

ORDINANCE No. 176263

* Authorize agreement for Downtown Business District Management Services with the Association for Portland Progress and Portland Downtown Services, Inc. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Pursuant to Chapter 6.06 of the City Code, the City has established a business property management license fee within the Downtown Business District. The purpose of the license fee is to provide revenues to fund supplemental cleaning, public safety, and business development services within the District. The City Council recently extended the District and the License fee for a 10 year period. Ordinance No. 175729.
2. The Association for Portland Progress (“APP”) and Portland Downtown Services, Inc. (“PDSI”) are non-profit corporations representing a large number of business property owners and managers in the District. APP and PDSI representatives make up the non-public membership of a joint public-private Clean and Safe Advisory Committee that recommended to the City the establishment of, and subsequent amendments to, the property management license fee. The Advisory Committee also recommended to the City the services to be funded by the license fee.
3. APP and PDSI have provided comparable services to predecessor Downtown Economic Improvement Districts for an initial 6 year period and to the Downtown Business District for 4 additional years, pursuant to prior management services agreements with the City. APP and PDSI are presently providing such services to the Downtown Business District under an amended Agreement for Downtown Clean and Safe District Management Services (City Contract No. 50996, approved by Ordinance No. 174578) which expired Dec. 31, 2001.
4. Under the proposed Management Services Agreement, the Bureau of Licenses (“BOL”) will continue to provide collection services to PDSI for a fee of 1% of the total District license fee billings. In addition, City costs related to District License Fee collection litigation will be billed separately to PDSI. The proposed 1% cap on the BOL collection fee is a departure from the current billing practice whereby BOL has billed actual costs for its services consistent with a cost of service billing model. Both PDSI and the City acknowledge that setting the collection services fee at 1% is at a level below the Bureau of Licenses’ actual cost of providing collection services. In recognition of the value that the Clean and Safe District provides to the livability of downtown Portland, the City has agreed to a billing formula that is under the BOL’s actual costs. In addition, the City has agreed to extend this billing formula to other Business Improvement

Districts for whom the Bureau of Licenses provides collection services. Consistent with this change in system billing practice, the City acknowledges the need to provide the Bureau of Licenses with sufficient appropriation to cover its actual costs of providing Business Improvement District collection services. Accordingly, a \$32,000 technical adjustment to the Bureau of Licenses' FY 2002-03 General Fund target will be made to provide BOL with sufficient appropriation to carry out its collection duties.

5. The services provided by the District, through the 2000-2001 period, are part of a unique and coordinated personal services program that APP and PDSI have developed and provided, and there is no other potential provider of the services with the experience, expertise, and capability of APP and PDSI. It therefore is appropriate for the City to enter into an agreement with APP and PDSI for such services, and APP and PDSI are willing to contract to provide the services.
6. The proposed contract with PDSI requires PDSI to provide services that might have to be competitively bid. However, given the unique and special relationship between the City and PDSI, the City Council, acting in its capacity as the Local Contract Review Board, hereby finds that the City will experience substantial cost savings if the contract were awarded to PDSI. These cost savings will occur for a variety of reasons. The award of a contract to PDSI is inexorably linked with the imposition of City's License Fee, as shown by the entire contract attached to this ordinance. If PDSI were not awarded the contract, it is possible that written objections from the current Downtown Business licensees would automatically terminate the fee, as provided in PCC 6.06.220. Moreover, PDSI is a non profit organization, and this means that the City is probably receiving a lower price for its services than from a comparable vendor in the private sector. In addition, there is a monetary benefit to the City to have a single organization be responsible for, and coordinate, the various services to be provided to the Downtown Business District. Finally, PDSI is dedicated to serving the downtown district and thus has a heightened motivation to provide good quality service at an affordable price.
7. In addition, an exemption from the competitive bidding process will not encourage favoritism the awarding of public contractors or substantially diminish competition for public contracts. PDSI is a non profit corporation that is focused on the downtown business district and the award of a contract to it does not make it more likely that they will seek or obtain other public contracts from the City. In addition, the contract with PDSI requires competitive bidding when selecting subcontractors unless it is documented that it is necessary or desirable to award a subcontractor on a negotiated basis in order to assure the provision of adequate services at the most advantageous cost.
8. To the extent that any of the services provided by PDSI would be considered professional, technical or expert services, this contract should be exempt from the City's standard contracting requirements.

NOW, THEREFORE, the Council directs:

- a. The Mayor and the City Auditor are authorized to execute an agreement with the

Portland Downtown Services, Inc. to manage and provide certain Downtown Business District services, in substantially the form attached to this Ordinance as Exhibit A.

- b. In approving the terms of a Management Services Agreement with PDSI, the Council acknowledges the need to fund the costs of the Business Improvement District collection services of the Bureau of Licenses that are not covered by the agreed upon collection fee. Accordingly, the Bureau of Financial Planning is directed to implement a \$32,000 ongoing target adjustment for the Bureau of Licenses beginning in FY 2002-03.
- c. To the extent that any of the services to be provided by PDSI would otherwise have to be bid pursuant to ORS Chapter 279, the City Council, acting in its capacity as the Local Contract Review Board, hereby declares this contract to be exempt.
- d. To the extent that any of the services to be provided by PDSI would be considered as professional, technical or expert services governed by PCC 5.68, this contract is exempt from those provisions.

Section 2. The Council declares that an emergency exists because any delay in proceeding with the execution of the Agreement will unnecessarily deprive the public of the benefits of the services provided by the Downtown Business District; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council: FEB 13 2002

Mayor Vera Katz
RRoth/BWalters:cj
January 10, 2002

Gary Blackmer
Auditor of the City of Portland
By: /S/ Susan Parsons

Deputy

BACKING SHEET INFORMATION

AGENDA NO. 155-2002

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 176263

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
FRANCESCONI	X	
HALES	X	
SALTZMAN	X	
STEN	X	
KATZ	X	