



AGENDA
Regular Commission Meeting
Port of Portland Headquarters
7200 N.E. Airport Way, 8th Floor
July 13, 2016
9:30 a.m.

Minutes

Approval of Minutes: Regular Commission Meeting – June 8, 2016
Approval of Minutes: Special Commission Meeting – June 28, 2016

Executive Director

Approval of Executive Director's Report – June 2016

General Discussion

Air Cargo Update

DAVID ZIELKE

Action Items

1. CONTRACT AMENDMENT – JANITORIAL SERVICES – PORTLAND INTERNATIONAL AIRPORT AND PORT OF PORTLAND HEADQUARTERS BUILDING *KENDALL AUSTIN*

Requests approval to amend the janitorial services contract with Portland Habilitation Center, Inc., for services at Portland International Airport, related Port of Portland facilities, and the Port headquarters building.
2. PUBLIC IMPROVEMENT CONTRACT – TAXIWAY B CENTER AND EXITS REHABILITATION – PORTLAND INTERNATIONAL AIRPORT *CHRIS EDWARDS*

Requests approval to award a public improvement contract to K&E Excavating, Inc., to perform the Taxiway B Center and Exits Rehabilitation project at Portland International Airport.
3. EQUIPMENT PROCUREMENT CONTRACT – SHUTTLE BUS SURVEILLANCE CAMERA AND GPS TRACKING SYSTEM – PORTLAND INTERNATIONAL AIRPORT *SEVERN DURAND*

Requests approval to award an equipment procurement contract to Syncromatics, to furnish and install camera surveillance systems, Global Positioning System tracking, automated destination signs, and stop announcement systems into the shuttle buses at Portland International Airport.

4. EXEMPTION FROM COMPETITIVE BIDDING FOR PUBLIC IMPROVEMENT CONTRACT – PARKING ADDITIONS AND CONSOLIDATED RENTAL CAR FACILITY – PORTLAND INTERNATIONAL AIRPORT

DAVE DITTMER

Requests the approval of an exemption from competitive bidding, enabling the Port of Portland to use a competitive request for proposals process to procure a public improvement contract for design and construction of a new Parking Additions and Consolidated Rental Car facility at Portland International Airport.

CONTRACT AMENDMENT – JANITORIAL SERVICES – PORTLAND INTERNATIONAL AIRPORT AND PORT OF PORTLAND HEADQUARTERS BUILDING

July 13, 2016

Presented by: Kendall Austin
Sr. Manager
Aviation Terminal Operations**REQUESTED COMMISSION ACTION**

This agenda item requests approval to amend the janitorial services contract with Portland Habilitation Center, Inc. (PHC), to award the contract's third annual extension term.

BACKGROUND

PHC is the Port of Portland's (Port) primary janitorial services provider, performing work at various Port facilities under two separate contracts. Services under this contract are performed at the Portland International Airport (PDX), related Port facilities, and the Port Headquarters building (HQ). PHC is a nonprofit agency that operates in the interest of individuals with disabilities, providing various services to public agencies. These firms are known as "qualified rehabilitation facilities," or QRFs, under Oregon law. The Port has contracted with PHC for janitorial services under Oregon's QRF laws since 1996. PHC's scope of work under the contract includes the following:

- Provide janitorial services, including custodians, supervisors, managers, equipment and supplies at designated facilities.
- Deice/remove snow on sidewalks, sky bridges and entrances.
- Clean escalators and moving sidewalks.
- Wash windows and provide high dusting.
- Maintain a Port-approved quality assurance program.
- Notify the Port of all defective conditions found.

The contract also contains extensive cleaning standards and other performance measures; PHC must continually meet all such requirements.

CONTRACT EXTENSION TERMS

In May 2013, the Port Commission approved the award of this contract for a one-year initial term, with seven optional one-year extension terms, which the Port may exercise in its discretion. An initial annual contract amount (\$6,269,497) was approved, and the Commission pre-authorized the Port to extend the contract annually for all seven extension terms, provided that the total amount awarded for each extension term does not exceed expenditures during the immediately preceding contract year by more than \$500,000.

CONTRACT AMENDMENT – JANITORIAL SERVICES – PORTLAND INTERNATIONAL
AIRPORT AND PORT OF PORTLAND HEADQUARTERS BUILDING

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Due to service adjustments required to meet airport facility growth, the total cost of the 2016-2017 extension term will exceed the cost of the 2015-2016 contract year by \$664,851. As a result, Commission approval is required for the Port to award an amendment for the 2016-2017 extension term. The previous two extension terms were exercised under the May 2013 Commission pre-authorization authority. Annual contract costs to date are as follows:

- Fiscal Year 2013-2014 – Total: \$6,269,497
- Fiscal Year 2014-2015 – Total: \$6,566,815
- Fiscal Year 2015-2016 – Total: \$6,858,918
- Fiscal Year 2016-2017 – Total: \$7,523,769

These yearly totals include regular services, contingency funds for extra work and consumable supplies for PDX and HQ.

Janitorial services are funded by the Airline Cost Center, 77.6 percent; the Port Cost Center, 20.2 percent; and the Shared Cost Center, 2.2 percent.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to amend the janitorial services contract with Portland Habilitation Center, Inc., for services at Portland International Airport, related Port of Portland facilities and the Port of Portland Headquarters building, and to award the contract's third annual extension term, consistent with the terms presented to the Commission; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute the necessary documents on behalf of the Port of Portland Commission in a form approved by counsel.

**PUBLIC IMPROVEMENT CONTRACT – TAXIWAY B CENTER AND EXITS REHABILITATION
– PORTLAND INTERNATIONAL AIRPORT**

July 13, 2016

Presented by: Chris Edwards
Engineering Project Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval to award a public improvement contract to K&E Excavating, Inc., to perform the Taxiway B Center and Exits Rehabilitation project at Portland International Airport (PDX).

BACKGROUND

Taxiway B is 11,000 feet long and is a major component of the airfield system on the south side of the airport terminal. It provides vital connections to the south airfield environment for heavier cargo and commercial users as well as main access points to the Concourse C gates.

When developing the project scope, the Port of Portland (Port) analyzed different pavement rehabilitation configurations, using either asphalt, concrete or some combination of the two. A life-cycle cost analysis was performed for each configuration to determine whether full-depth reconstruction, partial rehabilitations, mill and inlay or some combination of each would be the preferred alternative.

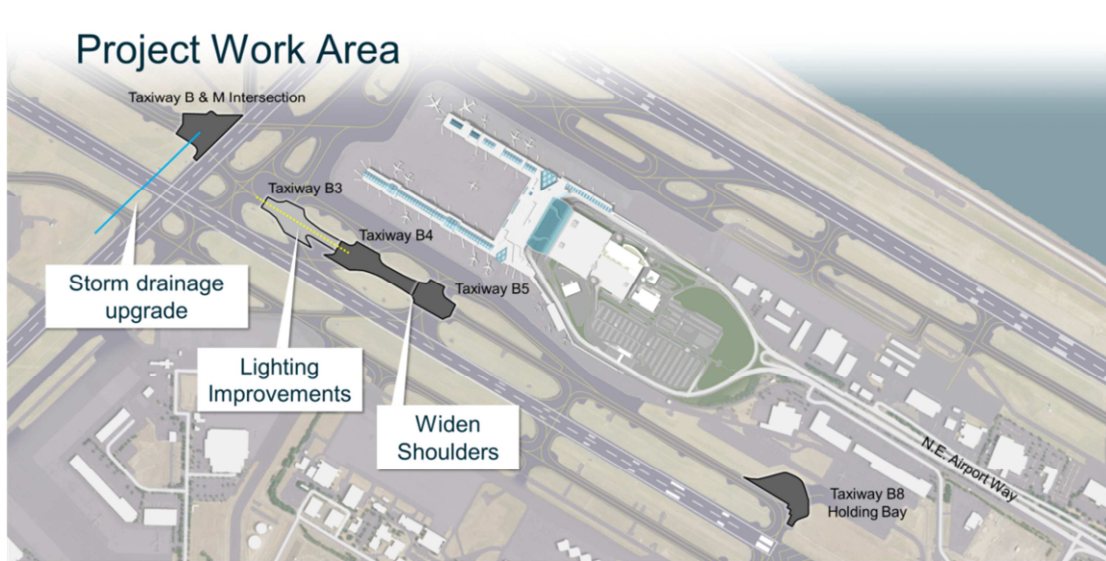
The preferred alternative was selected based upon maintenance, longevity, operations, environment and long-term cost savings considerations. Taxiway B exits B/M, B4, B5 and holding bay B8 – all currently asphalt pavement – will be reconstructed with Portland cement concrete. Exit B3, also currently asphalt pavement, will be rehabilitated in asphalt pavement and improved to meet Federal Aviation Administration (FAA) design standards, which include re-grading the safety area and widening the paved shoulders.

The Port advanced this project from its original 2018 construction timeframe to 2016-2017 because FAA discretionary grant funds are being made available earlier than expected.

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SCOPE

- Remove existing asphalt pavement.
- Reconstruct taxiway exits B/M, B4, B5 and holding bay B8 with Portland cement concrete.
- Rehabilitate exit B3 with asphalt pavement.
- Widen shoulders to 30 feet.
- Site grading.
- Install centerline and edge lights.
- Replace lighting and electrical system.
- Replace storm drainage.
- Restore pavement markings.

SCHEDULE

Preliminary Planning	October 2015 – February 2016
Airline Approval	February 2016 – April 2016
Design	March 2016 – May 2016
Commission Action (Public improvement contract)	July 13, 2016
Construction (2016)	August 2016 – October 2016
Construction (2017)	May 2017 – September 2017

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PROJECT BID RESULTS

The Port procured this public improvement contract utilizing a competitive sealed bidding solicitation under ORS Chapter 279C. The solicitation was advertised on June 1, 2016 and bids were received on June 22, 2016. K&E Excavating, Inc., submitted the lowest responsive bid. The bids were as follows:

K&E Excavating, Inc.	\$18,132,088.75
Kerr Contractors Oregon, Inc.	\$18,265,375.00
Nutter Corporation	\$18,431,664.22
Goodfellow Bros. Inc.	\$19,475,825.00
Wildish Standard Paving, Co.	\$19,685,462.00
Kodiak Pacific Construction*	\$16,474,320.00
Engineers Estimate	\$17,279,503.00

*Non-responsive due to incompleteness. Even if the bid had been fully responsive, it would not have been the low bid.

PROJECT RISKS

Risk: Operational Impacts

Mitigation Strategies:

- Develop phasing plans to minimize disruptions.
- Ongoing coordination with FAA Air Traffic Control and other affected stakeholders.

Risk: Inclement weather may delay work

Mitigation Strategies:

- Develop contingency plans for scheduling work.
- Perform work activities that are not weather sensitive during inclement weather.

BUDGET

Public improvement contract	\$18,132,088.75
Electrical equipment procurement	\$525,490.00
Port staff/contracted services (in-house design)	\$3,678,000.00
Contingency	<u>\$2,236,500.00</u>
Total project budget	\$24,572,078.75

PUBLIC IMPROVEMENT CONTRACT – TAXIWAY B CENTER AND EXITS REHABILITATION
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The contingency, representing 10.0 percent of the project cost, is considered reasonable given the risk profile for the project and the complexity of the work site.

This project will be funded approximately 41.7 percent by the Airline Cost Center and 58.3 percent by the FAA.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a public improvement contract for the Taxiway B Center and Exits Rehabilitation project at Portland International Airport to K&E Excavating, Inc., in accordance with its bid; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute the necessary documents on behalf of the Port of Portland Commission in a form approved by counsel.

EQUIPMENT PROCUREMENT CONTRACT – SHUTTLE BUS SURVEILLANCE CAMERA AND GPS TRACKING SYSTEM – PORTLAND INTERNATIONAL AIRPORT

July 13, 2016

Presented by: Severn Durand
Facility Engineer

REQUESTED COMMISSION ACTION

This agenda item requests approval to award an equipment procurement contract to Syncromatics Corp. (Syncromatics), in the amount of \$552,215, to furnish and install camera surveillance systems, Global Positioning System (GPS) tracking, automated destination signs, and stop announcement systems into the 6 new and 18 existing shuttle buses at Portland International Airport (PDX).



BACKGROUND

The PDX shuttle bus fleet consists of 24 passenger buses, which are used to move people to and from the PDX terminal and the Economy and Employee Parking Lots. These buses are intended to run on a schedule, but there is currently no way to verify that the schedule is maintained or to alert customers that a bus will arrive. Additionally, under the Americans with Disability Act (ADA), shuttle bus fleets are required to provide both visual as well as audible passenger stop notifications. Because the current bus fleet passenger notification system is no longer in production, it will soon no longer have technical support. Continuing to operate out-of-date technology with limited replacement equipment will lead to higher Port of Portland (Port) maintenance costs and increased down time while parts are sourced.

SCOPE

This project will update the passenger stop notification system and add GPS tracking for public and Port use, a surveillance camera system with an on-board Digital Video Recorder (DVR), and Wi-Fi hotspot access on each bus. The installation of a multi-camera and DVR system will

EQUIPMENT PROCUREMENT CONTRACT – SHUTTLE BUS SURVEILLANCE CAMERA AND GPS TRACKING SYSTEM – PORTLAND INTERNATIONAL AIRPORT

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provide recorded footage that can be retrieved if an incident occurs inside or outside the bus. The GPS location tracking system will provide real-time and recorded GPS data for each shuttle bus, including location, speed and direction of travel. Real-time GPS data will enable mobile apps for customers and bus fleet management. Using mobile applications, customers will be able to anticipate the time of arrival for any given bus. The on-board Wi-Fi equipment is included in the connectivity equipment required for live GPS tracking.

This project will help the Port's shuttle bus fleet continue to provide the highest level of customer service and safety possible. It also provides tools to optimize bus routes to ensure a regular and predictable bus schedule at every stop.

PROJECT PROPOSAL RESULTS

The Port advertised a competitive request for proposals (RFP) under ORS Chapter 279B on April 20, 2016, seeking qualified firms to provide the required components and integration for this project. On May 18, 2016, two firms submitted proposals (Syncromatics and Connexzions).

Proposals were reviewed and evaluated against the following criteria for this selection:

- Conformance with specification requirements, equipment function, software and tools, web and applications
- Equipment and installation price
- Qualifications and experience of proposer
- Schedule

The Port's evaluation team determined that Syncromatics' proposal was the highest ranked based on the RFP evaluation criteria. The cloud-based software and proposed information storage solution best meets the Port's information technology (IT) software and hardware integration requirements.

Staff negotiated a fixed price of \$552,215 for this procurement.

SCHEDULE

Technology upgrade design	November 2015 – February 2016
Equipment Procurement RFP Advertisement	April 20, 2016 – May 18, 2016
Commission approval (equipment procurement contract)	July 13, 2016
Installation, integration, startup and commissioning	Aug 1, 2016 – December 30, 2016

EQUIPMENT PROCUREMENT CONTRACT – SHUTTLE BUS SURVEILLANCE CAMERA
AND GPS TRACKING SYSTEM – PORTLAND INTERNATIONAL AIRPORT

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PROJECT RISKS

Risk: Buses are unavailable for service during peak periods when they are removed from service for installation.

Mitigation Strategies:

- Install systems in new buses before they are placed into service.
- Remove no more than four active shuttle buses at a time to install the system.
- Ensure installer manages schedule to cycle through all 24 buses without down time.

Risk: System commissioning and web/cloud services do not meet Port standards.

Mitigation Strategies:

- Work closely with Port IT staff and the system provider to ensure that cloud- and web-based services meet Port standards for security and function.
- Commission and test system and routes with installer to verify accurate tracking and usable customer apps.

Risk: Misuse or under-use of new system.

Mitigation Strategies:

- Training for Port staff.
- Training for shuttle bus staff.
- Testing for ease of use.

BUDGET

Equipment procurement and installation	\$552,215
Port staff/contract services	\$130,000
Contingency	<u>\$67,785</u>
Total project budget	\$750,000

The contingency, representing 10 percent of the project budget, is considered reasonable given the stage of the project, the nature of the work and the overall risk profile for the project.

This project will be funded by the Port Cost Center.

EQUIPMENT PROCUREMENT CONTRACT – SHUTTLE BUS SURVEILLANCE CAMERA
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EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award an equipment procurement contract to Syncromatics Corp. to furnish and install camera surveillance systems, Global Positioning System tracking, automated destination signs, and stop announcement systems into 24 shuttle buses at Portland International Airport, consistent with the terms presented to the Commission; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute the necessary documents on behalf of the Port of Portland Commission in a form approved by counsel.

**EXEMPTION FROM COMPETITIVE BIDDING FOR PUBLIC IMPROVEMENT CONTRACT –
PARKING ADDITIONS AND CONSOLIDATED RENTAL CAR FACILITY – PORTLAND
INTERNATIONAL AIRPORT**

July 13, 2016

Presented by: Dave Dittmer
Engineering Project Manager

REQUESTED COMMISSION ACTION

This agenda item requests the approval of an exemption from competitive bidding, enabling the Port of Portland (Port) to use a competitive request for proposals (RFP) process to procure the public improvement contract for design and construction of a new Parking Additions and Consolidated Rental Car (PA and ConRAC) facility at Portland International Airport (PDX).

BACKGROUND

Rental cars and public parking at PDX have long been significant sources of revenue and are a source of high customer satisfaction due to their close proximity to the airport terminal. Supporting these successful operations will be a new PA and ConRAC facility to be located immediately south of the Port headquarters and long-term parking structure. Once completed, PDX rental car operations will contain sufficient capacity to accommodate demand through the year 2035. In addition, the number of long-term public parking spaces will be increased to alleviate the ongoing challenge of insufficient parking capacity.



EXEMPTION FROM COMPETITIVE BIDDING FOR PUBLIC IMPROVEMENT CONTRACT – CONSOLIDATED RENTAL CAR FACILITY AND PUBLIC PARKING FACILITY – PORTLAND INTERNATIONAL AIRPORT

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This project will consist of a new seven-floor facility which contains the following elements:

- 720,000-square-foot rental car ready return and 30,000 square-feet of business office space on floors one through three.
- Entrance and exit helices.
- 2,400 new long-term public parking spaces on floors four through seven.
- Significant utility relocations that will modernize the dated systems.

EXEMPTION FROM COMPETITIVE BIDDING

Under Oregon law, public agencies must deliver construction projects using the design-bid-build (DBB, or “low bid”) method unless an alternate contracting method is used. Under low-bid contracts, contracts are awarded based on price alone.

The Oregon Public Contracting Code also allows a public agency’s contract review board to approve the use of an alternative contacting method by granting an exemption from competitive bidding. Using an alternate contracting method allows public agencies to consider factors in addition to price when selecting the contractor, such as experience, qualifications, safety and small business participation.

The Port has successfully used alternate contracting methods on numerous projects in recent years, including the Port Headquarters/Long-Term Parking Garage, the PDX Inline Baggage Screening project, and the Deicing Enhancement project.

Port staff considered all available contracting methods for this project, including traditional low-bid and Construction Manager/General Contractor (CM/GC). As discussed in more detail in the Findings in Support of an Exemption from Competitive Bidding (Findings) that are attached as Exhibit A, this project entails complex operational issues, major utility relocations, phased construction activities, subcontractor design requirements and important schedule optimization demands. For primarily those reasons, Port staff recommends the use of an alternative contracting method to deliver this project.

Specifically, the Port intends to conduct a competitive RFP procurement to select a contractor to design and construct this project using a “progressive” design-build (D-B) delivery method. The RFP will enable the Port to select the contractor based in part on the proposers’ qualifications. The process will also consider cost and fee responses during scoring and selection. RFP evaluation criteria will include, for example:

- The experience of the proposer’s team with similar projects, including both design and construction expertise with rental car facilities, parking structures, utility systems, code compliance and analyses.
- Past success with achieving a broad array of project goals related to complex projects.

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- The proposer’s demonstrated project programming and plan refinement, scheduling, phasing and coordination capability.
- Experience with highly visible public projects that require skilled communications among numerous stakeholders, both internal and external.
- Proposed fees.

As discussed in the Findings, this selection process is considered unlikely to encourage favoritism in the awarding of the contract or to substantially diminish competition for the contract. It would also likely result in substantial cost savings and other substantial benefits to the Port.

The D-B contract will utilize the “guaranteed maximum price” (GMP) compensation structure, under which the Port authorizes a fixed, maximum price for a stated scope of work. The contract will include a fixed fee based on the percent of the maximum cost of design and construction and the contractor will be reimbursed for construction based primarily on competitively awarded subcontracts.

After public notice, the Port held a public hearing on May 26, 2016 to take comments on the draft Findings, as required under Oregon law. The final Findings summarize the results of the hearing. The Port now seeks the Commission’s approval of the Findings, acting in its capacity as the Port’s Contract Review Board. In addition, the Port seeks an exemption from competitive bidding to allow the Port to procure the project public improvement contract using an RFP.

PRELIMINARY SCHEDULE

Commission action (Grant exemption from competitive bidding)	July 2016
Design Build (D-B) Contractor selection process	July 2016 – November 2016
Commission action (Award pre-design and program refinement contract)	December 2016
Concept Design – Programming	January 2017 – July 2017
Commission action (GMP amendment)	August 2017
Final design and permits	August 2017 – June 2018
Construction	March 2018 – February 2020

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PROJECT RISKS

Risk: Delays which disrupt rental car processing.

Mitigation Strategy:

- Using the D-B project delivery method will save 6 to 12 months of contract completion time, and will reduce the potential for schedule delays when compared to the standard low-bid method.

Risk: Complexities related to controls, information technology and subcontractor design elements not being understood or managed proactively by the contractor, leading to change orders and project delivery delays.

Mitigation Strategies:

- The RFP process will focus on these critical qualifications during contractor selection.
- Port contract administration staff will prioritize these items and track contractor delivery of the various elements.
- Develop a strategy to elevate unresolved issues and milestone tasks.

PROJECT BUDGET

Construction	\$181,000,000
Design	\$15,000,000
Port staff and contracted services	\$10,000,000
Contingency	\$40,000,000
Total project	\$246,000,000

The contingency, representing 19.4 percent of the project costs, is considered reasonable given the current initial program stage of the project, the nature of the work, and the risk profile for the project.

The project cost will be funded through the Port Cost Center via general airport revenue bonds (40 percent) and bonds backed by Customer Facility Charges (60 percent).

EXEMPTION FROM COMPETITIVE BIDDING FOR PUBLIC IMPROVEMENT CONTRACT –
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EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Port of Portland Commission, in its capacity as the Port of Portland Contract Review Board, approves the findings set forth in the attached Exhibit A, "Findings in Support of an Exemption from Competitive Bidding – PDX Parking Additions and Consolidated Rental Car (ConRAC) Facility" dated June 8, 2016; and

BE IT FURTHER RESOLVED, That the Port of Portland Commission, in its capacity as the Port of Portland Contract Review Board, specifically exempts from competitive bidding the public improvement contract for the PDX Parking Additions and Consolidated Rental Car (ConRAC) Facility, consistent with the terms presented to the Commission.



**FINDINGS IN SUPPORT OF AN
EXEMPTION FROM COMPETITIVE BIDDING**

PDX Parking Additions and Consolidated Rental Car (ConRAC) Facility

PROJECT NO. 102171

JUNE 8, 2016

Project Background

To optimize the Port of Portland's long-term strategy to keep rental cars near the terminal at Portland International Airport (PDX), and to meet demand for additional public parking at PDX, the Port is planning to design and construct a new facility to accommodate growth in both businesses.

Project Description

As currently planned, project elements include (but are not necessarily limited to) the following:

- A seven story, approximately 700,000 square foot parking structure located south of the existing long-term parking structure (P2) and the central utility plant (CUP).
- Entrance and exit helixes.
- A 30,000 square foot rental car operations center.
- A new parking toll plaza office.
- Ongoing rental car return traffic through the construction site during construction, to prevent disruption of ongoing operations between the rental quick-turnaround facility (QTA) and the existing short-term parking structure (P1).
- A new garbage collection and waste consolidation center for this facility, the adjacent QTA, P1 and P2, and the Port headquarters offices (HQ).
- New rental car entrance road and reconfiguration of the existing roads as needed.
- Relocations of multiple, significant underground utilities.

Construction Complexity

The project is complex in many respects. The need to relocate multiple utilities creates the greatest complexity. High voltage electrical feeders, sewer force mains, water mains, and airfield lighting power circuits are all located under the new building's footprint. These relocations must be successfully timed and coordinated to maintain essential services at PDX. The ongoing rental car traffic through the construction site also makes phasing and coordination critical to safety and task execution. Port staff believes that engaging an experienced contractor early in the project is the best way to manage the project's complexity and minimize the impacts of these constraints.

Alternate Contracting Methods; Exemptions from Competitive Bidding

Under Oregon's Public Contracting Code (Code), public agencies generally must procure public improvement contracts – i.e. project construction contracts -- using competitive sealed bidding, awarding the contract to the lowest responsible bidder.¹ This project delivery method, referred to as "design-bid-build," is the default delivery method under Oregon law unless an alternate contracting method is used. Design-bid-build delivery entails separate design and construction phases, with the agency usually contracting directly with a design consulting firm months or years before awarding a public improvement contract to a construction firm to build the project. After design is 100% complete, the agency invites competitive, sealed bids on the public improvement contract, and awards the contract based on price alone.

However, the Code also embraces alternate contracting methods for complex public improvement projects, enabling agencies to select contractors based on factors in addition to price.

A stated policy goal of the Code is to: "[p]rovide a public contracting structure that can take full advantage of evolving procurement methods as they emerge within various industries, while preserving competitive bidding as the standard for public improvement contracts unless otherwise exempted."² Similarly, the Port's Contracting Rules promulgated under the Code are intended to: "maximize the Port's flexibility in adjusting its contracting procedure to the specific circumstances of each procurement, and to ensure that the Port receives the maximum benefit from the public funds expended on public contracts."³

Under the Code, when appropriate, an agency's local contract review board (CRB) may direct the use of alternate contracting methods that "take account of market realities and modern practices and are consistent with the public policy of encouraging competition."⁴

An agency's CRB directs the agency to use an alternate contracting method by granting an exemption from competitive bidding.⁵ In granting the exemption the CRB must require and approve or disapprove written "findings"⁶ that support the award of the contract without the competitive bidding requirement.⁷ The findings must show that the exemption of the contract complies with the requirements set forth below under "Findings."⁸

Proposed Procurement Method

For the reasons discussed above and as further explained below, for this project Port staff propose to use an open, competitive Request for Proposals (RFP) procurement process to select a contractor and award a design-build contract for both project design and construction. Notice of the RFP would be advertised publicly and posted on the Port's online vendor bidding portal. The Port may also solicit proposals directly from firms the Port believes are qualified to perform the work.

¹ ORS 279C.335(1); ORS 279C.375(1)

² ORS 279A.015(6)

³ Port Contracting Rule A.015

⁴ ORS 279C.335(4)(a)

⁵ ORS 279C.335(2)

⁶ "Findings" means the justification for a conclusion that an agency, in seeking an exemption from competitive bidding, reaches based on the considerations set forth in this document under the heading "Findings." ORS 279C.330(2)

⁷ ORS 279C.335(4)(b)

⁸ ORS 279C.335(4)(b)

A team administered by the Port's Contracts and Procurement department will review and score proposals based on evaluation criteria set forth in the RFP. The RFP evaluation criteria will allow the Port to consider factors in addition to price when selecting the contractor, such as experience, qualifications, safety, and small business participation.

As these findings will demonstrate, it is critical to be able to evaluate the contractor's experience. The RFP evaluation criteria will place a premium on experience with relevant project work. We expect that, in order to meet the Port's experience requirements, proposers will assemble cross-disciplinary "teams" which include experts in utility design, code review, rental car operations, traffic analysis, and parking structure design and construction.

Project Delivery Method

To complete this project in the safest, most expedient, and cost-effective manner, Port staff recommend awarding a Design-Build (D-B) contract to deliver it.

Design-Build is an alternative contracting method used to deliver both design and construction services under one contract. Many variations exist, but all make the design-build contractor the owner's single point of responsibility. With D-B, a performance specification is developed and an RFP is issued soliciting proposals on the entire package of design and construction services. By combining these services, the work of the design consultant and the contractor is integrated. This allows the selected firm to work with the Owner during the design process to provide design, value engineering, constructability review, scheduling, estimating, and other related services. It should also allow construction to start before design is complete. The D-B contractor is usually selected based on a combination of qualifications, technical approach and price. Compensation models vary, but D-B contracts often are based on a fixed or "guaranteed maximum" price (GMP), similar to the construction manager/general contractor (CM/GC) method. The Port commonly uses the CM/GC project delivery method, has not recently used the D-B method.

For this project, using the D-B method will allow the Port to provide input on the facility's features and enhancements during initial design, helping the Port address stakeholder needs. And making the construction contractor part of the team from the outset will enable the contractor to address phasing, safety, and bid packages earlier, helping the Port manage this project's risks.

These benefits should also result in earlier project completion compared to other delivery methods. Earlier completion would allow the facility to generate revenue earlier, allowing the Port to recognize an earlier return on its investment. Analysis suggests that the D-B method could reduce this project's duration by up to one year. If that is realized, the D-B method could provide the Port with over \$12 million in additional economic benefit (via earlier revenue generation and cost savings) compared to the design-bid-build delivery method.

As discussed in more detail below, cost savings are expected to stem from various characteristics of the D-B delivery method. For example, the entire project team will be able to work together to address project goals before assigning cost commitments and risks to the contractor. Doing so will help the Port meet stakeholder needs without paying excessive fees or providing for substantial contingency funds. In addition, the D-B method fosters efficient communication and reporting channels between the design and construction team members, increasing efficiency.

Anticipated Contract Features

As of the issuance of these Findings the D-B contract is anticipated to include the common D-B features described above, utilizing the “progressive” D-B approach. Under this approach, the D-B contract will make the D-B contractor part of the Port’s team at a very early stage of project design, as opposed to the Port first developing the design to a more advanced stage. In phases over time, the D-B contractor will then help the Port develop the design concept beyond what the Port has already developed. This flexibility should allow the Port to take full advantage of the benefits of the D-B method.

The contract will utilize the Guaranteed Maximum price (GMP) compensation structure, under which the Port authorizes a fixed, maximum price for a stated scope of work. Using the GMP structure should create cost certainty, because any costs above the GMP are the contractor’s responsibility. The GMP will primarily be based on: (1) bond premiums; (2) a “programming” fee for concept development; (3) a “design” fee; (4) a “management” fee, for construction management services on all work phases; (5) a “builder’s fee,” which the D-B contractor will apply to the cost of all subcontracted trade packages; and (6) estimates of the actual costs of the work, allowances, and a contractor-controlled contingency fund.

However, as provided under the Code, the final parameters of the contract will be those characteristics or specifics announced in the solicitation document.⁹

Findings

Under the Code, the Port’s CRB may exempt a public improvement contract from competitive bidding upon approval of findings submitted by Port staff which justifies the exemption. The two required findings are items numbered 1 and 2 below; supporting information follows each.

1. The exemption is unlikely to encourage favoritism in awarding the contract or substantially diminish competition for the contract.

This exemption is unlikely to encourage favoritism in awarding the contract because the Port’s open, competitively-solicited RFP will allow all qualified D-B entities to submit proposals. The RFP’s evaluation criteria will be designed to help the Port determine which entity is best qualified and has proposed the most cost-effective approach to completing the work. Multiple contractors are expected to submit proposals, which will be evaluated by a team in order to mitigate the effect of any individual bias in reviewing proposals.

This exemption is unlikely to substantially diminish competition because the RFP remains an open, advertised, competitive selection process. Rather than being diminished, competition will be expanded to encompass qualifications as well as price. To solicit proposals, the Port will advertise notice of the RFP in the Daily Journal of Commerce. The Port will also post the RFP on the Port’s website, to reach construction service providers that are already registered in the Port’s online vendor bidding system. All interested firms will be invited to submit proposals.

2. Awarding the contract under the exemption will likely result in substantial cost savings and other substantial benefits to the agency.

This exemption will likely result in substantial cost savings to the Port since, as discussed above, the combined early revenue recognition and cost savings estimated to flow from using the D-B method are estimated at \$12 million. Primarily due to shortened project task durations, the Port will be able to start operations and income generation almost a year ahead of the

⁹ ORS 279C.335(6)

schedule associated with a standard design-bid-build format. This determination is supported by independent research conducted by the American Association of Port Authorities.

This exemption will provide other substantial benefits as documented below.

(a) Type, cost, and amount of the contract. The CRB is required to consider the type, cost, and amount of the contract in considering this finding no. 2.¹⁰

- This project budget has been authorized at \$240 million, and design and construction costs are estimated to exceed \$200 million.

(b) Other factors. To the extent applicable, the CRB must also consider the following additional factors in considering this finding no. 2.¹¹

- Where applicable, Port staff has provided supporting information below.

A. *How many persons are available to bid.*

- Multiple qualified firms should be available to bid as the D-B contractor, including Pacific Northwest-based firms. In addition, the D-B contractor will engage many subcontractors representing many disciplines. At least 25 subcontractors are expected to competitively bid trade packages under this project.

B. *The construction budget and the projected operating costs for the completed public improvement.*

- As stated above, design and construction costs are estimated at \$200 million. The overall project budget has been authorized at \$240 million. Awarding the contract under the exemption is not expected to impact operating costs.

C. *Public benefits that may result from granting the exemption.*

- All of the benefits detailed above in these findings that are associated with using the D-B project delivery method in comparison to the design-bid-build method will accrue to the public's benefit.

D. *Whether value engineering techniques may decrease the cost of the public improvement.*

- Value engineering will be implemented as a significant part of the project delivery plan, and this project will realize the benefits of a rigorous value engineering exercise after project programming is complete.

E. *The cost and availability of specialized expertise that is necessary for the public improvement.*

- All of the required specialty skills required for this project and the D-B format are locally available.

F. *Any likely increases in public safety.*

¹⁰ ORS 279C.335(2)(b)

¹¹ ORS 279C.335(2)(b)

- Public safety should be better served if this this exemption is granted -- the RFP selection process allows the Port to take the contractor's safety program and record into account. In addition, as previously discussed, the safety improvements from having a qualified, experienced, full-time construction management presence during design and construction should diminish the probability of accidents on site.

G. *Whether granting the exemption may reduce risks to the Port or the public that are related to the public improvement.*

- This exemption will allow the Port to work with a D-B contractor to reduce overall project risk, including minimizing the public impact of the construction.

H. *Whether granting the exemption will affect the sources of funding for the public improvement.*

- Not applicable.

I. *Whether granting the exemption will better enable the Port to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement.*

- The exemption will allow the Port to award a D-B contract, which should allow for earlier release of competitively bid trade packages and earlier project completion. Construction costs continue to trend upward, so performing the work earlier takes advantage of better market conditions than if the work were performed later, or for longer.

J. *Whether granting the exemption will better enable the Port to address the size and technical complexity of the public improvement.*

- The Port can address the project's considerable size and complexity optimally with the expanded talent pool of design and construction trade professionals available under the D-B delivery method.

K. *Whether the public improvement involves new construction or renovates or remodels an existing structure.*

- Mostly new construction, but will interface closely with existing assets.

L. *Whether the public improvement will be occupied or unoccupied during construction.*

- Occupied components will be the exit toll plaza, and ongoing rental car operations within the site as described above.

M. *Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.*

- Multiple phases are required to keep the existing operations surrounding this facility uninterrupted during construction.

N. *Whether the Port has, or has retained under contract, and will use Port personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative*

contracting method that the Port will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

- The Port has significant institutional knowledge with RFP solicitations. Port personnel and outside consultants experienced in alternative contracting methods will help develop the RFP and project contract. Port staff with relevant expertise will participate in negotiating, administering and enforcing the contract's terms.

Public Hearing

Under the Code, before the Port's CRB approves the Findings proposed above and before granting the exemption from competitive bidding, the Port must hold a public hearing to allow the Port to take comments on the draft findings for an exemption from the competitive bidding requirement.¹² Notice of a public hearing on May 26, 2016 was timely published, to allow interested parties to appear and present comments on the proposed exemption. At the time of the notice, copies of these draft findings were available to the public upon request. The hearing was held May 26 and no public comment was received.

Summary

Port staff finds that the proposed exemption from competitive bidding (i) is unlikely to encourage favoritism in awarding the contract or substantially diminish competition for the contract, and (ii) will likely result in substantial cost savings and other substantial benefits to the Port. As a result, Port staff concludes that the proposed exemption from competitive bidding is consistent with the Code's stated policy of embracing alternate contracting methods when appropriate. Port staff recommends that the public improvement contract for this project be exempted from the Code's competitive bidding requirement.

¹² ORS 279C.335(5)