

RESOLUTION NO. 2202

A RESOLUTION OF THE COMMISSION OF THE HOUSING AUTHORITY OF THE CITY OF SALEM, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS IN SUPPORT OF AN EXEMPTION FROM THE COMPETITIVE BIDDING PROCESS AND AUTHORIZING THE USE OF AN ALTERNATIVE CONTRACTING METHOD FOR A CLASS OF PUBLIC IMPROVEMENT CONTRACTS

WHEREAS, one primary goal of the Housing Authority of the City of Salem, Oregon (SHA), is to provide more affordable housing in the city; and

WHEREAS, the SHA is seeking to renovate affordable housing units on three separate sites owned or being acquired by the SHA; and

WHEREAS, renovation of the affordable housing units will be financed using Federal Low Income Housing Tax Credits (LIHTC), grants, and private debt financing; and

WHEREAS, the SHA has adopted its own Public Contracting Rules (PCR) pursuant to Oregon Revised Statutes (ORS) 279A.065; and

WHEREAS, the Commission of the SHA is designated as the Local Contract Review Board for the SHA pursuant to ORS 279A.060 and PCR 1.3; and

WHEREAS, ORS 279C.335(2) and PCR 9.7 authorize the Local Contract Review Board to exempt a public improvement contract or a class of public improvement contracts from competitive bidding requirements upon the adoption of certain written findings after a public hearing; and

WHEREAS, PCR 9.8 and PCR 9.9 authorize an alternative form of procurement known as the Construction Manager/General Contractor (CM/GC) contract; and

WHEREAS, a CM/GC contract may be authorized if certain types of benefits resulting from its use are reasonably demonstrated; and

WHEREAS, pursuant to ORS 279C.335(5) and PCR 9.7(c), the SHA published notice of the February 13, 2017 public hearing on the draft findings in the *Daily Journal of Commerce*, a trade newspaper of general statewide circulation, on January 30, 2017, which date is not less than fourteen days prior to the public hearing; and

WHEREAS, the Local Contract Review Board held the duly advertised public hearing on February 13, 2017.

NOW, THEREFORE, THE COMMISSION OF THE HOUSING AUTHORITY OF THE CITY OF SALEM, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD FOR THE HOUSING AUTHORITY OF THE CITY OF SALEM, OREGON, RESOLVES AS FOLLOWS:

Section 1. Exemption from the Competitive Bidding Process and Authorization of the Use of an Alternative Contracting Method for a Class of Public Improvement Contracts Involving the Renovation of Affordable Housing. Pursuant to ORS 279C.335(2) and PCR 9.7, the Commission, acting as the Local Contract Review Board, hereby exempts that class of public improvement contracts specifically comprised of those contracts for the renovation of SHA-owned multifamily properties from the competitive bidding process. The Commission further authorizes the use of a request for proposals (RFP) process to procure CM/GC services for this class of public improvement contracts.

Section 2. Findings. The exemption from the competitive bidding process and authorization of the use of a RFP process to procure CM/GC services for the renovation of SHA-owned multifamily properties are based on the following findings:

(A) The exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts. The nature of the work required for the renovation of affordable housing owned by the SHA is very specialized due to the layering of tax credit financing with, in the case of the RAD conversion, HUD rules and regulations. The RFP process will allow competition for the selection of the CM/GC for each project.

(B) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the SHA. Substantial cost savings will be realized by the SHA due to the fact that a CM/GC is the expert in managing and constructing its own projects. This specialized experience will also improve the design of each renovation project and minimize construction risks and cost overruns.

Section 3. Factors Considered. As required by ORS 279C.335(2)(b), the Commission has considered the type, cost, and amount of the public improvement contracts to be awarded and has determined that the exemption would substantially benefit the SHA. The Commission has also considered, to the extent applicable, the following:

(A) How many persons are available to bid. Any qualified firm can respond to the RFP for each project.

(B) The construction budget and the projected operating costs for the completed public improvement. Substantial cost savings will be realized by the SHA because the CM/GC will be an expert at design and construction improvements for multi-family housing structures. The projects will be delivered in a shorter amount of time and at less cost since CM/GC services will be used beginning with the design phase and the CM/GC will be able to recommend improvements in the plans and processes prior to the start of the actual renovation work. The CM/GC will also assist in determining reductions in operating costs so that after renovation, the projects will generate the necessary cash flow to continue operations for years to come.

(C) Public benefits that may result from granting the exemption. Granting the exemption will allow the CM/GC to complete the renovations and will minimize the length of time each property is under construction, thus, decreasing the amount of time tenants will be displaced during the renovation work.

(D) Whether value engineering techniques may decrease the cost of the public improvement. The use of CM/GC services will allow value engineering techniques to be incorporated during the early design stage of the renovation work and may decrease the overall cost of the projects.

(E) The cost and availability of specialized expertise that is necessary for the public improvement. The CM/GC will be an expert at this type of work and will either self-perform or subcontract construction on all of the SHA-owned properties to be renovated. The cost of CM/GC staff will be part of the hourly rates for each staff type and will be determined during the RFP process.

(F) Any likely increases in public safety. Public safety will likely be involved only during the construction and relocation phases of each project. The CM/GC will be responsible for ensuring that the appropriate safety rules are implemented and followed by staff and subcontractors at all times.

(G) Whether granting the exemption may reduce risks to the SHA or the public that are related to the public improvement. Having the CM/GC involved in the design phase will reduce any risk of unexpected and unplanned changes and costs during the renovation of the affordable housing units.

(H) Whether granting the exemption will affect the sources of funding for the public improvement. Granting this exemption will not affect the sources of funding for this class of public improvements. The projects will be funded by sources outside of the

CM/GC process, but the use of CM/GC services will help the funding agencies more accurately project the financing required to successfully complete the renovations.

(I) Whether granting the exemption will better enable the SHA to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement. The use of CM/GC services should help speed up the design/construction phase of these renovation projects in order to fully utilize any funding from outside agencies.

(J) Whether granting the exemption will better enable the SHA to address the size and technical complexity of the public improvements. Exempting this class of public improvement contracts from the competitive bidding requirements and authorizing the use of CM/GC services will enable the SHA to ensure that both projects are timely and successfully completed due to the large size of each (92 units for Southfair/Yaquina and 164 units for the RAD conversion).

(K) Whether the public improvement involves new construction or renovates or remodels an existing structure. The improvements involve the renovation of existing housing units currently owned, operated, and maintained by the SHA, as well as the renovation of Yaquina Hall which is soon to be acquired by the SHA into new housing units. The CM/GC's knowledge of the facilities from the initial design phase forward will assist in minimizing construction risks and cost overruns for each project.

(L) Whether the public improvement will be occupied or unoccupied during construction. Some of the properties to be renovated will be partially occupied during construction. The Southfair Apartments will be occupied during construction and some tenants will need to be temporarily relocated. Yaquina Hall is not currently occupied as it is under partial demolition by the State of Oregon for asbestos and lead removal. The public housing apartments will be occupied during renovation, and tenants will need to be temporarily relocated as necessary during construction. The CM/GC will need to work within the restrictions that any relocation requirements place on the construction work.

(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions. The renovations to the Southfair Apartments and Yaquina Hall will likely occur in a single phase of construction work. For the public housing apartments, there will likely be some staging involved since each site has multiple buildings. The CM/GC's experience with this type of work will help minimize the length of time each property is under construction and, thus, reduce the amount of time the residents of each property are relocated.

(N) Whether the SHA has, or has retained under contract, and will use contracting agency 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 contracting agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contracts: The SHA has, and will use, staff that has prior experience and expertise in negotiating similar public improvement contracts with a CM/GC. All contracts will be reviewed and approved by the SHA's legal department, the SHA's Executive Director, and the Housing Administrator prior to execution.

Section 4. Benefits to be Realized. The use of CM/GC services will result in the following benefits to each renovation project:

(A) Time Savings. Time savings is a critical element of the projects, as construction time savings increase rental income as renovated units are released for occupancy. The use of CM/GC services is estimated to save 16 weeks of time from design development through the end of construction compared with the traditional competitive bidding process. The time savings accrues as the contractor and architect collaborate during the initial planning process on the most efficient means and sequencing of the renovation work. The general contractor gains a detailed knowledge of the building structure and the different building systems in this process. This knowledge minimizes the need for time-consuming plans clarifications by the architect, material substitution requests, and change order research and processing.

(B) Cost Savings. The use of CM/GC services is expected to result in significant cost savings relative to the competitive bidding process. The general contractor's involvement in renovation design development will identify the most cost efficient materials, construction techniques, and sequencing of work. This involvement enables the general contractor to thoroughly understand the proposed building systems prior to requesting bids from subcontractors and allows more precise sizing and timing of the construction loan to save on interest costs. The use of CM/GC services also minimizes the discovery of unknown conditions later in the renovation process that would result in construction change orders.

(C) Technical Complexity. The renovation work for the Southfair Apartments will require the temporary relocation of tenants as needed to complete interior unit work. The work will also involve replacing the building roof and envelope. In addition, the work will include the conversion of an existing unoccupied daycare center into two new accessible housing units, adding to the 40 existing units. The renovation work at Yaquina

Hall will involve the preservation of a historic building and the conversion of a building shell (formerly used for office space) into 50 affordable housing units. The public housing RAD conversion will require extensive interior floor plan remodeling to update the current units and make them more efficient in size and layout for tenants and maintenance. Safety and risk mitigation during such complex construction is a major element of project planning and must be integrated into design development. The use of CM/GC services will allow for the selection of a CM/GC that has proven expertise in selective demolition and reconstruction of occupied multifamily residential properties and will directly involve the CM/GC in the design development process. This early, direct involvement of the primary contractor is essential to the safety and success of the projects.

Section 5. Effective Date. This resolution is effective upon adoption.

ADOPTED by the Commission of the Housing Authority of the City of Salem, Oregon, acting as the Local Contract Review Board for the Housing Authority of the City of Salem, Oregon, this 13th day of February, 2017.

ATTEST:

Recording Secretary

Approved by City Attorney: _____

Checked by: A. Wilch