

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN) RESOLUTION NO. 09-4102
EXEMPTION FROM COMPETITIVE BIDDING)
REQUIREMENTS AND ADOPTING FINDINGS)
AUTHORIZING USE OF ALTERNATIVE) Introduced by Chief Operating
PROCUREMENT METHODS FOR REPAIR AND) Officer Michael J. Jordan, with the
RENOVATION OF THE METRO REGIONAL CENTER) concurrence of Council President
IRVING STREET PARKING GARAGE) David Bragdon

WHEREAS, the Metro Council is designated as the local public Contract Review Board (“CRB”) for Metro pursuant to ORS 279A.060 and Metro Code 2.04.010(d); and

WHEREAS, based on a recent engineer’s report, areas within of the Metro Regional Center Irving Street Parking Structure (the “MRC Garage”) are deemed to be a public safety hazard and require immediate repair; and

WHEREAS, Metro intends to select a general contractor to perform necessary repairs and renovations to the MRC Garage, originally constructed in the 1960s and renovated in 1992, at a cost of not to exceed \$600,000, and desires to complete the solicitation and construction contracting process as promptly as possible, to quickly repair the damage to the MRC Garage and protect public safety; and

WHEREAS, ORS 279C.335 and Metro Code 2.04.054 require that all Metro public improvement contracts shall be procured by competitive bids unless exempted by the Metro Council, sitting as the Metro Contract Review Board; and

WHEREAS ORS 279C.335(4) and Metro Code Section 2.04.054(c) authorize the use of special alternative procurement practices when it is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; is reasonably expected to result in substantial cost savings to the contracting agency or the public; or otherwise substantially promotes the public interest in a manner that could not practically be realized by complying with competitive bidding requirements; and

WHEREAS, the Metro Contract Review Board finds that, as set forth in Exhibit A attached hereto, exempting the MRC Garage Repair and Renovation Contract from competitive bid requirements is unlikely to encourage favoritism in the award of the contract, or to diminish substantially the competition for such public improvement contracts, and further finds that the expeditious award of the contract in accord with a Special Procurement process will result in substantial cost savings to Metro; and

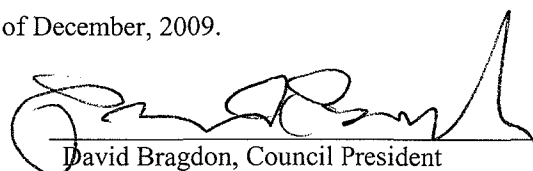
WHEREAS, the Metro Contract Review Board finds that, as set forth in Exhibit A attached hereto, procurement of the MRC Garage Repair and Renovation Contract by means of a “Special Procurement” in accord with Metro Code 2.04.053(c), using an “Intermediate Procurement Process,” in accord with ORS 279B.070, is unlikely to encourage favoritism in the award of the contract, or to diminish substantially the competition for such public improvement contracts, is reasonably expected to result in substantial cost savings to Metro, and otherwise substantially promotes the public interest by providing for the expeditious award of a contract so that the MRC Garage may quickly be made safe for use by the public; and

WHEREAS, the Special Procurement of the MRC Garage Repair and Renovation Contract using the ORS 279B.070 Intermediate Procurement Process would require no public notice, and would allow Metro to informally solicit at least three competitive bids, followed by contract award to the bidder whose bid the Chief Operating officer deems will best serve the interest of Metro; now therefore

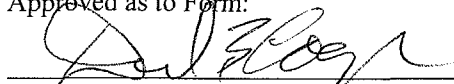
BE IT RESOLVED that the Metro Council, sitting as the Metro Contract Review Board:

1. Exempts the procurement of the MRC Garage Repair and Renovation Contract from the competitive bidding requirements of ORS 279C.335 and Metro Code Section 2.04.054.
2. Adopts as its findings in support of such exemption the justifications, information and reasoning set forth on the attached Exhibits A and B, incorporated herein by reference.
3. Authorizes the Chief Operating Officer to release a form of Request for Bids in accord with the intermediate procurement process provided in ORS 279B.070.
4. Authorizes the Chief Operating Officer to execute a contract with the most advantageous bidder to repair and renovate the MRC Garage following the evaluation of the responses to the Request for Bids.

ADOPTED by the Metro Council this 17th day of December, 2009.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney
Alison Kean Campbell, Metro Deputy Attorney

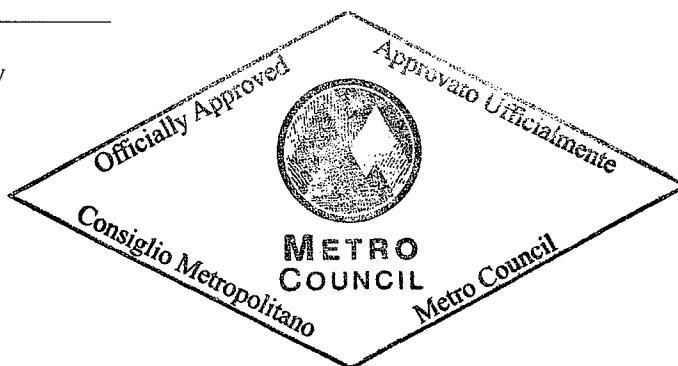


Exhibit A
Metro Contract Board Resolution 09-4102

FINDINGS IN SUPPORT OF AN ALTERNATIVE PROCUREMENT PROCESS
METRO REGIONAL CENTER PARKING STRUCTURE REPAIR

In making the above findings in Sections 4 and 5, the Metro Council acting as the Public Contract Review Board considered the following factors pursuant to ORS 279C.330:

- a. Operational, budget and financial data: The Metro Parks and Environmental Services Department will be overseeing the project, which will make the necessary repairs to the Metro Regional Center Parking Structure. The estimated amount of this repair work, based on the engineering estimate is \$600,000.
- b. Public Benefits: The damage to the structure necessitates its closure. Immediate repair of the structure is necessary and will result in substantial public benefit to Metro and the region. Until the repairs are completed, the garage may not safely be used for parking. In addition to Metro staff that utilizes the parking facility, the State of Oregon is entitled to designated space for its employees, and a local automobile dealership contracts for vehicle spaces. The facility also serves the general public who visit the MRC, including committee members, agency visitors, other public agencies, and the general public. All will receive benefit from the completion of this project. The parking facility is operated under contract with Star Park, which provides employment to parking attendant staff, who will also benefit from this effort. During the closure, Metro will need to provide replacement parking elsewhere in the Lloyd District to monthly paid parkers, at a continuing cost to Metro. Expedient repair will mitigate these costs.
- c. Value engineering: Metro has contracted with a professional engineering firm in order to obtain recommendations on the appropriate work required in order to repair the structure and return it to a safe condition. This firm has employed past experience, technical knowledge, and value engineering in order to design and specify a multi-phased project that will allow for an economical and practical repair.
- d. Specialized expertise required. The repair and maintenance of a multi-storied concrete structure requires specialized experience and knowledge. Metro is contacting several area contractors with the requisite experience in such repairs to ensure a level of acceptable quality. This alternative process will ensure that this specialized expertise is employed on this project, as the solicitation documents require minimum experience levels.
- e. Public safety: Public safety is a key element of this project, as the current condition of the parking structure poses an unnecessary risk to the general public. By proceeding with this alternative procurement process and making the much needed repairs, the prompt preservation of public safety will be ensured.
- f. Market conditions: Metro believes the current market conditions conducive to this procurement process. Many area construction contractors who are qualified to perform these repairs are interested in performing work for Metro and will be contacted informally to participate in the bid process. This will ensure an open and competitive process that will be awarded to the lowest responsive bidder. The contract between Metro and the successful bidder will also provide employment for area construction workers.

- g. Technical complexity: The design and repair of this structure require a certain level of technical complexity, which Metro gained through the hiring of a local engineering firm. Metro has received the project drawings and technical specifications from this firm and are putting them out to bid for local construction contractors.
- h. Competition. Use of the Intermediate Procurement Process is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts, because Metro will be directly contacting several contractors having the technical expertise to compete for the project and requesting bids, and will be employing a competitive process to select among responding contractors. Metro is encouraging competition to the maximum extent practical in this instance.
- i. Cost savings. The use of a competitive bid process among multiple qualified contractors is likely to result in substantial cost savings to Metro. Recent experience by Metro and other area agencies has proven that contractors are eager to secure public contracts, and are submitting very competitive offers in order to keep their workers employed.
- j.
- k. Funding sources: This Project will be funded through the Metro PES budget for building repair and operations, in an amount not to exceed \$600,000.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4102, FOR THE PURPOSE OF
APPROVING AN EXEMPTION FROM COMPETITIVE BIDDING AND AUTHORIZING
USE OF ALTERNATIVE PROCUREMENT METHOD FOR REPAIR AND RENOVATION
OF METRO REGIONAL CENTER IRVING STREET PARKING GARAGE

Date: December 17, 2009

Prepared by: Darin Matthews
Richard Thompson

BACKGROUND

Based on recent inspections of the Metro Regional Center (MRC) parking garage located on NE Irving Street, it has been determined that several areas of the structure require immediate maintenance work. Since the current state of the structure creates a potential hazard to Metro staff and the general public, the MRC parking garage has been closed until the proper repairs can be made.

Under separate contract, Metro received an inspection, engineering report, and repair recommendations from ABHT Structural Engineers, LLC. ABHT is a local engineering firm that is certified as a minority business enterprise (MBE) and a disadvantaged enterprise (DBE), and has offered their professional opinion that the structure currently poses a risk to public safety.

The design specifications and drawings prepared by ABHT have been incorporated into a Metro request for bid (RFB 10-1582), and will be issued to several area contractors who are qualified in concrete structure repair. A pre-bid meeting will be conducted to allow contractors to inspect the site and ask questions, and a quick turnaround is being requested in order to expedite these repairs.

Under the traditional rules of competitive bidding, a Formal Procurement Process would be used, which would include public advertising of the RFB and the submission of sealed offers. It is Metro's desire to utilize an Intermediate Procurement Process, which is a competitive bid process normally used for contracts under \$100,000. To minimize the amount of time the parking structure is closed, the Procurement Officer believes that the use of an Intermediate Procurement Process is appropriate and in the best interest of Metro.

Competition will be sought to the maximum extent practical, with several area firms being contacted directly and invited to submit bids. Metro is also encouraging the use of MWESB sub-contractors for work not performed by the prime contractor.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** Metro Code 2.04.010(d); 2.04.053; 2.04.054; Oregon Revised Statutes 279A.060, 279B.070279C335(4).
3. **Anticipated Effects** Procurement process will be open and competitive, with award going to the lowest responsive bidder, but a formal public bid process will not be employed.
4. **Budget Impacts** The estimated cost of the repair and renovation is \$600,000.

RECOMMENDED ACTION

Metro Council, acting as Public Contract Review Board, approves the use of an Intermediate Procurement Process and exempts this project from formal competitive bidding. Further, Council authorizes the execution of the resulting contract by the Chief Operating Officer in a form to be approved by the Office of the Metro Attorney.