

RESOLUTION NO. 5729-23

A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF AN EXEMPTION FROM COMPETITIVE BIDDING AND AUTHORIZING THE USE OF A DESIGN-BUILD ALTERNATIVE CONTRACTING METHOD FOR THE JUANITA POHL CENTER SIDING REPLACEMENT.

WHEREAS, the Council is designated as the Local Contract Review Board, (the Board) under ORS 279A.060 and City Public Contracting Rules in TMC 1-21;

WHEREAS, ORS 279C.335 and TMC 1-21-090 authorize the exemption of certain public contracts from competitive bidding upon the making of certain findings;

WHEREAS, the City needs to procure services, including design and installation, to replace the siding at the Juanita Pohl Center (“Project”);

WHEREAS, the most cost-effective and efficient way to procure such services is through issuing a Request for Proposals (“RFP”) for a Design-Build contract, which requires an exemption from the normal competitive bidding process;

WHEREAS, the City published notice of the public hearing in the *Daily Journal of Commerce* a minimum of fourteen days prior to the hearing date in accordance with ORS 279C.335(5) and TMC 1-21-090(5);

WHEREAS, the City Council held a public hearing on October 9th, 2023 and offered an opportunity for any interested party to appear and present comment on the draft findings,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, SITTING AS THE LOCAL CONTRACT REVIEW BOARD OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The Council hereby adopts the findings set out in Section 2 below pursuant to the authority granted the Board by TMC 1-21-090 to allow the use of the Design-Build alternative contracting method and permits the issuance of a Request for Proposals for a Design-Build contract for the Juanita Pohl Center Siding Replacement Project.

Section 2. The contract exemption authorized by Section 1 is based on the following findings, as required by the following statutes and rules:

TMC 1-21-090(2)(a): The nature of the contract is a public improvement contract.

TMC 1-21-090(2)(e): The proposed alternative contracting method is Design-Build, awarded through competitive sealed proposals.

TMC 1-21-090(2)(f): The estimated date to let the contract is December 15th, 2023.

ORS 279C.335(2)(a) / TMC 1-21-090(2)(d): Exempting the contract from competitive bidding is unlikely to encourage favoritism or substantially diminish competition. The City will issue a competitive RFP to select the Design-Build contractor. The procurement will be formally advertised with public notice. The award will be based upon the review and scoring of competitive sealed proposals by a review committee based on criteria announced in the RFP.

ORS 279C.335(2)(b) / TMC 1-21-090(2)(c): Exempting the contract will likely result in substantial cost savings and other benefits to the City. In approving a finding under this paragraph, the local contract review board shall consider the type, cost, and amount of the contract and, to the extent applicable, the following:

ORS 279C.335(2)(b)(A): The City anticipates interest from multiple contractors for the Project, ensuring competition during the RFP process. The Design-Build approach is commonly employed by both public and private entities, and there are numerous potential siding contractors in the Portland metropolitan area.

ORS 279C.335(2)(b)(B) / TMC 1-21-090(2)(b): The City has budgeted \$275,000 for this project, and maintenance costs will be minimal and the siding is expect to last during the life of the building.

ORS 279C.335(2)(b)(C): The Design-Build delivery method offers many advantages for the public, such as cost savings, adherence to budgets, expedited project delivery, valuable feedback mechanisms, a single point of responsibility, enhanced innovation opportunities, early cost insights, and seamless integration of design and construction.

In contrast to the traditional "low-bid" process, where contractor selection is primarily price-driven, the Design-Build approach considers various factors such as time, qualifications, and the contractor's approach to project execution. Under the Design-Build delivery method, a single entity known as the Design-Builder oversees the entire project lifecycle. This approach enables a streamlined process, starting from design and extending through construction.

ORS 279C.335(2)(b)(D): A Design-Build team would have the flexibility to recommend methods that align most effectively with the existing conditions and the allocated budget. These proactive measures by the Design-Build team would enhance value, accelerate construction timelines, and subsequently mitigate the potential need for change orders. Given that the Design-Build contractor would oversee the project from its inception, it would systematically apply value engineering principles throughout the entirety of the project.

ORS 279C.335(2)(b)(E): The Design-Build process would enable the City to retain a specialized siding contractor with the necessary expertise and knowledge to efficiently deliver the project within budget constraints.

ORS 279C.335(2)(b)(F): The Design-Build process would have a neutral effect on public safety compared to a traditional Invitation to Bid process, primarily because replacing the siding constitutes a project with a relatively low level of public safety risk.

ORS 279C.335(2)(b)(G): Engaging the Design-Build contractor directly in crafting specifications during the design phase will yield a schedule that is more realistic, attainable, and efficient. This approach also serves to enhance public confidence in completing the project within its allocated budget. Furthermore, the Design-Build process enables the contractor to identify and collaboratively address technical challenges during the design phase, facilitating advanced problem-solving that frequently results in cost savings and streamlined schedules.

ORS 279C.335(2)(b)(H): Employing the Design-Build contracting method will have no adverse effect on the funding allocated for this project.

ORS 279C.335(2)(b)(I): The Design-Build delivery method, widely adopted by both
Resolution No. 5729-23

public and private organizations over many years, requires proposers to demonstrate essential qualifications and project experience, as well as an understanding of the prevailing market conditions, labor availability, material supplies, and evolving construction methodologies. These factors streamline construction timelines and yield cost efficiencies, which become especially significant during periods of inflation such as we are experiencing.

ORS 279C.335(2)(b)(J): The Project involves a niche area of construction that is most effectively managed by a specialized contractor with expertise in both installation and design. Collaboration between a designer and contractor well-versed in the project's requirements and the City will be essential during the pre-construction phase.

ORS 279C.335(2)(b)(K): The Project involves the replacement of the siding at the Juanita Pohl Center, an existing structure.

ORS 279C.335(2)(b)(L): The Juanita Pohl Center will remain in use throughout the construction project. In such a scenario, the Design-Build model offers notable benefits as it fosters early collaboration between the Design-Build contractor and City staff. This collaborative approach helps proactively manage potential conflicts between the construction project and the need for the City to sustain ongoing operations.

ORS 279C.335(2)(b)(M): Construction is anticipated to occur in a single phase.

ORS 279C.335(2)(b)(N): The Public Works Department recently utilized the Design-Build method for the Tualatin City Services building project, and current staff managed the last phase of this work, which included a parking lot expansion and installation of electric vehicle charging stations. Additionally, the City is supported by a City Attorney and a Contracts and Procurement Analyst who can provide guidance throughout the Design-Build procurement process.

Section 3. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this October 9th, 2023.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder