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191853

Ordinance

Approve findings to authorize an exemption to the competitive bidding requirements and authorize the use of the alternative contracting method of Job Order Contracting for civil construction and general contracting construction services

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Job Order Contracting (JOC) is a project delivery method for public improvements and repair/maintenance projects that establishes contracts with multiple contractors for individual categories of work where the pricing is predetermined. Contractors propose an adjustment factor to the fixed unit prices established in a Construction Task Catalog to cover their overhead, profit and other related costs.
2. Benefits of JOC are faster project delivery through streamlined engineering, design and procurement processes; assurance of cost reasonableness; more opportunities for local small and disadvantaged businesses; and improved partnering relationships with general contractors.
3. The Council previously authorized class exemptions and the use of JOC for asphalt paving, repair and concrete projects via Ordinance No. 189489, passed on May 8, 2019 and Ordinance 190061 passed on June 20, 2020 for building alterations. JOC has proven to be an effective project delivery method and Procurement Services is seeking authorization to use JOC for civil construction and routine building alteration projects including tenant improvements and remodeling.
4. The Council as the Local Contract Review Board has the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279C and Portland City Code 5.34 provided certain findings are made.

Introduced by

[Mayor Ted Wheeler](#)

City department

[Procurement and Business Opportunities](#)

Contact

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Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

August 7, 2024

5. The required findings addressing favoritism, competition, substantial cost savings, operations, budget and financial data, public benefits, value engineering, specialized expertise, public safety, market conditions, technical complexity, and funding sources, 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 the public hearing.
6. The City will invite prospective contractors to submit competitive proposals in response to a Request for Proposals ("RFP") process. A Selection Committee will select contractors based on an evaluation of the proposals received. 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.

NOW, THEREFORE, the Council directs:

- A. Council hereby approves the Findings, as attached as Exhibit A, and on that basis exempts the classes of civil construction and building alterations work from the competitive bidding requirements of ORS 279C.
- B. The Chief Procurement Officer to use an alternative competitive solicitation process to implement Job Order Contracting for civil construction and building alterations projects estimated between \$5,000 and \$1,000,000 and, upon selection of contractors, is authorized to execute multiple contracts, provided the contracts have been approved as to form by the City Attorney.
- C. The Mayor and Auditor are hereby authorized to draw and deliver checks when demand is presented and approved by the proper authorities.
- D. As required by ORS 279C.355 and PCC 5.34.820B, Procurement Services will prepare and deliver a post project evaluation to the Council, once the City accepts the Job Order Contracts as complete.

Exhibits and Attachments

 [Exhibit A](#) 107.46 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
August 7, 2024

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

The purpose of this Ordinance is to authorize a class exemption to use the alternative contracting method of Job Order Contracting (JOC) for civil construction and building alterations construction services. In order to authorize a class exemption, City Council must approve findings that support the use of an alternative procurement and contracting delivery method for the projects covered under the class exemption. The projects covered under this exemption will be projects between \$5,000 and \$1,000,000 and for routine civil construction and alterations projects including tenant improvements and remodeling work.

JOC is a project delivery method for public improvements and repair/maintenance projects that establishes contracts with multiple contractors for individual categories of work where the pricing is established by a third-party consultant. Contractors respond to the solicitation by proposing an adjustment factor to the pre-established pricing to cover overhead, profit and other related costs. Once contracts are awarded, the bureaus using them can schedule projects out in advance using the pricing without having to go through a solicitation and contracting process for every job. This model is transparent, auditable and encourages high quality of work and collaboration between the City and the awarded contractors. A benefit to the contractors is that, provided they perform quality work, they can reasonably expect to continue to perform work in their category of work throughout the life of the contract. Being able to plan and forecast work through this method will allow the contractors to develop relationships with the City and understand the intricacies of administering a City contract. It should also allow them the ability to forecast resource planning and grow their capacity throughout the life of the contract.

No revenues will be impacted by this Council action.

This Council action does not change existing City policy.

Financial and Budgetary Impacts

There is no direct budgetary impact based on this Council action.

Community Impacts and Community Involvement

The City of Portland has a core goal and objective to increase opportunities for local small and disadvantaged firms. The subject exemption aligns with this goal and results in a significant public benefit because much of the work resulting from this exemption and the resulting solicitation will be performed by local small and disadvantaged firms, thus helping the awarded firms increase their capacity and develop strong working relationships with the City. It also provides the awarded firms experience working on City projects that they may not otherwise have if this exemption isn't approved.

The following are other community benefits associated with this Council action:

- JOC saves time and money. Simplifies and expedites the procurement process and saves on administrative costs.
- More projects completed on time and on budget. The collaborative information sharing, detailed project scopes, and proven processes will improve the quality of the work and speed project delivery.
- Enhanced cost transparency given the predetermined and standardized unit prices that are based on local labor, material and equipment prices and are for the direct cost of construction. Each project cost is developed via line item estimates/costs from the unit prices yielding full transparency and auditability.
- Reduction in deferred maintenance backlog. More projects are completed simultaneously per year.
- Fewer change orders. Better communication improves project scope development and yields elimination of contractor-driven change orders.
- Long-term partnerships. Development of partnership relationships with contractors based on their performance and increases local contractor participation.

No known person or group will be testifying.

100% Renewable Goal

There is no direct impact to the City's 100% Renewable Energy Goal resulting from this Council action.

Budget Office Financial Impact Analysis

There is no direct fiscal impact from approving the findings. This ordinance authorizes a class exemption to use the alternative contracting method of Job Order Contracting (JOC) for civil construction and building alterations construction services. In order to authorize a class exemption, City Council must approve findings that support the use of an alternative procurement and contracting delivery method for the projects covered under the class exemption. The projects covered under this exemption will be projects

between \$5,000 and \$1,000,000 and for routine civil construction and alterations projects including tenant improvements and remodeling work. The findings notes that the model is transparent, auditable, and encourages high quality of work and collaboration between the City and the awarded contractors. A benefit to the contractors is that, provided they perform quality work, they can reasonably expect to continue to perform work in their category of work throughout the life of the contract. Being able to plan and forecast work through this method will allow the contractors to develop relationships with the City and understand the intricacies of administering a City contract. It should also allow them the ability to forecast resource planning and grow their capacity throughout the life of the contract.

Document History

Item 690 Consent Agenda in [July 31, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/7/31)
(<https://www.portland.gov/council/agenda/2024/7/31>)

City Council

Passed to second reading

Passed to second reading August 7, 2024 at 9:30 a.m.

Item 709 Consent Agenda in [August 7, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/8/7)
(<https://www.portland.gov/council/agenda/2024/8/7>)

City Council

Passed

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Mayor Ted Wheeler Yea