

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

ACTING IN ITS CAPACITY AS THE LOCAL CONTRACT REVIEW BOARD

RESOLUTION NO. 7231

ADOPTING FINDINGS IN SUPPORT OF AND EXEMPTING THE ENGINE HOUSE NO. 2 REHABILITATION PROJECT FROM LOW-BID SOLICITATION

WHEREAS, by adoption of Resolution No. 3550, the Portland Development Commission (“PDC”) Board of Commissioners (“Board”) was established as the 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 requirement for competitive bidding upon LCRB approval of written findings;

WHEREAS, PDC staff proposes to use a Construction Management/General Contractor (“CM/GC”) contractor selection process resulting in solicitation for construction services through a competitive Request for Proposals (“RFP”) process to perform construction, preconstruction, and other services on the Engine House No. 2 Rehabilitation Project (“Project”);

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.335(5) and LCRB Rules Part 4(II)(B)(2).

NOW, THEREFORE, BE IT RESOLVED, the PDC Board acting as the LCRB hereby adopts the findings set forth in Exhibit A (“Findings Report”) in support of exempting the Project from competitive bidding;

BE IT FURTHER RESOLVED, that based on approval of the Findings Report, the LCRB hereby exempts the Project from the competitive bidding requirements of ORS 279C.335(1) and the LCRB Rules and specifically approves the Project for the alternative contracting approach set forth in the Findings Report; and

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

Adopted by the Portland Development Commission on April 12, 2017



Pam Micek, Recording Secretary

DATE: April 12, 2017
TO: The PDC Board of Commissioners Acting in its Capacity as the Local Contract Review Board for PDC
FROM: Kimberly Branam, Executive Director
SUBJECT: Findings in Support of an Exemption from Competitive Low Bid Solicitation for the Engine House No. 2 Rehabilitation Project

I. BACKGROUND AND CONTEXT

The findings (“Findings”) herein support a resolution by the Portland Development Commission (“PDC”) Board of Commissioner (“Board”), acting as the PDC Local Contract Review Board (“LCRB”), exempting the Construction Management/General Contractor (“CM/GC”) services of the Engine House No. 2 Rehabilitation Project (“Project”) from a low-bid selection process.

PDC owns the 33,580 square foot (“SF”) parcel known as Engine House No. 2 (the “Property” or “building”), located at the northeast corner of NW 3rd Avenue and NW Glisan Street in the River District Urban Renewal Area (“RDURA”). A map and photograph of the Property can be seen in Attachment A of these Findings. PDC acquired the Property in 1987 as part of the Union Station acquisition. The Property has been designated a Portland Historic Landmark by the City of Portland. A May 2013 report by the Portland Historic Landmarks Commission identified the Property as one of 11 Threatened and Endangered Resources in the City of Portland.

The building was most recently used as professional office space and is currently vacant. The building is generally in poor condition, including large settlement cracks, deterioration of the mortar, missing/broken bricks, spalled concrete, and water damage. The building was placed on the “Unsafe Building List” by the Portland Fire and Rescue in 2010. Building evaluations have found the building to be in need of seismic, structural, roofing, masonry, electrical, plumbing, and other repairs.

PDC has also conducted soils and geotechnical analyses which found the Property is underlain by soft and loose fills to a considerable depth. The soils are susceptible to settlement due to static loading. In addition, according to a geotechnical study by Hart Crowser, the “site is mapped by the City as being in a zone of high earthquake hazard, and based on the subsurface conditions, the native and fill soils are likely to be highly susceptible to liquefaction under strong earthquake shaking.” In the event of a strong earthquake, both horizontal settlement on the order of two to four feet and lateral displacement on the order of two to up to 10 feet are likely to occur.

PDC initiated a renovation strategy by issuing a Request for Interest (RFI) in 2015 seeking a development partner. Through that process, Lift Development (Lift) was selected as the development partner with Lift’s principal Rahim Abbasi serving as project architect. Initial concept design and analysis indicated that renovation of the building is not financially feasible with private financing. As a result, the current approach is to seek designation of the Property on the National Register of Historic Place and to incorporate Historic Tax Credits (HTC), together with a PDC investment, as part of the financing for the renovation project.

PDC will lead this effort and is in the process of assembling a team of engineers, historic preservation specialists, and a Construction Management/General Contractor (CM/GC) (Design Team) to advance the renovation of the building through construction documents and pricing. At that point the financial feasibility of the project will be determined. If feasible, PDC staff will seek Board approval of a Purchase and Sale Agreement (PSA) or similar agreement that will convey the Property to a development entity

mostly likely consisting of Lift and a HTC investment partner (together, the Owner), which will then proceed to complete the renovations and subsequently tenant and operate the Property. Current plans anticipate the building will be renovated for office space and will be ideal for an owner/occupant or several small businesses.

PDC staff determined that a CM/GC delivery method will best meet Project objectives including: (a) Using an integrated design team and contractor approach to address complex foundation and soils stabilization and underpinning of the historic building to meet seismic stabilization requirements; (b) the CM/GC will provide feedback during the design phase ensuring constructability of the proposed renovations; and (c) receiving pricing by the CM/GC at pivotal milestones to evaluate financial feasibility. Pricing by the CM/GC will be provided on an open book basis for review and verification by PDC and independent cost estimator. Upon completion of project design and receipt of a Guaranteed Maximum Price (“GMP”) from the CM/GC and verification that it is a fair price by PDC and a third party cost estimator, the Owner will enter into a construction contract and the CM/GC will become the general contractor. This overall process is expected to result in significant cost savings and in the best use of limited resources available for the Project.

With this action to depart from low-bid selection process, PDC will issue a general RFP to select a CM/GC team on the basis of overall qualifications, expertise, capacity, and familiarity with the CM/GC delivery method. After notice of intent to award the contract, PDC and the selected team will negotiate and enter into a CM/GC contract. The CM/CG contract will consist of two parts: (1) Design services for schematic design, design development, and construction documents for the preferred design, with associated cost estimating services; and (2) upon approval of the GMP, construction of the building renovations.

II. FINDINGS

Oregon Revised Statutes (“ORS”) Chapter 279C.335(2) and PDC’s *Local Contract Review Board Administrative Rules* (“LCRB Rules”), Part 4, Section II(B)(2) provide that the LCRB may exempt certain public improvement contracts from a competitive low bid process upon the LCRB making the following Findings:

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

In making the Findings, the LCRB 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 RFP with Project-appropriate evaluation criteria. Evaluation criteria will likely include the qualifications and strength of the proposing CM/GC team; relevant project experience especially in regard to seismic stabilization of unreinforced masonry buildings and foundations and underpinning an existing building on poor soils; approach and methodology for completing the CM/GC scope of work; cost; engagement of disadvantaged, minority-owned, women-owned, and emerging small businesses (together, “Certified Firms”), and other relevant factors. No prequalification process will be used and any CM/GC team may respond to the RFP. Among other things, the CM/GC contract will require open book cost estimating for review by PDC and third-party contractors, competitive subcontracting, optimal schedule completion, inclusion of opportunities for Certified Firms, and demonstrated ability to comply with PDC’s Equity Policy, including the PDC’s

Business Equity and Workforce Equity programs. A committee will evaluate the proposals, followed by negotiations with the most qualified, responsive, and responsible bidder to establish a CM/GC contract. As PDC staff intends to conduct the RFP through a fair, impartial, and transparent process, no favoritism will be shown and competition will not be diminished.

Substantial Cost Savings

Design of the Project has not advanced beyond the concept phase. The preferred design and specific requirements for the seismic stabilization and underpinning of the building given the site conditions are unknown at this time. Since this is not a conventional new-construction or rehabilitation project, constructability of the specialized architectural and engineering solution requires specialized knowledge and skills given the general contractor will need to stabilize the existing unreinforced masonry building in place while likely constructing a mat foundation supported by a series of micropiles and/or drilled shafts with injected ground improvements.

Using a CM/GC delivery method will enable PDC, Design Team, and CM/GC to quickly and efficiently generate and evaluate potential design solutions for constructability and cost-effectiveness. Incorporating feedback from the CM/GC early and throughout the design process will result in significant cost and time savings since investigating infeasible solutions and rework will be minimized during the design process, and alternative means and methods of construction can be incorporated into the preferred solution to optimize cost savings, and change orders will be minimized during construction. Such savings would not be possible through a traditional, design-bid-build construction project owing to many challenges that renovation of the Project poses. Finally, once design drawings are completed to the point of constructability, a Guaranteed Maximum Price (GMP) will be developed and upon approval will enable construction to commence immediately after permitting. This process eliminates multiple solicitations and considerably streamlines delivery of services and reducing costs. Engaging the CM/GC to participate in both design and construct the Project will result in efficiencies of design, value engineering, and cost estimation, and will reduce overhead expense. The GMP by the CM/GC will be provided on an open book basis for review and verification by PDC and independent cost estimator as being fair and within market conditions.

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 April 11, 2017.

III. RECOMMENDATION

PDC staff recommends that the LCRB adopt the resolution making the Findings and authorizing the Executive Director to exempt the Project from competitive low-bid solicitation process in favor of using a CM/GC selection process, resulting in a solicitation of CM/GC services through a competitive RFP.

SITE MAP



EXISTING BUILDING (FRONT AND SOUTH ELEVATION)



EXISTING BUILDING (REAR AND YARD)



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RESOLUTION TITLE:

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Adopted by the Portland Development Commission on April 12, 2017

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 Mark Edlen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Alisha Moreland-Capuia MD	<input 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 checked="" type="checkbox"/>	Commissioner Gustavo J. Cruz, Jr.	<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.

	Date: April 13, 2017
Pam Micek, Recording Secretary	