

\*Approve findings to authorize an exemption to the competitive bidding requirements and authorize competitive solicitation for use of the alternative contract method Negotiated Request for Proposals for construction of the NW Park Ave and Johnson St/Kearney St Local Improvement District (C-10069)

Emergency Ordinance

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Transportation (PBOT) is responsible for transportation operations and improvements within the City's public rights-of-way.
2. The redevelopment of the former United States Postal Service property at 715 NW Hoyt Street, located within the broader 32-acre site known as the "Broadway Corridor" in the River District Urban Renewal Area ("River District"), has long been envisioned by the general public, elected officials, and adopted land use and development plans as one of the most significant redevelopment sites in Portland's central city.
3. The Broadway Corridor Framework Plan was adopted by the Council through Resolution No. 37165 on November 5, 2015, and established the City's objectives for redevelopment of the Property including key infrastructure and open space requirements, affordable housing requirements, and modifications to zoning to accommodate the envisioned high-density mixed-use and mixed-income development.
4. The multi-bureau funding and finance agreement between Prosper Portland, the Portland Housing Bureau, Portland Bureau of Environmental Services, Portland Water Bureau, Portland Parks & Recreation, PBOT, and the Office of Management and Finance to facilitate the development of the Broadway Corridor, and add the Broadway Corridor Park project to the Parks and Recreation System Development Charge Capital Improvement Plan was adopted by City Council on September 23, 2020, through Ordinance No. 190146.
5. The Council approved creation of a local improvement district (LID) on October 28, 2020, through Ordinance No. 190180 to fund construction of street, sidewalk, stormwater, sanitary sewer, water main, and off-site signal and intersection improvements in the Broadway Corridor.
6. PBOT has developed 95% design plans for the extension of NW Johnson and NW Kearney Streets and certain off-site improvements
7. PBOT proposes to use the alternative contracting method of Negotiated Request for Proposals (RFP) to:

- Provide evaluation of possible contractors to reduce construction risk, seek cost containment, enable constructability review, and maximize coordination between this and other capital projects within and near the Broadway Corridor
  - Ensure the contractor has the experience and technical expertise to operate on a brownfield site with unknown underground elements and contaminated media;
  - Maximize compliance with the Broadway Corridor's workforce and business equity goals and the Regional Workforce Equity Agreement (RWEA) and the Contractor Equity Program (CEP).
8. A Negotiated RFP contracting method will allow PBOT to select qualified contractors and specialized sub-contractors while still ensuring a significant proportion of the weight is on evaluating overall project cost.
  9. This contracting method has been used successfully by the City on previous capital projects.
  10. Procurement Services and PBOT 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 provided by this procurement methodology.
  11. The Negotiated RFP process will involve an evaluation of proposals submitted by the qualified proposers based on project approach, sequencing, technical expertise, relevant experience, and cost, followed by selection of and the Prime Contractor which best meets the evaluation criteria, as judged by a Selection Committee that will include staff from PBOT, Prosper Portland, and others from the community, including minority evaluator(s) as required per Resolution 36757.
  12. 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 City Code Chapter 5.34.
  13. The City will invite prospective contractors to submit competitive proposals in response to the City's RFP. The Selection Committee will evaluate and score proposals based on an established scoring criterion. 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 City Code Chapter 5.34.
  14. Findings addressing competition were made available and a notice of the public hearing of this ordinance was published fourteen (14) days in advance of the public hearing.

15. Based on the findings, the exemption of the project from the competitive bidding requirements of ORS Chapter 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.
16. The LID, through Ordinance No. 190180, has estimated the cost of designing, constructing, and financing the infrastructure improvements of the local improvement district as \$27,557,603.09.
17. PBOT has funds budgeted in FY 2024 and proposed FY 2025 for construction, inspection and management of the project.

NOW, THEREFORE, the Council directs:

- A. The findings in Exhibit A are approved and, on that basis, the Park Avenue & Johnson/Kearney Streets LID Project is exempt from the competitive bidding requirements of ORS Chapter 279C.
- B. The Chief Procurement Officer is authorized to use the alternative competitive solicitation process of Negotiated RFP for the project and, upon selection of a contractor and acceptance of the Procurement Report to the Council, is authorized to execute a contract for construction services, provided the contract has been approved as to form by the City Attorney.
- ~~C. Upon the Council's acceptance of the Chief Procurement Officer's report recommending the lowest responsive and responsible bidder, the Chief Procurement Officer is authorized to award, negotiate and execute a contract, provided the contract has been approved as to form by the City Attorney's Office.~~
- D. The Mayor and Auditor are authorized to draw and deliver warrants chargeable to T00961 when demand is presented and approved by the proper authority.
- E. As required by ORS 279C.335(2)(c), ORS 279C.355 and City Code Section 5.34.820, PBOT will prepare and deliver a post project evaluation to the Council on behalf of the Chief Procurement Office 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 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.