

## ORDINANCE No. 184389

\*Authorize an exemption to the competitive bidding process to Procurement Services pursuant to ORS 279C and City Code 5.34 and provide payment for construction of the South Waterfront Greenway Improvements Project (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland, through the Portland Development Commission (PDC), entered into a Development Agreement with Oregon Health & Science University (OHSU), River Campus Investors, LLC (RCI) and North Macadam Investors, LLC (NMI) for redevelopment of the South Waterfront Central District, SW Gibbs Street to SW Lane Street.
2. That Agreement, as it has been amended from time to time, calls for the design and construction of the South Waterfront Greenway Improvements Project ("Project"); a regional public park, trail system and associated riverbank restoration.
3. On October 21, 2010 the City submitted a Joint Permit Application to the United States Army Corps of Engineers to construct this Project, and expects approval of the Application during 2011.
4. On November 3, 2010, the City commenced uncontested eminent domain proceedings to acquire property from RCI and NMI in order to construct the Project.
5. The City has agreed with TriMet to construct, as a part of this Project, habitat mitigation required of TriMet for their Transit Bridge project, in return for a \$1 million contribution. The Bridge mitigation work must be constructed and completed during July 1 to October 1, 2012 in order for TriMet's project to remain viable.
6. The Project involves technical complexities and requires specialized expertise for construction within a precise window of time, as documented in the Findings, attached hereto as Exhibit A.
7. Procurement Services and Portland Parks & Recreation recommend that an alternative contracting method be used to select a Construction Manager / General Contractor (CM/GC) instead of using the traditional competitive Low Bid method of procurement. The successful CM/GC will participate in the final design phases of the Project to provide constructability and value engineering advice; to plan construction sequencing and possible soil remediation activities; and to provide the specialized skills and high degree of care needed to complete the project by October 2012.
8. The City Council is a Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirement of ORS Chapter 279C and City Code 5.34.
9. Findings addressing operational, budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; and funding sources and recommending the use of an alternative contracting process for the Project were available fourteen days in advance of the public hearing of this Ordinance and were presented at the hearing.
10. The CM/GC selection will be competitively advertised by means of a Request for Proposal (RFP) process that emphasizes qualifications, approach, and price. A Selection Committee will select the CM/GC based on an evaluation of the proposals received.

The selection process will be administered under the guidance and direction of Procurement Services.

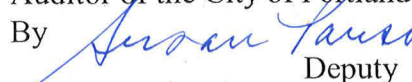
11. The exemption of the South Waterfront Greenway Improvements from the requirements of competitive bidding under ORS Chapter 279C and City Code 5.34 is unlikely to encourage favoritism or substantially diminish competition because of the impartial public process that will be carried out in making the selection. Awarding of such a contract is likely to result in substantial cost savings to the public because the CM/GC will participate in value engineering and constructability reviews; will develop a thorough construction staging and sequencing plan; and will have a full understanding of the work before they propose a construction price.
12. The Project is estimated to cost approximately \$8.1 million, of which \$4.8 million is for construction work, including a ten percent construction contingency. The Project Estimate Confidence Level Rating for this project is Moderate.

NOW, THEREFORE, The Council Directs:

- a. The Findings, attached as Exhibit A to this Ordinance are hereby adopted.
- b. The construction of the South Waterfront Greenway Improvements Project is hereby exempt from the competitive low bidding requirements of ORS Chapter 279C and City Code 5.34.
- c. An alternative selection process as described in the Findings will be used.
- d. The Chief Procurement Officer is authorized to use a competitive Request for Proposal process to select a CM/GC contractor for the Project, and upon selection of a CM/GC, authorized to execute a contract for Pre-Construction Services during the design phase of the Project.
- e. Upon Council's acceptance of the Chief Procurement Officer's report recommending acceptance of the Guaranteed Maximum Price from the CM/GC for constructing the Project, the Chief Procurement Officer is authorized to execute a contract for the construction of the Project.
- f. The Mayor is authorized to draw and issue checks chargeable to project account P00193.
- g. As required by ORS 279C.355 and PCC 5.34.820C, Portland Parks and Recreation shall prepare and deliver a post project evaluation to the Chief Procurement Officer on behalf of City Council, within 30 days of the date the City accepts the project.

Section 2. The Council declares that an emergency exists in order to avoid further delay in the provision of constructability and value engineering advice and staging and sequencing planning to meet the Federally mandated construction window of July 1 to October 31, 2012; therefore, this Ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council: JAN 27 2011  
 Mayor Sam Adams  
 Prepared by: M. Perrie  
 Date Prepared: January 13, 2011

**LaVonne Griffin-Valade**  
 Auditor of the City of Portland  
 By  Deputy

Agenda No. **184389**  
**ORDINANCE NO.**  
 Title

\*Authorize an exemption to the competitive bidding process to Procurement Services pursuant to ORS 279C and PEC 5.34 and provide payment for construction of the South Waterfront Greenway Improvements Project (Ordinance) *city code*

<p><b>INTRODUCED BY</b>          Commissioner/Auditor:  <b>Mayor</b>  <i>K. Dillmann on behalf of Mayor Adams</i></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau: OMF / BIBS / Procurement Services</p> <p>Bureau Head: Christine Moody <i>CM</i></p> <p>Prepared by: Michael Perrie          Date Prepared: January 13, 2011</p> <p>Financial Impact Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>          Not Required <input type="checkbox"/></p> <p>Council Meeting Date  <b>January 27, 2011</b></p> <p><b>City Attorney Approval</b></p>	<p>CLERK USE: DATE FILED <u><b>JAN 21 2011</b></u></p> <p>LaVonne Griffin-Valade          Auditor of the City of Portland</p> <p>By: <i>[Signature]</i>          Deputy</p> <p><b>ACTION TAKEN:</b></p>
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<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/> <span style="float: right;"><i>2012</i></span>  <b>Start time: 2:00 p.m.</b></p> <p><b>Total amount of time needed: 5 minutes</b>          (for presentation, testimony and discussion)</p> <p><b>CONSENT</b> <input type="checkbox"/></p> <p><b>REGULAR</b> <input type="checkbox"/>  <b>Total amount of time needed: _____</b>          (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	