Staff Report

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TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Brian D. Martin, PE, Public Works Director

SUBJECT:

Exemption from Competitive Bidding Process and Authorization of an Alternative Contracting Method for the Salem Civic Center Improvement Project

Ward(s):Ward 2
Councilor(s):Nishioka
Neighborhood(s): CANDO
Result Area(s): Welcoming and Livable Community

SUMMARY:

The 2022 City of Salem Safety and Livability Bond includes $39.5 million for construction of the Salem Civic Center Improvement Project. Work on the initial task of pre-design master planning is almost complete. A Design Build contracting method is recommended for designing and constructing the project due to the technical complexity associated with the seismic improvements; to minimize impacts to the public that depend on the Civic Center for meetings and business; and to maximize the improvements within the available budget. With a Design Build contracting method one team of architects, engineers, and contractors will work side by side with the City to optimize the design, construction methods, costs, and schedule for the project.

ISSUE:

Shall City Council, acting as the Local Contract Review Board, adopt Resolution No. 2024-1 in support of an exemption from the competitive bidding process and use of a Design Build contracting method for the Salem Civic Center project?

RECOMMENDATION:

Adopt Resolution No. 2024-1 in support of an exemption from the competitive bidding process and

use of a Design Build contracting method for the Salem Civic Center project.

FACTS AND FINDINGS:

The full findings for exempting the project from competitive bidding are attached to Resolution No. 2024-1. (Exhibit A).

With the specific method of Design Build (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 the design and construction activities for the project. 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 that was used successfully on the Salem Library Improvement project and the Public Works Operations Building. The competition will be open to all qualifying proposers and City staff will communicate with the construction 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 of large-scale seismic improvements. 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 this project. 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.

When change orders do occur, they are processed at less cost under a GMP because they are less

frequent. The design-bid-build method typically results in the contractor charging up to twenty percent markup on construction change orders. The GMP method applies lower predetermined markups. The experience of the industry is that the markup is in the range of three to seven percent.

BACKGROUND:

On November 8, 2022, The City of Salem passed measure 24-474 titled City of Salem Community Capital Improvements General Obligation Bond for $300 million. $39.5 million has been allocated to the Civic Center improvements including seismic retrofit, roof replacement, window replacement, parking structure repairs, and upgrading the adjacent Peace Plaza. Planning work to prepare for the project and better inform proposers is already underway.

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 diminishes competition for public improvement contracts, and will likely result in substantial cost savings and other substantial benefits to the City or the public.

> Allen Dannen, PE
> City Engineer

Attachments:
> 1. Resolution 2024-1
> 2. Exhibit A - Exemption from Competitive Bidding Process and Authorization of an Alternative Contracting Method Findings