

**PROSPER PORTLAND**

Portland, Oregon

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

**RESOLUTION NO. 7263**

**ADOPTING FINDINGS IN SUPPORT OF A CONTRACT-SPECIFIC  
SPECIAL PROCUREMENT TO AWARD THE CONVENTION  
CENTER HOTEL GARAGE OFFICE EXPANSION DESIGN  
CONTRACT TO MORTENSON CONSTRUCTION, INC.**

**WHEREAS**, on April 8, 1987, the Prosper Portland Board of Commissioners (“Board”) through Resolution No. 3550 established the Prosper Portland Board as the agency’s Portland’s Local Contract Review Board (“LCRB”) pursuant to state law;

**WHEREAS**, ORS 279C.085(1)(b) and LCRB Rules Part 1(IV)(C) allow the LCRB to conduct a “contract-specific special procurement” upon LCRB approval of written findings;

**WHEREAS**, a “contract-specific special procurement” is a procurement methodology that differs from the purchase of goods and services with public funds as described in ORS 279B.055, 279B.060, 279B.065 or 279B.070 and is for the purpose of entering into a single contract for a single project.

**WHEREAS**, Mortenson Development, Inc., (“MDI”) was selected through a competitive Request for Proposals process by Metro to design and develop the Convention Center Hotel (“Hotel”) in the Oregon Convention Center Renewal Area and affirmed by the Prosper Portland Board through Resolution No. 6942 on April 30, 2012;

**WHEREAS**, on December 14, 2016, the Prosper Portland Board through Resolution No. 7222 authorized amended terms for a 422-stall parking structure development agreement with Mortenson Development for the design and construction of a parking garage (“Garage”) on Prosper Portland-owned property at the northwest corner of NE 2<sup>nd</sup> Avenue and NE Holladay Street that will, upon completion, be a Prosper Portland-owned asset;

**WHEREAS**, terms approved through Resolution No. 7222 included design changes to the Garage attributable to the inclusion of superstructure to support future development of an office building above the Garage;

**WHEREAS**, on December 14, 2016, the Prosper Portland Board, acting as the LCRB, approved Resolution No. 7224 which exempted the Design Build contract with MDI from competitive bidding based on the selection of MDI through Metro’s competitive process and the integral connection between the delivery and operations of the Garage with the Hotel;

**WHEREAS**, the Garage will meet several public objectives, including (i) supporting and making feasible the 600-room Hotel, an anchor to the success of the Oregon Convention Center and its role in the regional economy, by providing required customer parking facilities and valet services; (ii) providing ground floor space and parking to TriMet for critical agency operations; (iii) providing a platform for development of an office building in the Prosper Portland-owned air rights (“Air Rights”) on top of the Garage; and (iv) creating a long-term revenue stream to Prosper Portland in the form of valet and other parking income;

**WHEREAS**, Mortenson Construction, Inc. is the general contractor included as part of the development team led by MDI for both the Hotel and Garage projects;

**WHEREAS**, Prosper Portland staff proposes to enter into a Convention Center Garage Office Expansion Design Contract with Mortenson Construction, Inc. for approximately \$477,593 for the purpose of preparing Conceptual Plans and associated cost estimates for an approximately 100,000 square foot office building and two levels of associated parking above the Garage;

**WHEREAS**, Prosper Portland staff will publish a public notice for this Special Procurement as required by ORS 279C.085(5) and LCRB Rule Part 1(IV)(C);

**NOW, THEREFORE, BE IT RESOLVED**, that based on approval of the Findings, the Prosper Portland Board acting as the LCRB hereby adopts the findings set forth in Exhibit A (“Findings Report”) in support of exempting the Convention Center Garage Office Expansion Design Contract from a competitive selection process;

**BE IT FURTHER RESOLVED**, that based on approval of the Findings Report, the LCRB hereby authorizes the executive director to execute the Convention Center Garage Office Expansion Design Contract with Mortenson Construction, Inc. for approximately \$477,593, as may be further amended subject to approval for legal sufficiency; and

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

Adopted by the Prosper Portland Commission on February 14, 2018



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Pam Micek, Recording Secretary



**PROSPER  
PORTLAND**  
Building an Equitable Economy

**RESOLUTION NO. 7263**

**RESOLUTION TITLE:**

ADOPTING FINDINGS IN SUPPORT OF A CONTRACT-SPECIFIC SPECIAL PROCUREMENT TO AWARD THE CONVENTION CENTER HOTEL GARAGE OFFICE EXPANSION DESIGN CONTRACT TO MORTENSON CONSTRUCTION, INC.

Adopted by the Prosper Portland Commission on February 14, 2018

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Gustavo J. Cruz, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Alisha Moreland-Capuia MD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Francesca Gambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Peter Platt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner William Myers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

**CERTIFICATION**

**The undersigned hereby certifies that:**

*The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Prosper Portland Commission and as duly recorded in the official minutes of the meeting.*

	<b>Date:</b> February 15, 2018
<b>Pam Micek, Recording Secretary</b>	

**DATE:** February 14, 2018

**TO:** The Prosper Portland Board of Commissioners acting in its capacity as the Local Contract Review Board for Prosper Portland

**FROM:** Kimberly Branam, Executive Director

**SUBJECT:** Findings in Support of a Contract-Specific Special Procurement to award the Convention Center Garage Office Expansion Design Contract to Mortenson Construction, Inc.

**I. BACKGROUND AND CONTEXT**

Pursuant to Prosper Portland's *Local Contract Review Board Administrative Rules* ("LCRB Rules"), Part 1, Section IV(C), this memorandum requests a Special Procurement to exempt a contract with Mortenson Construction, Inc. ("Mortenson") from a competitive solicitation process. Under the contract, Mortenson will provide pre-development construction services through Conceptual Design including cost estimating for an approximately 100,000 square foot office building (the "Project") to be located on top of the Convention Center Garage that is owned by Prosper Portland and scheduled to begin construction in early 2018. The purpose of this work is to determine the financial feasibility of the Project. The anticipated contract amount is \$477,593.

**BACKGROUND**

The Oregon Convention Center URA was formed in 1989 with the primary URA Plan goal of establishing "at least one headquarters hotel in the immediate vicinity of the Oregon Convention Center to capitalize on the convention center's capacity."

Between 2004 and 2012, Prosper Portland partnered with Metro – the owner and operator of the Oregon Convention Center – to accomplish this goal. In 2012, Metro issued a competitive Request for Proposals ("RFP") for a development team to build, own, and operate a private Convention Center Hotel (Metro RFP 13-2115 dated May 2012). The Metro Council selected Mortenson Development, Inc. ("MDI") team, which includes Mortenson Construction, Inc. as the general contractor. This selection was supported by Prosper Portland through Resolution No. 6942. Metro subsequently entered into a binding Development and Financing Agreement with MDI for the construction of the 600-room Oregon Convention Center Hyatt Regency Hotel.

Through the Hotel design and development process, Prosper Portland, Metro, MDI, and Hyatt determined that the Hotel's parking needs would best be met through construction of a stand-alone parking structure on the adjacent 0.88 acre Prosper Portland property known as Block 49. Through Resolutions No. 7165 (February 2016) and No. 7222 (December 2016), the Prosper Portland Board of Commissioners authorized entering into a Parking Structure Development Agreement with MDI for the purpose of constructing a \$31.4 million, 442-stall, seven story parking garage ("Garage") on Block 49 to support the development and operation of the adjacent Hotel. Prosper Portland partnered with MDI to deliver the Garage because MDI has been selected through a competitive process and development and operation of the Garage is integral and necessary to support the adjacent Hotel and must be delivered and ready for operation concurrent with the opening of the Hotel. The most suitable way to accomplish this

was for MDI to be responsible for delivery of both the Hotel and Garage and to proceed with integrated staging and sequencing of construction. Construction of the Garage is expected to begin in early 2018, and both the Hotel and Garage are anticipated to be completed and operational in late 2019.

During the Garage design and development process, the site was identified to have additional development capacity beyond the Garage. Based on this, Prosper Portland directed MDI to prepare a preliminary plan to develop approximately 100,000 square foot office building on top of the Garage. MDI completed this work and incorporated into the Garage design the systems and foundation superstructure necessary to support the proposed office building. This superstructure work was included in the scope and cost approved by the Prosper Portland Board of Commissioners in Resolution No. 7222. Similarly, application materials submitted by MDI and Hyatt Regency and reviewed as part of the City's Land Use and Design Review approval processes considered the future office tower (Land Use Review #15-274415 and Design Advice Review #14-194555). With the Garage design complete and ready to begin construction, Prosper Portland desires to advance the proposed office development through Conceptual Design.

#### **SCOPE OF SERVICES**

Mortenson will provide Pre-Development services including Due Diligence, Conceptual Design, and Cost Estimating services for approximately 100,000 square foot office building to be located on top of the 442-space Convention Center Garage. Mortenson's work will begin upon approval by the Prosper Portland Board and conclude in approximately May 2018 and cost \$477,593. Deliverables include a design workshop; Conceptual Architectural Drawings; Construction Budget Estimate; Design Narratives; and Project Schedule.

#### **SPECIAL PROCUREMENT FINDINGS**

**Finding of No Favoritism** *(The proposed contract is unlikely to encourage favoritism in the awarding of contracts by Prosper Portland and the proposed contract will not substantially diminish competition for other public contracts.)*

Mortenson Construction is the Design/Builder on the MDI team selected by Metro (and their partners) via the 2012 Request for Proposals to develop and construct the Convention Center Hotel. In February 2016, Prosper Portland's Board of Commissioners approved Resolutions Nos. 7165, 7166, and 7167 to authorize the terms of a Parking Structure Development with Mortenson, formally aligning efforts between Metro, Hyatt, Mortenson Development, and Prosper Portland. Given Mortenson's experience with design and construction of the Garage, Mortenson Construction is best positioned and particularly suited to carry forward the design and construction of the Project on top of the Garage.

Other than the other integrated work done by Mortenson on this project noted above, Mortenson, indirectly through its affiliation with MDI, has been under the following contracts and/or sales or development agreements in the past 36 month:

- I. SW 3<sup>rd</sup> and Taylor Purchase and Sale Agreement and Contingent Right of Repurchase between Prosper Portland and 3<sup>rd</sup> and Taylor Hotel, LLC dated February 9, 2015 for the conveyance of a 10,000 square foot parcel for the consideration of \$2,500,000. The buyer was selected through a competitive Request for Offers. The purpose of the

property sale was for the development and construction of an AC Marriott Hotel (Resolution No. 7072). Construction was completed in April 2017.

- II. Purchase and Sale Agreement and Right of Repurchase and Right of Repurchase Between the Prosper Portland and Mortenson Development, Inc. dated July 20, 2016 for the conveyance of a 13,000 square foot parcel known as Block 47 for the consideration of \$1,300,000 (Resolution No. 7069). Before Metro selected MDI as the developer of the Convention Center Hotel, Prosper Portland had agreed with Metro to convey this parcel, at full fair market value, to whomever Metro selected through its own competitive process, to develop the Hotel. The purpose of the property sale was part of the land consolidation needed for MDI to construct the Oregon Convention Center Hyatt Regency Hotel. Construction on the hotel began in January 2018.

If the Project is determined to be feasible and a Lump Sum contract price successfully negotiated with Mortenson for future phases, Prosper Portland could elect to enter into a Design-Build Contract with Mortenson for the final design and construction of the Project or to transfer the contract and related costs to a development partner to be identified through competitive bid. Mortenson in its role as general contractor on the Garage is best positioned to deliver the successful and cost-effective completion of the Project since the Project will be built on top of and integral to the Garage.

Other than this continuing work with Mortenson on the Garage and Project, which is a finite commitment, Prosper Portland's contracts on the Garage and Project will have no bearing on the opportunity for other contractors to bid on (compete for) any other prospect Prosper Portland project.

**Finding of Promotion of Public Interest.** *(Selection of the proposed contractor substantially promotes the public interest in a manner that could not practicably be realized by conducting a competitive solicitation process.)*

The public's interest, including cost-effectiveness, risk management, and efficiency, are best served by contracting with Mortenson, the firm that previously designed and began construction on the Garage over which the Office is to be built.

Mortenson and its associated team members, including structural engineer Lund Opsahl, are already under contract to Prosper Portland to design and construct the Garage. Through that design process, Mortenson prepared preliminary plans for the Project and incorporated the design features and foundation superstructure necessary into the Garage to support construction of the Project on top of the Garage during the maximum price negotiations and Design Review processes. Through this experience, Mortenson has gained intimate knowledge of the design and engineering of the Garage; understands the design and structural relationships between the Garage and Project; and is uniquely situated to continue to the coordinated staging and sequencing between the Garage and Project construction. Over the past few months, Mortenson has solicited for a local architectural team based on the Project needs and has selected ZGF Architects to bring local and office design expertise to the design/build team.

Conducting a competitive solicitation process to select a new construction partner to manage a design/build contract will likely increase cost and create significant risks for Prosper Portland including:

- Apart from cost and schedule efficiencies, one of the key benefits of the design-build method is the minimization of Owner/Architect/Contractor claims; this special procurement request preserves this approach by seamlessly integrating design and construction of the Garage and Project, thereby localizing risks with one firm;
- A new design/build construction team would require additional time and expense to become familiar with and knowledgeable of the Garage design and structural relationships between the Garage and Project; the Project might encounter difficulty and delays in receiving Design Review approval; and
- A new design/build construction team may encounter challenges with permitting and beginning construction on the Project relative to closing out the permitting and receiving a Certificate of Completion for the Garage.

These risks, individually and collectively, represent potential cost increases and schedule delays contrary to the delivery of the Project in a responsible, efficient, and cost-effective manner. Given the interrelationships between the Garage and Project, contracting with Mortenson will streamline the design and approval process and ensures a single point of responsibility for design, schedule, cost, and construction outcomes. Prosper Portland intends to retain a third-party construction cost estimator during the design process to validate these cost efficiencies, review cost proposals and potentially identify other savings.

To implement Prosper Portland's Social Equity Policy, Prosper Portland has a compelling interest to ensure that Prosper Portland projects provide opportunities for State of Oregon Certified firms (Minority-Owned, Women-Owned, Disadvantaged and Emerging Small Businesses or M/W/D/ESBs). Prosper Portland has established a 20 percent utilization goal for professional services costs and a 20 percent utilization goal for a project's hard construction costs. For the \$477,593 in professional services costs awarded through this special procurement, Prosper Portland anticipates 20.4 percent will be awarded to M/W/D/ESB certified firms.

The contract to construct the Project is not included in this special procurement request and will be awarded at a later date or managed through a third party development partner. Mortenson achieved 24 percent M/W/E/ESB utilization on construction of the AC Marriott Hotel which was a Prosper Portland sponsored project. Mortenson's subcontracting plan for the Garage indicates their efforts will achieve 21 percent M/W/D/ESB utilization. Based on Mortenson's commitment to and proven results regarding both professional services and hard construction costs, Prosper Portland anticipates Mortenson will continue to take all reasonable and necessary steps to provide opportunities for Certified Firms and achieve Prosper Portland's social equity goals.

### **III. PUBLIC NOTICE**

Prosper Portland staff will publish a public notice for this Special Procurement as required by ORS 279C.085(5) and LCRB Rule Part 1(IV)(C);

**IV. RECOMMENDATION**

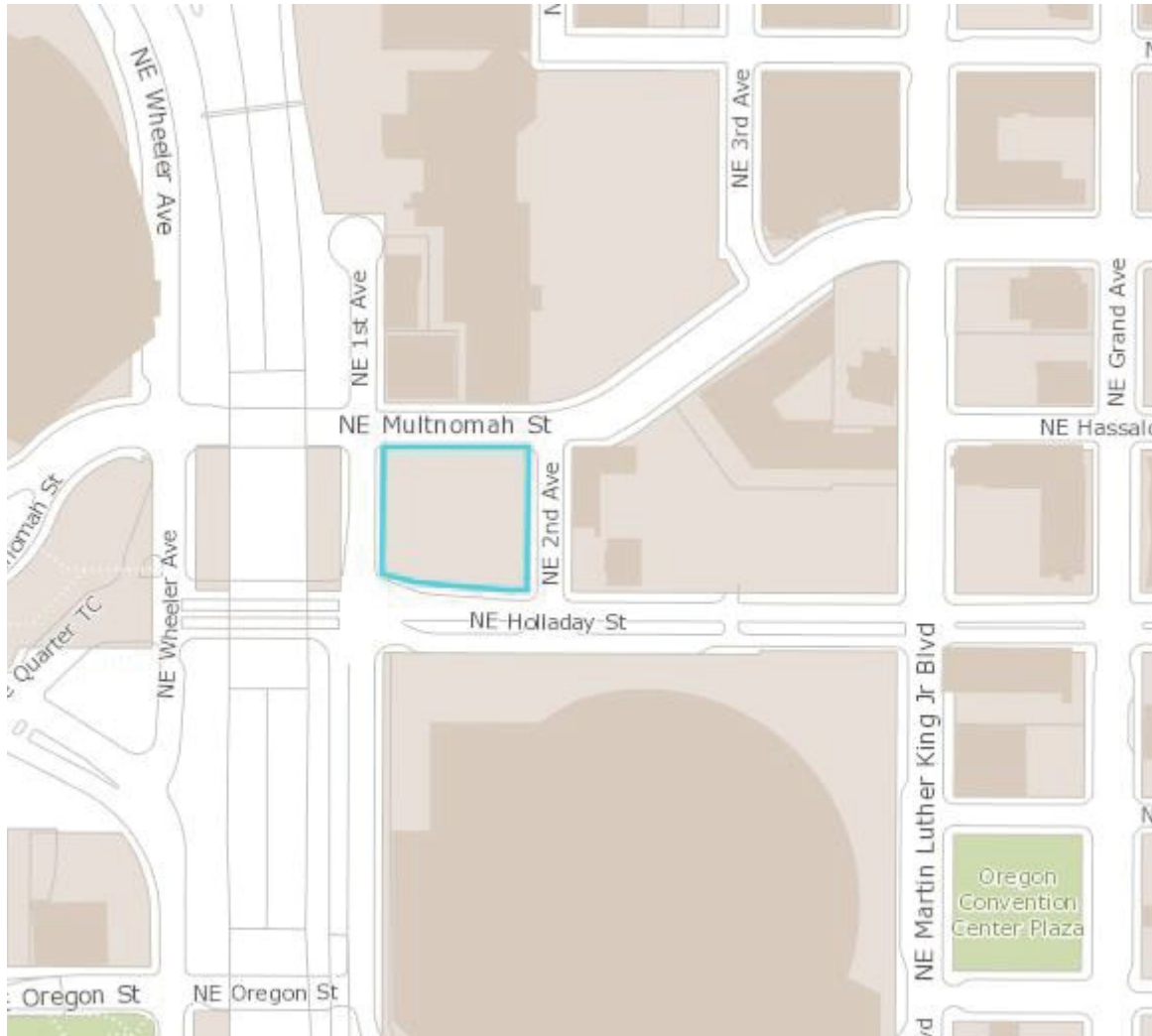
Prosper Portland staff recommends that the LCRB adopt a resolution for a Special Procurement that authorizes Prosper Portland to exempt the Convention Center Garage Office Expansion Design Contract with Mortenson from a competitive solicitation process.

**ATTACHMENTS**

- A. Site Map
- B. Conceptual renderings of Convention Center Hotel Garage Office Expansion



### Site Map



**Preliminary Renderings of Convention Center Garage Office Expansion**

**View looking Northeast from corner of NE 1<sup>st</sup> Avenue and NE Holladay Street**



**View looking Southwest from corner of NE 2<sup>nd</sup> Avenue and**

