

PROSPER PORTLAND

Portland, Oregon

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

RESOLUTION NO. 7413

**ADOPTING FINDINGS IN SUPPORT OF AND EXEMPTING SITE
PREPARATION ACTIVITIES INVOLVING THE FORMER UNITED STATES
POSTAL SERVICE PROCESSING AND DISTRIBUTION CENTER LOCATED AT
715 NW HOYT STREET FROM LOW-BID SELECTION PROCESSES**

WHEREAS, by adoption of Resolution No. 3550, the Prosper Portland Board of Commissioners (“Board”) was established as the agency’s Local Contract Review Board (“LCRB”) pursuant to State of Oregon (“State”) law;

WHEREAS, Oregon Revised Statutes (“ORS”) Chapter 279C and Prosper Portland’s LCRB Administrative Rules (“LCRB Rules”) generally require that all public construction contracts shall be awarded pursuant to a low-bid selection process (“competitive bidding”);

WHEREAS, ORS Chapter 279C.335(2) and LCRB Rules, Part 4(II)(B)(2) allow exemptions to the general requirement for competitive bidding upon the LCRB making certain findings;

WHEREAS, the acquisition and redevelopment of the United States Postal Service Processing and Distribution Center (“USPS Property”) at 715 NW Hoyt Street in the River District Tax Increment Finance District has long been envisioned by the general public, elected officials, and adopted land use and development plans as one of the most significant redevelopment sites in Portland’s central city;

WHEREAS, LCRB Resolution No. 7345, adopted November 13, 2019 (“November 2019 Resolution”), authorized an exemption from low-bid solicitation for (i) demolition and associated remediation of the vehicle maintenance facility on the northern side of the USPS Property, which is now complete (“VMF-Related Scope”); and (ii) the demolition and associated remediation and site work for the Processing and Distribution Center building, including soil remediation and reconfiguration of accessways on the USPS Property (“P&DC-Related Scope”);

WHEREAS, the November 2019 Resolution contemplated that the VMF-Related Scope and the P&DC-Related Scope would be performed pursuant to two separate contracts, with one contract governing the VMF-Related Scope and another governing the P&DC-Related Scope;

WHEREAS, pursuant to the LCRB Administrative Rules and State law, Prosper Portland cancelled Request for Proposals No. 19-53 pertaining to the P&DC-Related Scope after determining that it was in the public interest to do so;

WHEREAS, Prosper Portland has evaluated its procurement process and strategy in connection with the P&DC-Related Scope, and believes that dividing the P&DC-Related Scope into two separate scopes of work, to be solicited pursuant to two separate requests for proposals (“Revised Scopes”), is in the public interest, all as described in the findings report attached as Exhibit A to this Resolution (“Findings Report”); and

WHEREAS, after due public notice, staff held a public hearing to receive comments on the draft findings for the exemption of the Revised Scopes as required by ORS Chapter 279C.335(5) and LCRB Rule, Part 4(II)(B)(2)(c).

NOW, THEREFORE, BE IT RESOLVED, the Prosper Portland Board acting as the LCRB hereby approves the Findings Report and adopts the findings set forth therein;

BE IT FURTHER RESOLVED, that based on approval of the Findings Report, the LCRB hereby exempts the Revised Scopes from competitive bidding requirements of ORS Chapter 279C and the LCRB Rules, and specifically approves 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 Prosper Portland Commission on May 12, 2021



Pam Feigenbutz, Recording Secretary

Findings Report

DATE: May 12, 2021

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

FROM: Kimberly Branam, Executive Director

SUBJECT: Findings in Support of an Exemption from Competitive Low Bid Solicitations for the abatement and demolition of certain structures located on the USPS Property, and soils remediation and reconfiguration of parking and loading accessways (“Projects”)

BACKGROUND AND CONTEXT

In 2016, Prosper Portland (“Owner”) acquired the 13.44-acre property located at 715 NW Hoyt Street in Portland’s Central City (“Property”) from the United States Postal Service. The acquisition and redevelopment of the Property, as called for in the Central City 2035 Plan, offers a once-in-a-generation opportunity for Prosper Portland and the City to meet growth requirements—including private development together with affordable housing, economic development, transportation, and open space goals—on a large, contiguous property in the middle of downtown and adjacent to one of Portland’s regional transit hubs. The Projects contemplated in this report are of critical importance to enable this development.

The Projects include:

- **USPS Processing & Distribution Center:**
The main Processing and Distribution Center (“P&DC”) occupies most of the eastern half of the Property. Containing approximately 400,000 square feet of building floor area, the P&DC is a three/four-story reinforced concrete building that contained, primarily, postal processing and distribution facilities, with approximately 240,000 square feet of office space. This was the main USPS processing facility serving Oregon and Southwest Washington. The USPS processing operations have been relocated to the Colwood Industrial Park, and the retail post office has been relocated to an interim location (“Interim Post Office”) in the ground floor of the adjacent parking structure. As a result, the P&DC is now vacant and abatement and demolition work can begin.

The P&DC scope of work includes coordination with the design team to obtain necessary permits, the abatement of hazardous materials from the P&DC building, and demolition of the P&DC building. Due to the close proximity of the P&DC building to the existing parking structure (including the Interim Post Office) and the Broadway Bridge, the engineering and demolition of the P&DC will need to be carefully coordinated to ensure safety and minimize disturbances to adjacent operations.
- **Soils remediation and reconfiguration of accessways:**
This scope of work includes primarily civil/flatwork including coordination with the design team to obtain necessary permits, coordination with Owner team on strategies to limit disruption to

USPS delivery trucks during soil remediation and demolition, demolition of the ETB (electrical transformer building), soil remediation, and construction of new driveway access for USPS delivery trucks and cars utilizing the existing parking garage. Coordination with the Oregon Department of Environmental Quality will be particularly important for this scope of work, as the USPS Property is subject to a Consent Judgment dated May 25, 2016, which contains various procedural and substantive requirements for the undertaking of remediation activities on the site.

The ETB is located approximately 100 feet north of the eastern end of the existing parking garage. It is a one-story concrete block building that contains approximately 1,000 square feet of floor area and currently houses high-voltage electrical equipment that supplies power to the Property. The demolition of the ETB may need to be coordinated with the demolition of the P&DC and any associated electrical service needs.

This scope is also anticipated to include removal of existing utility infrastructure no longer necessary to support the P&DC and former Vehicle Maintenance Facility. This includes on-site water, sanitary sewer, and stormwater infrastructure, as well as removal of an electrical transformer building (“ETB”).

Prosper Portland has initiated the necessary design and engineering services for the Projects, but work is currently on hold until new solicitations are issued and CM/GCs can be engaged.

LCRB-REQUIRED INFORMATION

Prosper Portland’s Local Contract Review Board Administrative Rules (“**LCRB Rules**”) Part 1, Section III, Subsection C, Item 1, require that a request to the LCRB for an exemption from competitive solicitation requirements contain the following information:

- a. The nature of the project or type of procurement. *See Section 1 above.*
- b. Estimated cost of the project or anticipated value of procurement. *The cost of the Projects is anticipated to be \$15 – 18 million, including hard and soft costs.*
- c. Findings to support the substantial cost savings anticipated by the exemption from competitive solicitation. *See “Substantial Cost Savings” section below.*
- d. Findings to support the reason that an exemption would be unlikely to encourage favoritism or diminish competition for the public Contract. *See “No Favoritism or Diminished Competition” section below.*
- e. Proposed Alternative Contracting Methods to be employed if any. *See “Substantial Cost Savings” section below regarding the use of CM/GC delivery method.*
- f. The estimated date by which it would be necessary to award the Contract(s). The Projects are vital to unlocking the USPS Property for redevelopment, and Prosper Portland currently incurs significant holding costs relating to the P&DC each month. Awarding the Contracts as soon as practicable following authorization by the LCRB is critical. This is anticipated to be necessary by late Summer 2021 at the latest.

FINDINGS

Oregon Revised Statutes (“**ORS**”) Chapter 279C.335(2) and Prosper’s Local Contract Review Board Administrative Rules (“**LCRB Rules**”), Part 4, Section II(B)(2) provide that Prosper’s Board of Commissioners, acting as Prosper’s Local Contract Review Board (“**LCRB**”), may exempt certain public improvements 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 completion for the contract; and
- b. The awarding of public contract under the exemption will result in substantial cost savings to the agency.

In making the Findings, the LCRB will, to the extent it believes applicable to the public improvement contract, consider the type, cost, and amount of the contract, the number of persons available to bid, value engineering techniques that may be applied to reduce the cost, and other factors noted in ORS 279C.335(2)(b).

No Favoritism or Diminished Competition

The contractor selection will be accomplished by issuing two competitive Requests for Proposals (“**RFPs**”) with best value selection criteria to seek a Construction Manager/General Contractor (“**CM/GC**”) delivery method for each of the Projects.

Any general contractor may respond to the RFPs. Among other things, the RFPs will require:

- a. a proven track record of completion of comparable projects, including involvement during the design process to provide advice and expertise on issues such as feasibility, value-engineering, and schedule;
- b. inclusion opportunities for Minority, Women, and Emerging Small Business and Disadvantaged Business Enterprise firms and demonstrated ability to comply with Prosper’s Business and Workforce Equity Policies;
- c. an optimal proposed project schedule; and
- d. a competitive cost proposal for pre-construction services.

The contractor selection processes will include: an evaluation of the proposals by committee, negotiations with the most qualified, responsive and responsible bidder to enter into a pre-construction services contract, and subsequent negotiations to establish and enter into a Guaranteed Maximum Price (“**GMP**”) contract following the performance of preconstruction services and collaboration with the design team. The LCRB should find that the alternative contracting process neither results in favoritism nor diminished competition.

Substantial Cost Savings

CM/GC contracts will likely result in cost savings over a low-bid contract due to several project-specific factors.

The Projects will take place immediately adjacent to an operating public parking structure and the Interim Post Office. The Interim Post Office is open to the public during all hours and days of the week

and requires truck deliveries on a daily basis. The selected Contractors will need to limit impacts to the Interim Post Office operations, including noise and dust, protecting customers and the public, and maintaining access for delivery trucks; as well as protecting the structure from damage during demolition. The Contractors will also need to limit impacts to customers of the parking structure and surface parking areas.

The P&DC is additionally located immediately adjacent to the Broadway Bridge and its associated multi-modal transportation activities; and in a highly populated urban core, with adjacent neighbors including an educational institution, affordable housing and social service facilities, and residents and commercial uses that are already experiencing significant impacts due to the current pandemic.

By utilizing a CM/GC contracting method, the Contractors will be involved in the Projects early enough to provide input to the design team on safety, sequencing, staging, and means and methods, before the permit sets have been completed. They will be better able to identify potential practical challenges early enough to avoid costly delays or design changes.

Ensuring the coordination and safety of, and minimizing disturbances to, these adjacent operations and activities adds complexity that increases the Owner risk of selecting contractors based solely on cost, rather than the best value approach which evaluates cost along with contractors' previous experience and other considerations.

The Contractors will need to put measures in place, such as additional dust containment and temporary traffic control, which falls under means and methods and not typically shown on the Construction Documents. In addition, the Contractors may need to modify the project schedule, sequencing and staging to limit disruptions to adjacent post office operations and onsite activities. These impacts can be difficult to define in the Construction Documents and may be missed in the low-bid process leading to change orders. A CM/GC contract process allows Prosper to meet with the Contractors before the GMP is established to discuss and mitigate for these and other risks, leading to fewer change orders and a lower overall cost.

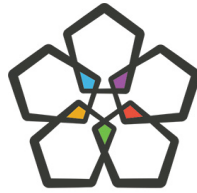
The cumulative effect of these savings is expected to be substantial.

PUBLIC HEARING

In accordance with ORS 279C.335(5) and the LCRB Rules, Part 4(II)(B)(2), Prosper published notice of the required public hearing on April 23, 2021. The hearing occurred May 10, 2021.

RECOMMENDATION

Staff recommends that the LCRB adopt a resolution to accept the Findings and authorize the use of an RFP to select the CM/GCs rather than award the abatement and demolition contracts through low-bid processes.



PROSPER PORTLAND

Building an Equitable Economy

RESOLUTION NO. 7413

RESOLUTION TITLE:

ADOPTING FINDINGS IN SUPPORT OF AND EXEMPTING SITE PREPARATION ACTIVITIES INVOLVING THE FORMER UNITED STATES POSTAL SERVICE PROCESSING AND DISTRIBUTION CENTER LOCATED AT 715 NW HOYT STREET FROM LOW-BID SELECTION PROCESSES

Adopted by the Prosper Portland Commission on May 12, 2021


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 Francesca Gambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Peter Platt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Serena Stoudamire Wesley	<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"/>

Consent Agenda 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.

	Date: May 14, 2021
Pam Feigenbutz, Recording Secretary	