



DATE: November 10, 2021
TO: Board of Commissioners, Acting as the Local Contract Review Board
FROM: Kimberly Branam, Executive Director
SUBJECT: Report Number 21-32
Adopting Findings in Support of and Exempting the Nick Fish Retail Space Tenant Improvements from Low-Bid Solicitation

BOARD ACTION REQUESTED AND BRIEF DESCRIPTION

Adopt Resolutions No. 7437

Staff are requesting the Prosper Portland Board of Commissioners (Board), acting as the agency's Local Contract Review Board (LCRB), to adopt Resolution 7437, in support of an exemption from the general rule of low-bid solicitation accordance with Oregon Revised Statutes (ORS) 279C.335(2). The LCRB's action will allow Prosper Portland staff to issue a Request for Proposals (RFP) for retail space tenant improvements at the Nick Fish (Project), an approximate 11,000 square foot commercial space owned by Prosper Portland on NE Halsey Street and NE 106th Avenue in the Gateway District Tax Increment Finance District (see a project summary in Attachment A). ORS 279C.335(2) and Prosper Portland'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 completion for public improvement contracts; and
2. The awarding of public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the agency or the public.

Should the LCRB approve Resolution No. 7437, staff will issue an RFP in November that will identify a contractor to construct tenant improvements and allow Prosper Portland to begin building out and leasing retail spaces in 2022.

STRATEGIC PLAN ALIGNMENT AND OUTCOMES

These actions meet Prosper Portland's Strategic Plan objective to create healthy complete neighborhoods by expediting the activation of ground floor commercial space along the Halsey/Weidler business corridor.

BACKGROUND AND CONTEXT

On November 12, 2008, the Prosper Portland Board through Resolution No. 6641 approved an Intergovernmental Agreement with the City of Portland Bureau of Parks and Recreation (PP&R) to jointly acquire approximately 4.2 acres of property at NE Halsey Street and NE 106th Avenue. Since acquisition, Prosper Portland and PP&R remediated and conducted site preparation activities and

created a master plan for a three-acre park site owned by PP&R (that ultimately became Gateway Discovery Park) and a one-acre mixed-use redevelopment project owned by Prosper Portland. On July 10, 2019, the Prosper Portland Board through Resolution No. 7321 authorized terms of the development of what was then known as Halsey 106 and is now The Nick Fish, a mixed-use, mixed income redevelopment project that includes affordable housing, workforce housing, headquarters for local nonprofit Human Solution Inc, and ground floor commercial space fronting both NE Halsey Street and Gateway Discovery Park. Prosper Portland maintains ownership of the approximately 11,000 square feet ground floor commercial space, which is expected to be subdivided into nine retail spaces and leased to businesses that activate the park and commercial corridor, focusing on women-owned and BIPOC-owned businesses as well as other businesses that advance Prosper Portland's strategic and equity objectives. Consistent with the administration of current Affordable Commercial Tenancing efforts, Prosper Portland intends to provide resources and services to tenants including below market lease rates, tenant improvement grants and allowances, and technical assistance.

On July 14, 2021, the Prosper Portland Board approved Resolution No. 7430 authorizing lease terms for the approximately 11,000 square feet of retail space, including a build out budget of \$3,650,000. As mentioned, it is staff's intent to issue an RFP for a contract in November and award a contract in January, making the tenant improvement services immediately available for prospect tenants.

EQUITY IMPACT

Prosper Portland's Construction Business and Workforce Equity Policy will apply to the tenant improvement work. The selected contractor will make a good faith effort to meet or exceed Prosper Portland's business equity goals of 22 percent of project hard costs to certified firms (14 percent of which to Disadvantaged Business Enterprise/Minority Business Enterprise firms) and 20 percent professional services costs to certified firms. Also, the contractor will make a good faith effort to meet or exceed Proper Portland's workforce training and hiring goals of 20 percent of hours for subcontractors greater than \$100,000 going to apprentices and having 30 percent minority and 15 percent female participation including both apprenticeship and journey level hours. An exemption from the low-bid method of contracting will increase Prosper Portland's ability to meet or exceed equity goals and enhance wealth creation opportunities for minority, disadvantaged, and women-owned businesses and workers.

COMMUNITY PARTICIPATION AND FEEDBACK

In accordance with ORS 279C.335(5) and the LCRB Rules, Part 4(II)(B)(2), Prosper Portland published notice of the required public hearing on October 20, 2021. The hearing was held on November 4, 2021.

BUDGET AND FINANCIAL INFORMATION

There are no direct budgetary impacts from this proposed action, as the Prosper Portland Board has previously authorized sufficient funding for tenant improvements.

RISK ASSESSMENT

There are few to no risks to this proposed action, as Prosper Portland regularly seeks LCRB approval for alternate contracting projects. Should the Prosper Portland Board, acting as the LCRB, choose to not adopt the findings and instruct staff to use a traditional low bid process, this would impact the Project by limiting the selection of a contractor solely based on price. Furthermore, with a low bid contract, Prosper Portland would not be able to consider business and workforce equity related past or proposed

performance in the selection, and obtaining estimates for prospective tenants will not be possible, making it harder for first time tenants to budget and understand the costs of their build outs.

ATTACHMENTS

- A. Project Summary

PROJECT SUMMARY



- Project Name:** The Nick Fish, 11,000 square feet of retail space owned by Prosper Portland
- Location:** NE Halsey Street between NE 105th and 106th avenues
- Tax Increment Finance District:** Gateway Regional Center
- Current Phase:** Construction completed
- Next Milestone:** Leasing of retail spaces
- Completion Target:** Leasing complete by end of fiscal year 2022/23