

## **ORDINANCE No. 189273**

\*Approve findings to authorize an exemption to the competitive bidding requirements and authorize a competitive solicitation for the use of the alternative contracting method of Construction Manager / General Contractor for construction of the SW Capitol Highway: Multnomah Village – West Portland Transportation, Stormwater and Water Main project. (Ordinance)

The City of Portland ordains:

### **Section 1. The Council finds:**

1. The City of Portland Bureau of Transportation ("PBOT") is responsible for transportation operations and improvements within the City's public rights-of-way.
2. The City of Portland Bureau of Environmental Services ("BES") is responsible for public stormwater and sanitary sewer assets within the City of Portland.
3. The City of Portland Water Bureau ("PWB") is responsible for public water assets within the City of Portland and the larger City water supply system.
4. PBOT, BES and PWB ("the Three Bureaus") are jointly designing and constructing the SW Capitol Highway: Multnomah Village – West Portland Transportation, Stormwater and Water Main project ("the Project"), with PBOT serving as the lead Bureau.
5. The Project has been a consistently stated priority for the City and Southwest Portland community for no less than 25 years as evidenced by advocacy correspondence from Southwest Neighborhoods, Inc dating back to November 1993, as well as the City's development of improvement plans including the 1996 Capitol Highway Plan, the 2011 SW Capitol Highway Plan Refinement Report, the 2016 Capitol Highway Corridor Stormwater Concept Design, and the Transportation System Plan.
6. The Project corridor has lacked sidewalks, bicycle lanes and standard stormwater infrastructure since its completion as a county highway in 1916, during which time the surrounding land developed, was incorporated into the City of Portland, and continued to urbanize. In addition, PWB is taking the opportunity to upgrade and improve the water system.
7. The Three Bureaus have identified adequate funding to design and construct the project, including Transportation System Development Charges ("TSDCs"), "Fixing Our Streets" City fuel tax, BES ratepayer funds, PWB ratepayer funds, and State of Oregon Lottery-backed bonds.

8. The Three Bureaus propose to use the alternative contracting method of Construction Manager / General Contractor ("CM/GC") for the Project to:
  - Provide input during the final design process;
  - Provide value engineering to ensure cost containment;
  - Provide constructability review that will assist in developing a construction sequencing plan that will for continuous access to properties on SW Capitol Highway;
  - Allow for the acquisition of building materials earlier than would be possible with a design bid build project.
9. The Project will require specialized skills and experience in infrastructure construction methodology, sequencing, scheduling, and public communications for the reconstruction of a major roadway through a residential neighborhood.
10. A CM/GC contracting method will allow the Three Bureaus to select a contractor with the experience and qualifications necessary to perform the work while maintaining a higher level of technical and safety expertise, and greater coordination between design and construction tasks.
11. The Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279C and Portland City Code 5.34.
12. The City will invite prospective contractors to submit competitive proposals in response to the City's Request for Proposals ("RFP"). The Selection Committee will select the CM/GC Contractor based on an evaluation of the proposals. The selection committee will include staff from PBOT, BES, PWB, a community representative, and minority evaluator(s) as required per Resolution 36757. The RFP process will be completed under the guidance and direction of Procurement Services and in accordance with Alternative Contracting Methods requirements set forth in Portland City Code 5.34.
13. Findings addressing favoritism, competition, substantial cost savings, operations, budget and financial data, public benefits, value engineering, specialized expertise required, public safety, market conditions, technical complexity, and funding sources recommended by the City, substantially in the form attached hereto as Exhibit A (collectively, the "Findings"), were made available and a notice of the public hearing of this Ordinance was published fourteen (14) days in advance of this public hearing.
14. Based on the Findings, the exemption of the Project from the competitive bidding requirements of ORS 279C is: (i) unlikely to encourage favoritism or to diminish competition for public contracts because the contract will be awarded using a competitive solicitation process; and (ii) likely to result in substantial cost savings to the City because the CM/GC contractor will be integrated into the design team for value engineering, constructability review, and assistance in developing a

construction phasing plan. Such early integration greatly reduces the chances of redesign, change orders and cost overruns.

15. The overall Project Budget including construction, design services, insurance, bonding, escalation, contingencies and project management/staff costs, is approximately \$26 million, of which approximately \$18 million is estimated for the cost of construction.
16. The Bureau's level of confidence in the cost estimate for this project is moderate; as the project is defined and plans and specifications are nearing completion.

NOW, THEREFORE, the Council directs:

- a. Council hereby approves the Findings, as attached as Exhibit A, and on that basis exempts the SW Capitol Highway: Multnomah Village – West Portland Transportation, Stormwater and Water Main Project from the competitive bidding requirements of ORS 279C.
- b. The Chief Procurement Officer is authorized to use an alternative competitive solicitation process to select a CM/GC contractor for the Project and, upon selection of a CM/GC, is authorized to execute a contract for CM/GC pre-construction services during design phase of the Project, provided the contract has been approved as to form by the City Attorney.
- c. Upon Council's acceptance of the Chief Procurement Officer's report for recommending the acceptance of the Guaranteed Maximum Price from the CM/GC for the Project, the Chief Procurement Officer is authorized to execute a contract for construction of the Project, provided the contract has been approved as to form by the City Attorney.
- d. The Commissioner in Charge of Transportation and Auditor are hereby authorized to draw and deliver checks chargeable to PBOT when demand is presented and approved by the proper authorities.
- e. PBOT, BES and PWB shall enter into an Interagency agreement to further define their roles, responsibilities and financial contributions prior to execution of the construction contract for the Project.
- f. As required by ORS 279C.355 and PCC 5.34.820B, PBOT will prepare and deliver a post project evaluation to the Council on behalf of the Chief Procurement Officer, once the City accepts the Project as complete.

Section 2. The Council declares that an emergency exists because of the necessity to have the CM/GC firm's participation in value engineering, constructability reviews and construction planning as soon as possible in order to positively impact design and construction issues and meet the project timeline; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

189273

Passed by the Council,

DEC 05 2018

*Mayor Wheeler*

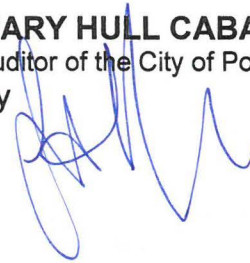
Prepared by: Celeste King

Date Prepared: November 7, 2018

**MARY HULL CABALLERO**

Auditor of the City of Portland

By



Deputy

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INTRODUCED BY Commissioner/Auditor: <b>WHEELER+Chloe Eudaly</b>	CLERK USE: DATE FILED <u>NOV 27 2018</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance & Administration – Wheeler	By: <u>Susan Parsons</u> Deputy
Position 1/Utilities - Fritz	ACTION TAKEN:
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL	
Bureau: OMF/BRFS/Procurement Bureau Head: Jennifer Cooperman	
Prepared by: Celeste King Date Prepared: November 7, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date <b>December 5, 2018</b>	

AGENDA
<b>TIME CERTAIN</b> <input checked="" type="checkbox"/> <b>Start time: 10:15am</b> <b>Total amount of time needed: 45 min</b> (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input type="checkbox"/> <b>Total amount of time needed: _____</b> (for presentation, testimony and discussion)

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