*Authorize Emergency Declaration for the procurement of projects funded by the 2009 Local, State and Federal Economic Stimulus Program and delegate authority to the Purchasing Agent to execute contracts funded under the program (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

- 1. During the past year and a half the State of Oregon as well as the nation has undergone an economic downturn reflected by the collapse of the subprime mortgage market, the resulting credit crunch in which individuals and businesses were unable to obtain money for loans, the significant reduction in the value of equities and bonds as reflected by the national stark market and a significant increase in unemployment.
- 2. To address these and other severe economic situations the Governor of Oregon signed SB 338, the "state stimulus package" into law on February 5, 2009. On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009, the "federal stimulus package" into law. The City of Portland is considering its own local stimulus package in response to the current recession and economic downturn that has severely affected the nation, the State of Oregon and the Portland metropolitan area. The Federal, State and local Economic Stimulus Program for deferred maintenance, renovation, and construction projects are meant to stimulate Oregon's economy through job creation and retention as quickly as possible.
- 3. As a result of the current economic conditions, the City has determined that the stimulus expenditures authorized by federal, state and local authorities need to be expedited more quickly than the traditional procurement process allows.
- 4. The State of Oregon has reached a similar conclusion. The State Department of Administrative Services (DAS) has made an Emergency Determination and Exemption from the State Procurement Code, ORS 279A, 279B and 279C competitive bidding requirements which apply to contracts and projects for which the Oregon Economic Stimulus Package legislation is funding. The City hereby adopts and incorporates by reference the documentation of emergency circumstances contained in the DAS Emergency Determination and its conclusions. The portions of the Determination that are directed to the actions of state agencies are not incorporated by reference. Such documentation. The City believes that such documentation shows a threat to public welfare and otherwise substantiates the existence of an emergency as defined ORS 279A.010(1)(f).
- 5. A Proclamation of an Emergency Declaration is needed to ensure bond proceeds of the Economic Stimulus Program received by the City of Portland are used as quickly as possible in order to create new and retain existing work opportunities.
- 6. An Emergency Declaration will allow for quicker implementation of the projects with the intent to retain a fair, accountable, transparent and legal process. Emphasis will be made on using locally based companies, employees, and products whenever possible. The City's use of minority, women, and emerging small businesses at a prime and subcontractor level will be maximized to greatest extent practicable.
- 7. Due to the important nature of the projects and the immediate need to begin these projects, the Council finds it necessary to temporarily delegate contract execution authority to the City's Purchasing Agent for procurement of goods, services and construction services, not exceeding \$5 million is necessary in order for expediting all procurements instantaneously.

- 8. The City shall seek competition for any Emergency Contract awarded pursuant to this Ordinance as is reasonable and appropriate under the circumstances, and may include written requests for offers, oral requests for offers, direct awards in the case of extreme necessity as well as utilizing standard intermediate procurement procedure, formal procurement procedures and alternative contracting methods. The Purchasing Agent shall be guided by PCC 5.33.130 (goods and services) and PCC 5.34.110 (construction and construction services) in making these awards.
- 9. The City shall establish a Local Stimulus Task Force to assist the Bureau of Purchases in identifying projects for awarding contracts on an informal solicitation level that would normally have been competitively bid. The Committee shall be appointed by the Mayor and approved by the City Council.

NOW, THEREFORE, the Council directs:

- a. An Emergency Declaration for the Procurement of Projects funded by the 2009 Local, State, and Federal Economic Stimulus Program.
- b. The Purchasing Agent may execute contracts funded by the 2009 Local, State, and Federal Economic Stimulus Program that do not exceed \$5 million on behalf of the City subject to receiving a written recommendation from the Director of the Bureau initiating the project and a recommendation from the Local Stimulus Task Force Committee.
- c. The Purchasing Agent shall provide a monthly status report to City Council which includes project information related to start dates, completion dates, amount of the original contracts, the estimated number of labor days by workers under each contract, the wages paid to workers under each contract, and the number of jobs created or retained by virtue of the contracts funded by the 2009 Local, State, and Federal Economic Stimulus Program.
- d. Under this delegation of authority by City Council to the Purchasing Agent, any contracts funded by the 2009 Local, State, and Federal Economic Stimulus Program will be in accordance with City Code unless the Code conflicts with this Ordinance and will be subject to review by the City Attorney's Office.
- e. The emergency authority granted to the Purchasing Agent shall be reviewed by the City Council every 12 months following the approval of this ordinance and the City Council may vote to extend the duration of the authorities granted to the Purchasing Agent.
- f. Notwithstanding the granting of authority above, if the Purchasing Agent believes that procurement should be considered by the City Council, the Purchasing Agent may forward the proposed procurement to the City Council for approval.

Section 2. The Council declares that an emergency exists in order to begin immediate implementation of projects funded by the 2009 Local, State, and Federal Economic Stimulus Program. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, May 20, 2009 Mayor Sam Adams Commissioner Randy Leonard

Prepared By: J. Baer

Date Prepared: May 14, 2009

LaVonne Griffin-Valade Auditor of the City of Portland By /s/ Susan Parsons

Deputy