



Staff Report

File #: 20-355

Version: 1

Date: 9/28/2020

Item #: 4.b.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Peter Fernandez, PE, Public Works Director

SUBJECT:

Public Hearing - Exemption from Competitive Bidding Process and Authorization of an Alternative Contracting Method for the Salem Public Works Operations Building.

Ward(s): 2

Councilor(s): Andersen

Neighborhood(s): SESNA

Result Area(s): Safe, Reliable, and Efficient Infrastructure

ISSUE:

Shall City Council, acting as the Local Contract Review Board, adopt Resolution No. 2020-43 in support of an exemption from the competitive bidding process and use of a Design Build contracting method for the Salem Public Works Operations Building project?

RECOMMENDATION:

Adopt Resolution No. 2020-43 in support of an exemption from the competitive bidding process and use of a Design Build contracting method for the Salem Public Works Operations Building project.

SUMMARY:

The City of Salem Five-Year Capital Improvement Plan (CIP) for Fiscal Years 2021 through 2025 allocates \$24.6 million of utility rate funding for the construction of a Public Works Operations Building (project) at the City Shops Complex. The project is the initial phase in a master plan for redevelopment of the Shops Complex and will provide space for Public Works Operations staff currently located in Buildings 2 and 14 onsite. These buildings are at the end of their useful life and currently require repairs that would cost more than the buildings' current value.

A Design Build (DB) contracting method is recommended for the project because it requires contractor involvement at the very beginning of the design phase to develop the most cost-effective

solution for the constructing the building and associated site improvements. In addition, the project must be designed and constructed over a short time period due to the poor condition of Buildings 2 and 14. With the specific method of DB contracting proposed, known as Progressive Design Build, the DB contractor will team with architects and engineers to form one team that is responsible for all of the design and construction activities for the project. The DB contractor will provide a Guaranteed Maximum Price (GMP) near the end of the design process and be contractually bound to deliver the project within that GMP. The DB contracting method typically results in much shorter overall construction duration compared to traditional design-bid-build (or "low-bid") contracting methods. Meeting the project budget and schedule are critical to ensure continuity of operations for Public Works.

Oregon Revised Statutes (ORS) Chapter 279C and the City's Public Contracting Rules (PCR) 9.7, allow City Council, acting as the Local Contract Review Board, to exempt a public improvement contract from the competitive bidding requirements if, after a public hearing, they find 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 will likely result in substantial cost savings and other substantial benefits to the City or the public.

FACTS AND FINDINGS:

The full findings for exempting the project from competitive bidding are attached to Resolution No. 2020-43. (Attachments 1 and 2).

The DB form of contracting uses an open and competitive Request for Proposal (RFP) process to select a contractor. This is the same delivery method currently being used successfully on the Salem Library Improvement project. The competition will be open to all qualified proposers. City staff will communicate with the construction contracting and architect/engineering community about the DB contracting method. The proposal process will be open and impartial with selection made based on scores derived from price, experience, quality, innovation, and other factors. The process used to award subcontracts for all competitively bid construction work will be specified in the DB contract and will be monitored by the City.

Awarding the project contract under the exemption will likely result in substantial cost savings and other substantial benefits to the City and the public. The DB method uses a Guaranteed Maximum Price (GMP). The DB contract allows the City to obtain the full savings if actual costs are below the GMP.

Integrating the DB contractor into the design process allows for early identification of risks and facilitates teamwork between the City, designers, and the DB contractor. The project requires expertise regarding the constructability and long-term cost/benefit analysis of innovative design, knowledge best obtained directly from the construction industry. Many decisions arising during the design process will require immediate feedback on constructability and pricing. Under the traditional design-bid-build contracting method, there is a higher risk of increased change orders and schedule impacts for a project of this size and complexity. Since there are significant costs associated with

delay, timely project completion is critical.

When the DB contractor leads and participates in the design process, fewer change orders occur during project construction than in the traditional design-bid-build contracting method. This is due to the DB contractor's better understanding of the City's needs and the design intent. The designer works for the DB contractor; therefore, the City has no liability for discrepancies in plans that could lead to change orders. As a result, the project is more likely to be completed on time and within budget. Fewer change orders reduce the administrative costs of project management for both the City and the DB contractor.

Change orders are processed at less cost under a GMP because they are less frequent. The (typically used) design-bid-build method often results in the contractor charging a fifteen percent markup on construction change orders. The GMP method applies lower predetermined markups. The experience of the industry is that the DB method markup is in the range of three to five percent.

The City Shops Complex needs to remain open and operational during construction of the project. Early involvement by the DB contractor allows the opportunity to coordinate the details of how to safely and efficiently the sequence the construction work.

BACKGROUND:

The City began work to revise the City Shops Complex master plan in October 2016. Prior to completion of the master plan, additional discoveries regarding the condition of Buildings 2 and 14 caused a revision of the overall concept to provide replacement space in a new Public Works Operations Building with the initial phase of the master plan. Funding was identified for planning and conceptual design of the first phase in fiscal year 2019 and full funding for the project was programmed in the CIP for fiscal years 2021 through 2025.

Allen Dannen, PE
Assistant City Engineer

Attachments:

1. Resolution No. 2020-43
2. Exhibit A – Findings of Fact