

**PORTLAND DEVELOPMENT COMMISSION**

Portland, Oregon

**ACTING IN ITS CAPACITY AS THE  
LOCAL CONTRACT REVIEW BOARD**

**RESOLUTION NO. 7115**

**ADOPTING FINDINGS IN SUPPORT OF AND EXEMPTING THE NELSON  
PARKING LOT IMPROVEMENT PROJECT FROM LOW-BID SOLICITATION**

**WHEREAS**, by adoption of Resolution No. 3550, the Portland Development Commission (“PDC”) Board of Commissioners (“Board”) was established as PDC’s Local Contract Review Board (“LCRB”) pursuant to state law;

**WHEREAS**, Oregon Revised Statutes (“ORS”) Chapter 279C and PDC’s LCRB Administrative Rules (“LCRB Rules”) generally require that all public improvement contracts shall be awarded on a low-bid basis;

**WHEREAS**, ORS 279C.335(2) and LCRB Rules Part 4(II)(B)(2) allow exemptions to the general requirements for low-bid solicitation upon LCRB approval of written findings;

**WHEREAS**, PDC staff proposes to use a Best Value and Guaranteed Maximum Price contractor selection process resulting in solicitation for construction services through a competitive Request For Proposals process to perform construction and other services on the Nelson Parking Lot Improvement Project (the “Project”); and

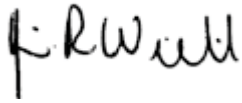
**WHEREAS**, after due public notice, staff held a public hearing to receive comments on the draft Low Bid Exemption Findings (“Findings”) (see Exhibit A) for the exemption for the Project as required by ORS 279C.355(5) and LCRB Rule Part 4(II)(B)(2).

**NOW, THEREFORE, BE IT RESOLVED**, that based on approval of the Findings, the LCRB hereby exempts the Project from low-bid solicitation;

**BE IT FURTHER RESOLVED**, that based on adoption of the Findings, the LCRB hereby exempts the Project from the low-bid requirements of ORS Chapter 279 and the LCRB Rules and specifically approves the Project for the alternative contracting approach set forth in the Findings; and

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

Adopted by the Portland Development Commission on May 13, 2015

A handwritten signature in black ink, appearing to read "Gina Wiedrick". The signature is written in a cursive, somewhat stylized font.

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Gina Wiedrick, Recording Secretary

**DATE:** May 13, 2015

**TO:** The PDC Board of Commissioners acting in its capacity as PDC Local Contract Review Board

**FROM:** Patrick Quinton, Executive Director

**SUBJECT:** Findings in Support of Exemption from Low Bid Solicitation for the Nelson Parking Lot Improvement Project

**BACKGROUND AND CONTEXT**

The former Nelson Building site was purchased by PDC in 2011. The 1.22-acre site is located at 8411 N. Denver in the Kenton neighborhood of North Portland and is bounded on the north by N. Argyle Street, on the south by N. Willis Blvd. and on the east by N. Interstate Avenue; it is within the Interstate Corridor Urban Renewal Area. The site consists of a group of six connected one-story industrial/office structures and a corner parking lot. The corner parking lot is the site of this Project.

PDC has completed all necessary design and engineering for the parking lot upgrades. Documents were submitted to the City of Portland Bureau of Development Services for permitting in early May, and PDC intends to coordinate all necessary procurement activities and construction administration services for the Project. The scope of the Project involves some complexity including demolition of a former gas station turned coffee shop structure, remediation of petroleum-contaminated soil adjacent to and below the structure, and modifications to the parking lot that include a corner gravel courtyard with amenities to support up to six food carts, landscaping, neighborhood kiosk, new paving, and other related civil and storm water work. These improvements will create new job opportunities and a welcoming, active, neighborhood meeting space. The estimated construction cost for the Project is \$275,000. If the exemption is approved by the Local Contract Review Board, solicitation will occur in late spring 2015 with construction work anticipated to start around August 1, 2015 to reach final completion by early fall 2015.

Based on the findings set forth below, PDC staff is requesting to use a Best Value Guaranteed Maximum Price (BV-GMP) contract approach for the Project. In making this request, staff carefully reviewed the standard competitive bid solicitation process and determined that factors including project complexity, unique environmental issues, public safety, schedule, and social equity goals would best be met with a BV-GMP contract approach.

Staff evaluated other alternative public contracting methods including Construction Manager/General Contractor, Design Build, or Multi-Step selection that are typically deployed at the beginning of the design and engineering phase. Because design has already been completed for the Project, PDC staff is requesting to use a BV-GMP contract approach for the Project as the method for selecting a general contractor using a Request for Proposals process on the basis of ‘best value’ according to objective criteria (the “Best Value RFP”). Upon selection, PDC and the general contractor will negotiate and enter into a BV-GMP contract. The BV-GMP contract approach compares the strengths, weakness, risks,

performance, and price of each proposal in determining the best overall value and then ‘locks’ in the Project cost with the GMP Contract.

### **FINDINGS**

ORS 279C.335 and PDC’s Local Contract Review Board Administrative Rules (“LCRB Rules”) provide that the Local Contract Review Board may exempt certain public contracts from the low-bid process upon the Local Contract Review Board making the following findings (together, the “Findings”):

- a. That it is unlikely that such exemption will encourage favoritism in the awarding of the public contract or substantially diminish competition for the contract; and
- b. The awarding of the public contract under the exemption will likely result in substantial cost savings to the contracting agency.

In making the Findings, the Local Contract Review Board may consider the type, cost, and amount of the contract, the number of persons available to bid, and such other factors as may be deemed appropriate.

### **No Favoritism and No Diminished Competition**

The contractor selection will be accomplished by issuing a competitive Request for Proposal with objective best value selection criteria. Any general contractor may respond to the Best Value RFP. Among other things, the Best Value RFP will require competitive subcontracting, optimal schedule completion, and inclusion of opportunities for Minority, Women, and Emerging Small Business and Disadvantaged Business Enterprise firms and demonstrated ability to comply with PDC’s Business and Workforce Equity Policy, including the Workforce Training and Hiring Program. A committee will evaluate the proposals, followed by negotiations with the most qualified, responsive and responsible bidder to establish a best value GMP Contract. Based on the foregoing, the Local Contract Review Board should find that with the contracting process neither results in favoritism nor diminished competition.

### **Substantial Cost Savings**

This project is unusual for PDC. The Project includes three main components: demolition, environmental soil remediation, and public improvements under a single contract. While the contract value is small, there is a combination of complexity and risks that an alternative contracting approach can mitigate.

The Best Value RFP will allow PDC staff to evaluate a contractor’s previous experience with several key scopes of work including:

- 1) Demolition. The existing one story structure scheduled for demolition is located both near streets with high traffic volumes and adjacent to occupied structures. In addition, the Project site is in close proximity to the TriMet light rail Yellow Line.
- 2) Soil Remediation. The contractor will need to be, or subcontract to, a HAZWOPER certified firm to remove approximately 340 cubic yards of petroleum-contaminated soils. The excavation is immediately

adjacent to the public sidewalk and is expected to extend to a depth of 16', posing both worker and public safety issues.

3) Public Improvements. The courtyard area has three unique elements, including bench-height exposed concrete planter walls, a custom steel plate neighborhood kiosk, and a composite wood boardwalk between the courtyard and food cart area. In addition, the contractor will need to perform work in the public right-of-way of high traffic volume streets for two new driveway aprons and install stormwater basins and rock soakage trench.

The proposed RFP process: 1) screens proposers based on previous related experience, project approach and cost which is expected to reduce the risk of cost overruns and work scope changes and claims; 2) allows for the opportunity to review and seek clarification of drawings prior to negotiation of contract – which is expected to reduce likelihood of change orders that are often a product of gaps in drawings; and 3) will streamline the construction schedule for the three main scopes of work under a single qualified contractor generating efficiencies. Consequently, these measures are expected to result in substantial cost savings.

#### **PUBLIC HEARING**

In accordance with ORS 279C.335(5) and the LCRB Rules, Part 4(II)(B)(2), PDC published notice of the required public hearing which was held on May 11, 2015. A summary of the public comments and testimony offered at the public hearing (if any) is attached as Exhibit B.

#### **RECOMMENDATION**

PDC staff recommends that the Local Contract Review Board adopt the Findings and authorizing PDC to exempt the Project from the low- bid solicitation process in favor of using a best value GMP Contract Approach.

**PORTLAND DEVELOPMENT COMMISSION**

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**RESOLUTION NO. 7115**

**EXHIBIT B**

**ADOPTING FINDINGS IN SUPPORT OF AND EXEMPTING THE NELSON  
PARKING LOT IMPROVEMENT PROJECT FROM LOW-BID SOLICITATION**

**NO PUBLIC COMMENTS OR TESTIMONY WAS PRESENTED**

**RESOLUTION NO. 7115**

**RESOLUTION TITLE:**

ADOPTING FINDINGS IN SUPPORT OF AND EXEMPTING THE NELSON PARKING LOT IMPROVEMENT PROJECT FROM LOW-BID SOLICITATION

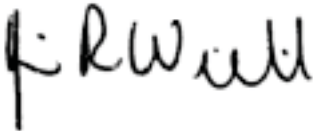
Adopted by the Portland Development Commission Local Contract Review Board on May 13, 2015

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Tom Kelly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Aneshka Dickson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Mark Edlen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Charles Wilhoite	<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 Portland Development Commission and as duly recorded in the official minutes of the meeting.*

	<b>Date:</b>  May 21, 2015
<b>Gina Wiedrick, Recording Secretary</b>	