remedial action remedies until the Sub-Parcels are transferred to PHB.
- vii. Prosper Portland will continue to fund, maintain, and monitor all aspects of environmental remedies for the portions of the USPS Property that it continues to own (or with respect to which Prosper Portland has not dedicated right-of-way).
- viii. Prosper Portland, in coordination with the Bureau of Environmental Services, will provide all prior environmental records regarding the site that have been collected to

date to PHB.

- ix. Prosper Portland will provide PHB documentation and details of work performed to meet the conditions of transfer for each sub-parcel including as-builts, and quantitative information on the location and depth of placement of materials, excavation, or other site modifications.
- x. Prosper Portland will provide PHB with documentation of any remediation activities it conducts on Sub-Parcels to be transferred to PHB with sufficient specificity to document compliance with the Consent Judgment to DEQ's satisfaction. If PHB relies on this information in submittals to DEQ and DEQ requests additional information regarding Prosper Portland's remedial activities, Prosper Portland will promptly provide that information.

3. Final Remedy Plans

PHB, in coordination with Prosper Portland, will work with DEQ to obtain approval of any required final remedy plans, such as a Sub-Parcel Specific Remedial Action Plan ("RAP"), Contaminated Media Management Plan ("CMMP), Health and Safety Plan ("HASP"), and easements and equitable servitudes ("EES") (collectively referred to "**Final Remedy Plans**"). These documents will govern what is required for final remedy implementation.

A. Sub-Parcel Specific Remedial Action Plan and Contaminated Media Management Plan

PHB is responsible for preparing and submitting its Sub-Parcel Specific RAP, including its Sub-Parcel Specific CMMP, to DEQ for review and approval if required by DEQ. The Sub-Parcel Specific RAP must be consistent with the Master Remedial Action Workplan and include at a minimum, a description of Sub-Parcel Remedial Action design and a Sub-Parcel Specific CMMP. The Sub-Parcel-Specific RAP will outline remedial action objectives, soil removal, and other remedial actions for the future site use. The Sub-Parcel-Specific CMMP will outline soil handling, management, and disposal.

B. Health and Safety Plan

PHB is responsible for ensuring that its respective contractor prepares and submit their HASP to DEQ for review and approval if required by DEQ. The HASP will outline the work and worker notification and protection.

C. Easements and Equitable Servitudes and Conveyance

- i. PHB is responsible for preparing and submitting its respective Sub-Parcel Specific EES to DEQ for review and approval.
- ii. Its EES will include a provision expressly stating that PHB agrees to be bound by the terms of the Consent Judgment pertaining to the Sub-Parcel upon acquiring ownership of the Sub-Parcel.
- iii. Prosper Portland and PHB will provide DEQ a written notice of intent to transfer title at least 30 days before transferring the title.
- iv. Prosper Portland will transfer the Sub-Parcel to PHG through a deed or other mutually agreed upon conveyance instrument after it meets all of the conditions under Section 2, PHB has received DEQ's approval of the Final Remedy Plans, and DEQ has provided written confirmation that Prosper Portland is released from the obligations of the Consent Judgment with respect to such Sub-Parcel.
- v. PHB is responsible for recording the deed or other conveyance instrument, along with the approved Sub-Parcel Specific EES, with Multnomah County.

- vi. It is the parties' understanding that each Sub-Parcel area will automatically be removed from the 2011 EES⁴ upon recording of the Sub-Parcel Specific EES by operation of the Consent Judgment and without requiring amendment of the 2011 EES. Prosper Portland will amend the 2011 EES, if necessary.

4. Supervising General Contractor

PHB will designate and obtain approval from DEQ for Supervising General Contractor(s), as defined in the Record of Decision,⁵ for those Sub-Parcels transferred to the City. PHB agrees that all aspects of its work will be performed under the direction and supervision of a qualified employee or contractor with experience in hazardous substance remediation and knowledge of applicable state and federal laws, regulations, and guidance approved by DEQ.

5. Cost Recovery Agreement

- A. At the commencement of negotiations with DEQ regarding the Final Remedy Plans with respect to a Sub-Parcel, PHB will enter into a Cost Recovery Agreement with DEQ and will be responsible for obtaining DEQ's approval of the Final Remedy Plans. Each Cost Recovery Agreement will include a description of the Sub-Parcel and an agreement by PHB to pay DEQ for its time reviewing and approving the Final Remedy Plans and for oversight costs for necessary environmental work through Certification of Completion or Conditional No Further Action letter. Additionally, each Cost Recovery Agreement will be limited to performance of remedial actions and continuing obligations required by the Consent Judgment for the Sub-Parcel.
- B. It is the parties' understanding that, upon entering into a Cost Recovery Agreement, DEQ will establish a new and unique Environmental Cleanup Site Information ("ECSI") file for the Sub-Parcel, an ECSI number specific to the Sub-Parcel, and a separate oversight cost account for the Sub-Parcel.
- C. Following PHB entering into a Cost Recovery Agreement with DEQ for its respective Sub-Parcel, Prosper Portland will remain responsible for paying DEQ oversight costs for the portions of the USPS Property not anticipated to be included in such Sub-Parcels.

6. Final Remedy Implementation

A. PHB

- i. PHB will implement the final remedy in accordance with its respective Sub-Parcel Specific Final Remedy Plans.
- ii. PHB agrees that, to the extent they engage in subsurface work on the USPS Property, it will comply with worker protection and soil handling requirements in its respective Final Remedy Plans.
- iii. PHB will coordinate project planning and work for this Agreement with Prosper Portland's Environmental Coordinator.

B. Unanticipated Environmental Requirements After Sub-Parcels Transfer

Unanticipated Environmental Requirements include: (1) requirements for environmental remediation associated with the identification of underground storage tanks, underground injection wells, prevention of

⁴ *Easement and Equitable Servitudes*, dated October 8, 2011 and filed in Multnomah County as Document #2011-111086.

⁵ *Selected Remedial Action Record of Decision for the USPS-P&DC Site, Portland, Oregon*, dated July 14, 2010.

vapor intrusion, groundwater contamination, offsite migration of contaminants, and any other conditions that require remedial work beyond reasonably anticipated contaminated soil excavation and placement of an engineered cap; and (2) third-party claims regarding Environmental Matters that arise after the effective date of this Agreement. If significant unanticipated environmental costs are required for Sub-Parcels transferred or dedicated to PHB, Prosper Portland and PHB, as appropriate, will meet as soon as practicable and make a good faith effort to resolve the issue.

7. Closure Report, Certificate of Completion, and Conditional No Further Action

PHB will prepare and submit a Sub-Parcel Specific Closure Report to DEQ for review and approval following the completion of the final remedy implementation in accordance with the Final Remedy Plans. It is the parties' understanding that, upon approval of the EES by DEQ and public notice and recording (including any necessary updating) thereof, DEQ will issue a Certificate of Completion and Conditional No Further Action letter indicating that all the Consent Judgment requirements have been met and that remedial actions implemented are protective of human health and the environment for the applicable Sub- Parcel.

8. Long-Term Monitoring, Maintenance, and Reporting

PHB will fund, maintain, and conduct any long-term monitoring, maintenance, and reporting required by DEQ for its Sub-Parcel(s).