

**DATE:** November 9, 2016  
**TO:** Board of Commissioners acting as the Local Contract Review Board  
**FROM:** Kimberly Branam, Executive Director  
**SUBJECT:** Report Number 16-60  
Adopting Findings in Support of and Exempting the Nelson Suites 20-40-50 Tenant Improvement Project from Low-Bid Solicitation

**BOARD ACTION REQUESTED**

Adopt Resolution No. 7220

**ACTION DESCRIPTION**

This action by the Portland Development Commission (PDC) Board of Commissioners (Board), serving in its capacity as PDC's Local Contract Review Board (LCRB), will adopt Resolution No. 7220 in support of an exemption from the general rule of low-bid solicitation for the Nelson Suite 20-40-50 Tenant Improvement Project (Project) to PDC-owned property at 8411 N. Denver Avenue (Property) in the Kenton neighborhood within the Interstate Corridor Urban Renewal Area. For a map of the Property, see Attachment A. The current tenant, Figure Plant, is looking to grow their business and expand into unoccupied Suite 20, soon-to-be vacant Suite 40, and move from a Temporary Use Permit to fixed term lease in Suite 50. These spaces need various upgrades to be usable for Figure Plant's needs. If approved, the Resolution No. 7220 will exempt the Project from the low-bid solicitation requirements in accordance with Oregon Revised Statutes (ORS) 279C.335 and allow PDC to proceed with the tenant improvements. Construction of the tenant improvements is contingent on successful negotiation of lease terms with Figure Plant.

ORS 279C.335 and PDC's LCRB Administrative Rules (LCRB Rules) provide that the LCRB may exempt certain public contracts from the low-bid process upon the LCRB making the following findings:

1. It is unlikely that such exemption will encourage favoritism in the awarding of a public contract or substantially diminish competition for the contract; and
2. The awarding of public contract under the exemption will result in substantial cost savings to the agency.

A Best Value Guaranteed Maximum Price contract solicitation (BV-GMP) is proposed as an alternative to low-bid contracting for the Project.

**BACKGROUND AND CONTEXT**

On May 30, 2011, the PDC Board through Resolution No. 6872 authorized acquisition of the Property as part of a larger real estate transaction. The Property consists of a group of six connected, one-story, industrial/office structures built in several phases between the 1930s and the 1990s, and a corner parking lot. See Attachment B for photographs of Suites 20, 40, and 50.

The scope of the Project includes demolition of existing walls, ceilings, and an old vault in Suite 20; complete renovation of Suite 20 into new office area and print room; utility and structural upgrades for new paint booth, fire rated roll up door, finish, and lighting upgrades in Suite 40; and minor finish and lighting modifications to Suite 50. New openings between occupied Suite 10 and Suite 20 and between occupied Suite 30 and Suite 40 will provide employee and equipment access between currently occupied spaces and the newly renovated spaces. With the completion of this project, the Property will be 100 percent leased.

PDC is contracting with Merryman Barnes Architects, a women-owned, local architecture firm to perform design work for this Project. The construction budget for the Project is \$250,000. Construction documents will be submitted to the City of Portland Bureau of Development Services for permitting by the end of November 2016, and PDC intends to coordinate all necessary procurement activities and construction administration services for the Project. If the LCRB approves the exemption, PDC will initiate general contractor solicitation by the end of November with construction work anticipated to start in early February 2017 and final completion anticipated by late spring 2017 (see Attachment C for a Proposed Project Schedule).

Because of the small scale of the Project and because the design is nearing completion, PDC staff is requesting to use a BV-GMP contract approach instead of Construction Manager/General Contractor, Design Build, or Multi-Step selection contracts. In making this request, PDC staff carefully reviewed the standard competitive bid solicitation process and determined that unique work elements such as working in an occupied building, new structural openings in walls shared with occupied spaces, tenant safety, schedule, and social equity goals would best be met with a BV-GMP contract approach.

PDC staff reviewed PDC's previous use of the BV-GMP contract approach as a method of selecting a general contractor using a Request for Proposals process on the basis of 'best value' according to objective criteria (the Best Value RFP). The BV-GMP contract approach has been used on other PDC projects including recently completed Nelson Parking Lot Improvements and Dawson Park Improvements. The Best Value RFP compares the strengths, weaknesses, risks, performance, and price of each proposal in determining the best overall value and then locks in the Project cost with the GMP Contract. Upon selection of the best value proposal, PDC and the general contractor will negotiate and enter into a Guaranteed Maximum Price Contract (GMP Contract).

### **COMMUNITY AND PUBLIC BENEFIT**

The BV-GMP approach enables contracting agencies, such as PDC, to more effectively screen bidders and use an evaluation process that is fair and balanced to select a contractor that presents less risk and is more likely to deliver the best overall value for PDC and the public. PDC can consider various factors in the selection process, such as past performance, project approach, and local economic benefits, including jobs and materials. This enables PDC to support positive societal impacts that provide local benefits to the community through the contracting work.

The final Project is also likely to be higher quality when it is delivered by a well-qualified contractor and its subcontractors. By using a BV-GMP contract PDC can reduce the risk of cost overruns, work scope changes, and claims.

### **PUBLIC PARTICIPATION AND FEEDBACK**

In accordance with ORS 279C.335 (5) and the LCRB Rules, Part 4(II) (B) (2), PDC published a 14-day notice of the intent to waive low-bid contracting on October 21, 2016. A public hearing was held on November 7, 2016, and the public was afforded the opportunity to request and provide written comments on the findings. No comments were received.

### **BUDGET AND FINANCIAL INFORMATION**

There are insufficient funds in the Interstate URA fiscal year (FY) 2016-17 Adopted Budget and Five-Year Forecast for this Project (see Attachment D). Therefore, staff is concurrently providing recommended FY 2016-17 budget revisions to the PDC Board for consideration in the November 9, 2016 meeting that reflect the carryover of these funds from the previous fiscal year.

### **RISK ASSESSMENT**

The risks associated with this action are negligible. However, if too few or no qualified bids are received there could be a schedule delay.

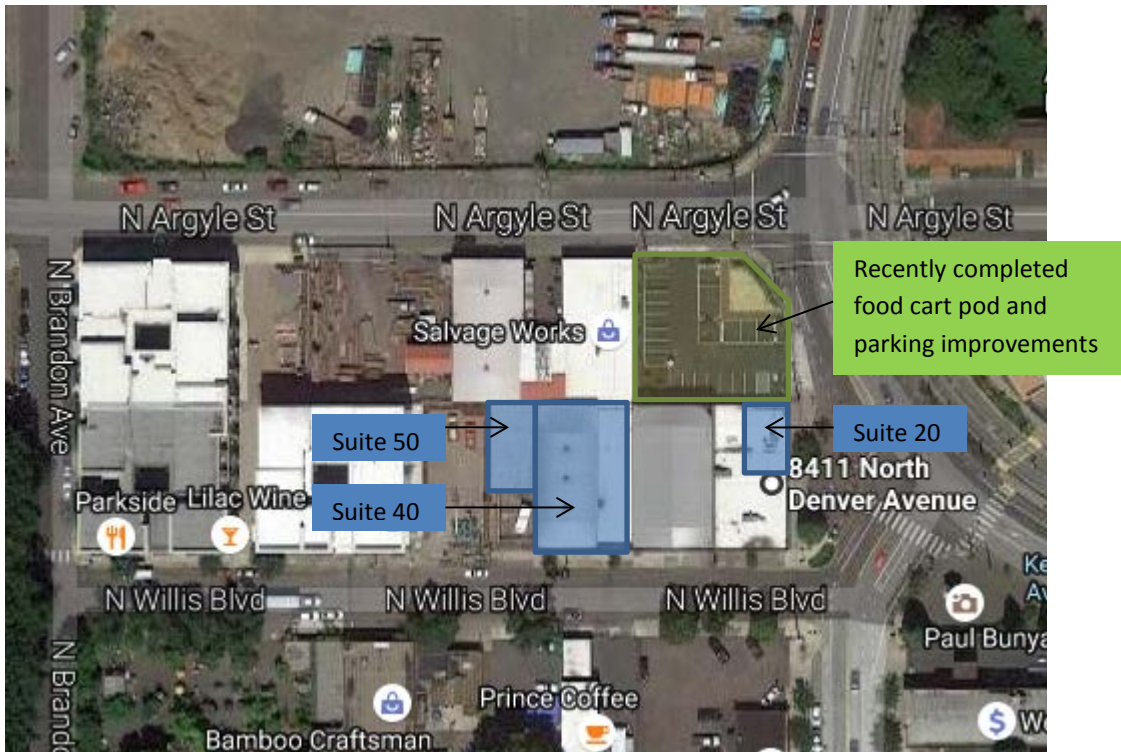
### **ALTERNATIVE ACTIONS**

The LCRB can choose to not adopt the findings or approve the alternative contracting exemption and may instruct PDC to use a traditional low-bid contracting process for the Project.

### **ATTACHMENTS**

- A. Site Map
- B. Existing Condition Photos
- C. Proposed Project Schedule
- D. URA Financial Summary

### Site Map



**8411 N. Denver Avenue, Portland OR**


**Suite 20 and 40 - Existing Conditions**



**Suite 50 - Existing Conditions**



### Proposed Project Schedule

(rev. 10/16)							
	<b>Nelson Suite 20-40-50 Tenant Improvement Project - Preliminary Schedule</b> 8411 N. Denver						
	Task	Nov-16	Dec-16	Jan-16	Feb-16	Mar-16	Apr-16
<b>Design</b>							
Construction Docs/ Permit Set 100%							
<b>Permitting</b>							
Submit for permit at BDS							
Permit Review							
<b>Alternative Contracting</b>							
PDC Board Meeting Nov. 9, 2016							
RFP Proposal Period (5 weeks - holidays)							
RFP Evaluation							
BV-GMP Contract Negotiations/ Award							
Contract Signing							
<b>Construction</b>							
Construction NTP							
Construction - 60 day + closeout							

### URA Financial Summary

<u>Interstate Corridor URA Fund</u>	<u>Revised FY 2015-16</u>	<u>Adopted FY 2016-17</u>	<u>Forecast FY 2017-18</u>	<u>Forecast FY 2018-19</u>	<u>Forecast FY 2019-20</u>	<u>Forecast FY 2020-21</u>
<b>Resources</b>						
Beginning Fund Balance	22,486,620	18,140,851	10,241,604	2,934,243	1,382,337	12,278,770
<b>Revenue</b>						
Fees and Charges	1,500	4,991	4,498	4,374	4,676	3,468
Interest on Investments	72,914	39,901	41,662	622	812	36,051
Loan Collections	664,611	167,137	309,606	284,737	345,199	103,557
TIF - Short Term Debt	18,981,000	18,981,000	18,958,972	18,665,851	18,981,000	18,981,000
TIF - Long Term Debt	0	-	9,000,000	2,200,000	-	28,954,146
Property Sales	415,000	502,160	-	-	-	-
Rent and Property Income	284,124	290,246	304,209	305,161	306,137	307,138
Reimbursements	63,529	71,526	84,644	85,277	85,930	86,602
<b>Total Revenue</b>	<b>20,482,678</b>	<b>20,056,961</b>	<b>28,703,591</b>	<b>21,546,022</b>	<b>19,723,754</b>	<b>48,471,962</b>
<b>Total Resources</b>	<b>42,969,298</b>	<b>38,197,812</b>	<b>38,945,195</b>	<b>24,480,265</b>	<b>21,106,091</b>	<b>60,750,732</b>
<b>Requirements</b>						
<b>Administration</b>						
A00030-Debt Management-ISC	34,133	22,532	22,532	22,532	22,532	22,532
<b>Administration Total</b>	<b>34,133</b>	<b>22,532</b>	<b>22,532</b>	<b>22,532</b>	<b>22,532</b>	<b>22,532</b>
<b>Economic Development</b>						
<b>Traded Sector</b>						
A00114-Business Development-ISC	5,000	5,000	5,000	5,000	5,000	5,000
A00381-Lean Manufacturing-ISC	50,000	50,000	50,000	50,000	50,000	50,000
<b>Community Economic Development</b>						
A00122-Community Development-ISC	51,000	25,000	25,000	25,000	25,000	25,000
A00106-NPI & Main St Network-ISC	65,000	50,000	50,000	50,000	50,000	50,000
<b>Business Lending</b>						
A00209-BL -General-ISC	8,652,000	650,200	650,200	650,200	650,200	200,200
<b>Economic Development Total</b>	<b>8,823,000</b>	<b>780,200</b>	<b>780,200</b>	<b>780,200</b>	<b>780,200</b>	<b>330,200</b>
<b>Housing</b>						
A00160-Home Repair Projects-ISC	500,000	-	-	-	-	-
A00162-Home Buyer Assistance-ISC	1,000,000	-	-	-	-	-
A00171-Affordable Housing-ISC	1,926,776	17,723,948	28,864,651	16,849,525	2,458,688	13,703,965
A00173-Beech St Apartments-ISC	182,893	-	-	-	-	-
A00181-PHB Staff & Admin-ISC	1,439,177	-	-	-	-	-
A00434-Grant Whse-ISC	510,000	-	-	-	-	-
<b>Housing Total</b>	<b>5,558,846</b>	<b>17,723,948</b>	<b>28,864,651</b>	<b>16,849,525</b>	<b>2,458,688</b>	<b>13,703,965</b>
<b>Infrastructure</b>						
<b>Parks</b>						
A00245-Bridgeton-ISC	0	1,500,000	-	-	-	-
A00247-Small Scale Improv-ISC	603,000	-	-	-	-	-
<b>Transportation</b>						
A00249-Killingsworth Stscape-ISC	2,450,000	500,000	-	-	-	-
A00250-Lombard Investment-ISC	500,000	759,830	1,000,000	-	-	-
<b>Infrastructure Total</b>	<b>3,553,000</b>	<b>2,759,830</b>	<b>1,000,000</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Property Redevelopment</b>						
<b>Real Estate</b>						
A00335-Nelson Bldg-Indust-ISC	829,385	80,414	73,029	73,029	73,029	73,029
A00336-Spar-Tek Building-ISC	24,287	24,287	24,287	24,287	24,287	24,287
A00337-Argyle Lot-ISC	6,533	6,700	6,700	6,700	6,700	6,700
A00338-3620 NE MLK Prkng-ISC	15,240	10,066	10,066	10,066	10,066	10,066
A00339-C&M Motors Lot-ISC	12,224	-	-	-	-	-
A00340-Reiss House-ISC	7,392	7,692	-	-	-	-
A00342-Real Estate Mgmt-ISC	15,290	17,500	17,500	17,500	17,500	17,500
<b>Commercial Property Lending</b>						
A00366-CPRL-General-ISC	2,472,000	1,879,172	1,276,275	1,276,275	1,276,275	1,276,275
<b>Redevelopment Strategy</b>						
A00333-MLK Alberta-ISC	50,000	734,375	196,455	199,553	200,858	210,005
A00334-Kenton Redev Dtnw-ISC	88,592	-	-	-	-	-



**Financial Summary  
 Five-Year Forecast**

<b>Interstate Corridor URA Fund</b>	<b>Revised FY 2015-16</b>	<b>Adopted FY 2016-17</b>	<b>Forecast FY 2017-18</b>	<b>Forecast FY 2018-19</b>	<b>Forecast FY 2019-20</b>	<b>Forecast FY 2020-21</b>
A00341-Project Development-ISC	5,000	20,000	20,000	20,000	20,000	20,000
<b>Redevelopment Grants</b>						
A00131-CLG-General-ISC	300,000	700,000	300,000	300,000	300,000	300,000
A00138-DOS-General-ISC	100,000	100,000	100,000	100,000	100,000	100,000
A00146-SIP-General-ISC	500,000	500,000	500,000	500,000	500,000	500,000
A00150-GFGP-General-ISC	100,000	100,000	100,000	100,000	100,000	100,000
<b>Property Redevelopment Total</b>	<b>4,525,943</b>	<b>4,180,206</b>	<b>2,624,312</b>	<b>2,627,410</b>	<b>2,628,715</b>	<b>2,637,862</b>
<b>Total Program Expenditures</b>	<b>22,494,922</b>	<b>25,466,716</b>	<b>33,291,695</b>	<b>20,279,667</b>	<b>5,890,135</b>	<b>16,694,559</b>
Personnel Services	491,371	413,544	435,236	444,821	460,877	470,556
<b>Total Fund Expenditures</b>	<b>22,986,293</b>	<b>25,880,260</b>	<b>33,726,931</b>	<b>20,724,488</b>	<b>6,351,012</b>	<b>17,165,115</b>
Interfund Transfers - Indirect Charges	1,842,154	2,075,948	2,284,021	2,373,440	2,476,309	2,547,970
Contingency	18,140,851	10,241,604	2,934,243	1,382,337	12,278,770	41,037,647
<b>Total Fund Requirements</b>	<b>42,969,298</b>	<b>38,197,812</b>	<b>38,945,195</b>	<b>24,480,265</b>	<b>21,106,091</b>	<b>60,750,732</b>