

ORDINANCE NO. 189427

*Approve findings to authorize an exemption to the competitive bidding requirements, authorize use of the alternative contracting method of 2-step Negotiated Request For Proposals and authorize the Chief Procurement Officer to execute a contract with the successful proposer upon acceptance by Council for Leach Upper Garden Project for an estimated \$6.8 million (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland Bureau of Parks and Recreation (“PPR”) is responsible for construction of improvements within Leach Gardens the City’s only botanical garden.
2. Leach Garden has been a City landmark since 1983.
3. This recent project has matching funds raised by funded by the Leach Garden Friends of over \$1.26 million or approximately 20% of the project cost.
4. PPR proposes to use the alternative contracting method of 2-Step Negotiated Request for Proposals (“RFP”) as a Pilot Project to:
 - Accommodate PPR and the Leach Garden Friends need to complete certain portions of the project by June 2020.
 - Provide effective evaluation of possible contractors to ensure cost containment and constructability review;
 - Allow for the possible development of additional partnerships to leverage the specialized expertise needed to assure a successful project;
 - Provide construction expertise during the highly technical installation of the bridge superstructure during a limited weather window;
 - Allow for the acquisition of major project elements such as steel earlier than would be possible with a traditional design bid build project.
 - Assure PPR that the available Prime contractors or sub-contractors have the capacity to obtain the significant quantities of the unusual but required volume of plants and planting material which is currently believed to be in excess of \$500,000.
5. The Project is too far advanced in the design process to benefit from the typical early engagement of a contractor under such methods as CM/GC or Design-Build, but will benefit from the technical proposals provided by Qualified Prime and Sub-Contractors.

6. A 2-Step Negotiated RFP contracting method will allow PPR to select Qualified contractors and specialized sub-contractors while still allowing a significant concentration on evaluating project cost.
7. This contracting methodology has not been used by the City on a previous project.
8. Procurement Services and PPR recommend that the Negotiated RFP be used in lieu of the traditional low bid competitive bidding process, in order to capture the anticipated cost and time savings anticipated by this procurement methodology.
9. In Step 1, the City will invite prospective contractors and their teams of subcontractors to submit their qualifications and experience to demonstrate how they have the resources necessary to successfully complete this project. All of the Prime contractors or subcontractors who successfully demonstrate that they have the resources to complete the project will be invited to submit a proposal for Step 2.
10. The Step 1 process will qualify contractors and subcontractors separately to potentially broaden the pool of available contractors, however, only contractors and subcontractors who have been listed as Qualified will be allowed to submit proposals for Step 2.
11. The Step 2 process will involve an evaluation of proposals submitted by the Qualified proposers based on project approach, ability to meet project milestones, and cost and the Prime Contractor who submits the proposal which is the most optimal for the City will be selected.
12. The City finds that it is unlikely the exemption will encourage favoritism or diminish competition in the Awarding of Public Improvement Contracts or substantially diminish competition for Public Improvement Contracts in accordance with ORS 279C.335(2)(a);and
13. The City finds that this project fits the definition of a Pilot Project for which the City intends to determine whether the use of the Alternate Contracting Method Negotiated RFP actually results in substantial cost savings and risk mitigation.
14. 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.
15. Findings addressing competition and the intrinsic value of this Pilot Project, were made available and a notice of the public hearing of this Ordinance was published fourteen (14) days in advance of this public hearing.
16. Based on the Findings, the exemption of the Project from the competitive bidding requirements of ORS 279C is: (i) unlikely to diminish competition for public contracts because the contract will be awarded using a competitive solicitation process; and (ii) likely to expose the City to this new type of contracting methodology which should result in substantial cost savings to the City by limiting risk and reducing Change Orders

because a construction methodology will already have been established.

17. The overall Project Budget including construction, design services, insurance, bonding, escalation, project management/staff costs and contingencies is \$6.8 million.

NOW, THEREFORE, the Council directs:

- a. Council hereby approves the Findings above, and on that basis exempts the Leach Upper Garden project from the competitive bidding requirements of ORS 279C.
- b. The Chief Procurement Officer is authorized to use an alternative competitive solicitation process of 2-Step Negotiated RFP for the Project and, upon selection of a contractor and acceptance of the Procurement Report to Council, is authorized to execute a contract for construction services provided the contract has been approved as to form by the City Attorney.
- c. The Mayor and Auditor are hereby authorized to draw and deliver checks chargeable to PPR when demand is presented and approved by the proper authorities.
- d. As required by ORS 279C.335(2)(c), ORS 279C.355 and PCC 5.34.820, PPR 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 Contractor's technical construction proposals and the competitive low bid contractor selected as quickly as possible to meet the scheduled opening date. Therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: MAR 20 2019

Mayor Ted Wheeler

Prepared by: Larry Pelatt: mss

Date Prepared: January 25, 2019

Mary Hull Caballero

Auditor of the City of Portland

By

Deputy

255

Agenda No. _____

Item Type: Ordinance No. 189427

Council Meeting Date: March 20, 2019

Title: *Approve findings to authorize an exemption to the competitive bidding requirements, authorize use of the alternative contracting method of 2-step Negotiated Request For Proposals and authorize the Chief Procurement Officer to execute a contract with the successful proposer upon acceptance by Council for Leach Upper Garden Project for an estimated \$6.8 million (Ordinance)

AGENDA TYPE

☐ CONSENT ☒ REGULAR ☐ TIME CERTAIN Start Time: _____ Item 1 of 1
Total amount of time needed for presentation, testimony and discussion (Regular and Time Certain): 10 Minutes

INTRODUCED BY: Mayor Wheeler

COMMISSIONER / AUDITOR APPROVAL

Mayor - Finance & Administration - Wheeler _____
Position 1/ Utilities - Fritz _____
Position 2/ Works - Fish _____
Position 3/ Affairs - Hardesty _____
Position 4/ Safety - Eudaly _____
City Auditor - Hull Caballero _____

Michelle Plambeck
Digitally signed by Michelle Plambeck
Date: 2019.03.12 12:56:30 -0700

BUREAU APPROVALS

Bureau: OMF/CAO
OMF/CAO: Tom Rinehart
Digitally signed by Tom Rinehart
Date: 2019.03.08 13:24:57 -08'00'
Bureau Approval: Jennifer Cooperman
Digitally signed by Jennifer Cooperman
Date: 2019.03.07 15:50:54 -08'00'

Prepared By: Vazel McCoy
Date Prepared: March 7, 2019

1) Is a completed Impact Statement attached? Yes ☒

2) Does the item amend the budget? Yes ☐ No ☒
If yes, Budget Office Approval

3) Is the item a Code ordinance? Yes ☐ No ☒
If yes, Auditor Office Approval

4) Is this item a contract, code, easement, franchise, comp plan or Charter? Yes ☒ No ☐
If yes, Attorney Office Approval

5a) Is item a Portland Policy Document or Administrative Rule? Yes ☐ No ☒

5b) If yes, is the City Policy/Admin Rule directive in the ordinance or resolution? Yes ☐

ACTION TAKEN:

CLERK USE: DATE FILED MAR 12 2019

Mary Hull Caballero
Auditor of the City of Portland

By: [Signature]
Deputy

FOUR-FIFTHS AGENDA

1. Fritz
2. Fish
3. Hardesty
4. Eudaly
- Wheeler

COMMISSIONERS VOTED AS FOLLOWS:

	YEAS	NAYS
1. Fritz	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Fish	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Hardesty	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Eudaly	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Wheeler	<input checked="" type="checkbox"/>	<input type="checkbox"/>