



Staff Report

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Date: 3/26/2018
Item #: 4.a.

TO: Chair and Housing Authority Commissioners

THROUGH: Steve Powers, Executive Director

FROM: Andrew Wilch, Housing Administrator

SUBJECT:

Exemption from the Competitive Bidding Process and Authorization of an Alternative Contracting Method for Improvement of Affordable Housing

Ward(s): All Wards

Commissioners(s): All Commissioners

Neighborhood(s): All Neighborhoods

ISSUE:

Shall the Commission of the Housing Authority of the City of Salem, Oregon (Commission), acting as the Local Contract Review Board, adopt Resolution No. 2224 in support of an exemption from the competitive bidding process and the use of Construction Manager/General Contractor (CM/GC) services for a class of public improvement contracts for the renovation of affordable housing properties?

RECOMMENDATION:

The Commission, acting as the Local Contract Review Board, adopt Resolution No. 2224 in support of an exemption from the competitive bidding process and the use of CM/GC services for a class of public improvement contracts for the renovation of affordable housing properties.

SUMMARY AND BACKGROUND:

Affordable housing in Salem has been a desired goal for the past several years. Currently, the Housing Authority of the City of Salem (SHA) is working on a new affordable housing project. The properties are located at 4075 and 4107 Fisher Road NE., Salem, OR.

The Housing Authority, in cooperation with the Salem Urban Renewal Agency, is working to purchase the two properties. The property at 4107 Fisher Road NE contains a substantially completed multi-unit housing facility that was built to house a senior citizen population in 19 suites on three floors in addition to a full commercial kitchen and first floor flex space.

The building is 80% complete, with the second and third floors in roughed-in condition and ready for finish work. The elevator shaft is in place, but requires installation of the elevator car and mechanicals. SHA plans to complete the finish work and convert the building to 34 single-room occupancy units with one restroom for every two units and one 1 bedroom unit.

An exemption to the competitive bidding requirements set forth in *Oregon Revised Statutes* (ORS) Chapter 279C and the SHA's Public Contracting Rules is necessary for these projects to proceed. An exemption is needed to allow the SHA to utilize the expertise of a CM/GC during the design stages of each project to gain as much efficiency as possible in both cost and amenities. The CM/GC would be selected competitively via a request for proposals (RFP) for the project. The acquisition of the properties will be completed before any construction activities occur.

The public improvement contracts to be awarded for the renovations comprise a limited and distinct class of such public improvement contracts. ORS 279C.335 and SHA Public Contracting Rule (PCR) 9.7 allow an identified class of public improvement contracts to be exempted from the competitive bidding process.

FACTS AND FINDINGS:

Pursuant to ORS 279C.335(2) and PCR 9.7, the Local Contract Review Board may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirements if, after a public hearing, the Local Contract Review Board finds that such an exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts, and the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the public.

- 1. The requested exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts.**
 - a. The nature of the work required for this class exemption is very specialized due to the grant financing with Oregon Housing and Community Services (OHCS) rules and regulations. The RFP process will allow competition for the selection of the CM/GC for the project.
- 2. Awarding a public improvement contract under this class exemption will likely result in substantial cost savings and other substantial benefits to the SHA or the public.**
 - a. Substantial cost savings will be realized by the SHA due to the fact that a CM/GC is the expert in constructing and managing projects. The exemption process will allow the CM/GC to use its specialized resources to complete the work. This specialized

experience will improve the design of the project and minimize construction risks and cost overruns.

- b. The type, cost, and amount of each contract and, to the extent applicable, the following aspects were considered:
- (i) **How many persons are available to bid:** Any qualified firm can respond to the RFP for each project.
 - (ii) **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 the CM/GC will be involved from the design phase and will be able to recommend improvements in the plans and processes prior to the start of the actual renovation and completion work. This work will involve determining reductions in operating costs so that after renovation and completion, the projects will generate the necessary cash flow to continue operations for years to come.
 - (iii) **Public benefits that may result from granting the class exemption:** Granting the class exemption will allow the CM/GC to complete the renovations and will minimize the length of time the property is under construction while being completed.
 - (iv) **Whether value engineering techniques may decrease the cost of the public improvement:** The design phase of the renovations once the CM/GC is in place will allow any value engineering techniques used for the rehabilitation of affordable housing to be incorporated at the early design stage.
 - (v) **The cost and availability of specialized expertise 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 properties covered by the RFP. The cost of CM/GC staff will be part of the hourly rates for each staff type and determined in the RFP process.
 - (vi) **Any likely increases in public safety:** Public safety will most likely only be involved during the construction and relocation phases. The CM/GC will be responsible for ensuring that the appropriate safety rules be implemented and followed by staff and subcontractors for all work.
 - (vii) **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 would reduce any risk of unexpected and unplanned changes and costs during the renovation.
 - (viii) **Whether granting the exemption will affect the sources of funding for the public improvement:** Granting this class exemption will not affect the sources of funding for these public improvements. The projects will be funded by sources outside

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

(ix) 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: Use of a CM/GC should help speed up the design/construction part of these projects in order to fully utilize any funding from outside agencies.

(x) 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 the CM/GC will enable the SHA to ensure that the project is successful.

(xi) Whether the public improvements involve new construction or the renovation or remodel of an existing structure: The improvements involve the renovation of existing housing units into new housing units. The CM/GC's knowledge of the facilities from the initial design stage forward will assist in minimizing construction risks and cost overruns.

(xii) Whether the public improvements will be occupied or unoccupied during construction: The building at 4107 Fisher Road NE is not occupied. The vacant lot at 4075 NE Fisher Road is not occupied and will be used for resident parking upon completion of the public improvement.

(xiii) Whether the public improvements will require a single phase of construction work or multiple phases of construction work to address specific project conditions: The renovations will likely occur in a single phase of construction work.

(xiv) Whether the SHA has, or has retained under contract, and will use SHA 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 SHA will use to award the public improvement contracts 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.

As required by ORS 279C.335(5) and PCR 9.7(c), notification of the public hearing for this exemption was published in at least one trade newspaper of general statewide circulation a minimum of fourteen (14) days before the public hearing. At the time notice was published, copies of the draft findings were available to the public.

Upon approval of this exemption, the SHA will issue RFPs for CM/GCs for the project. These resulting contracts will be reviewed and approved by the SHA's Executive Director, legal counsel, and

the Housing Administrator. The estimated value of the work to be performed by the selected CM/GC will be dependent upon each renovation project and will be part of a financial package prepared by SHA staff and contractors.

Andrew Wilch
Housing Administrator

Attachments:

1. SHA Resolution No. 2224