

PDC

PORTLAND DEVELOPMENT COMMISSION

DATE: December 1, 2008

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

FROM: Bruce A. Warner, Executive Director

SUBJECT: Report No. 08-134

Approve Findings to Exempt from Competitive Bidding an Amendment to the Waterfront Park Improvements Contract with Brown Contracting

EXECUTIVE SUMMARY

BOARD ACTION REQUESTED

Adopt Resolution No. 6652

ACTION SUMMARY

This action by the Portland Development Commission (PDC) Local Contract Review Board (the LCRB) will make findings in support of an exemption from competitive bidding for an amendment to the existing Waterfront Park Improvements Contract (No. 307009) with Brown Contracting, Inc. for the Ankeny Wastewater Pump Station Odor Control Civil Work (the Odor Control Project). This exemption is permitted by state law and the following PDC Local Contract Review Board Administrative Rules (the LCRB Rules).

The PDC LCRB may exempt certain public contracts from the competitive bidding requirements upon the following findings:

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

Incorporation of the Odor Control Project into the existing Waterfront Park Improvements Project contract via an amendment has been deemed necessary by PDC project staff due to the interrelated nature of the project work, and the inextricable link between the Odor Control Project and the ongoing Waterfront Park Improvement Project work. Previously it was anticipated that the Bureau of Environmental Services (BES) would be completing the Odor Control Project by separate low bid process in conjunction with PDC's work in Waterfront Park. The compressed timeline for the Waterfront Park Improvements Project has required PDC to perform the Odor Control Project in order to keep the project completion date on track. Portland Saturday Market must gain beneficial occupancy of the Waterfront Park site by March 1, 2009, in order to commence their season.

PUBLIC BENEFIT

Completion of the Odor Control Project will improve the public amenity and remediate the potential odor created by the Combined Sewage Outfall (CSO) project. PDC will construct the Odor Control Project on behalf of BES in order to integrate this work into the Waterfront Park Project.

The benefits of completing the Odor Control Civil Work now as part of the Waterfront Park Project are:

1. All subsurface Odor Control Civil Work will be in-place prior to the finish work underway with the Waterfront Park Project – thus not requiring ripping out finish work at a later date;
2. All subsurface Odor Control Civil Work will be completed by the same date as the Waterfront Park Project under a very tight timeline – thus not disrupting any future use of Waterfront Park by Portland Saturday Market or the busy Greenway Trail; and
3. There are efficiencies with utilizing a single contractor already mobilized on-site and familiar with the challenging subsurface conditions – thus not requiring separate mobilization and coordination between two separate overlapping contractors working at a very constrained site.

This action will support the following PDC goals:

- Develop healthy neighborhoods
- Provide access to quality housing
- Help businesses to create and sustain quality jobs
- Support a vibrant Central City (urban core)
- Contribute to a strong regional economy

PUBLIC PARTICIPATION AND FEEDBACK

As part of the process to consider this exemption, a public hearing was conducted by staff on November 20, 2008, to afford an opportunity for public comment on this exemption.

CONCURRENCE WITH ADOPTED PLANS AND POLICIES

This exemption and the process for considering and approving it are in compliance with ORS Chapter 279 and the PDC LCRB Rules.

FINANCIAL IMPACT

As noted in the *Draft Findings in Support of Exemption from Competitive Bidding* (Exhibit A to the Resolution), this exemption should result in substantial cost savings over the traditional bid process.

RISK ASSESSMENT

If the exemption is not approved, BES will need to advertise for bids for this work, which will delay these improvements, result in increased cost, and negatively impact operations of Portland Saturday Market, other uses of Waterfront Park and the Greenway Trail when such improvements are subsequently made.

WORK LOAD IMPACT

Not applicable.

ALTERNATIVE ACTIONS

The PDC Board could elect to not authorize the exemption from LCRB requirements which would require BES to advertise for bids for this work, and either delay opening of the Portland Saturday Market or result in serious disruption of public use.

CONCURRENCE

BES is in agreement that undertaking this work as soon as possible is necessary and prudent to realize substantial cost savings and minimize future disruption of Saturday Market and other Waterfront Park uses.

BACKGROUND

The integration of the Odor Control Project into the construction of the Waterfront Park Improvements Project has been deemed necessary due to the fact that it will increase the quality of this multi-functional public space, and will eliminate foul odors from the area which will be adjacent to Portland Saturday Market's food court. The Odor Control Project improvements were anticipated to be completed by BES prior to opening of the Portland Saturday Market, however due to delay in completing final design, the preference now is to incorporate this work into the existing construction contract in order to complete at the same time as the rest of the improvements in Waterfront Park and realize substantial cost savings.