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22-077

ADOPT FINDINGS - GRANT AN EXEMPTION FROM  
COMPETITIVE BIDDING - AUTHORIZE USE OF THE  
DESIGN BUILD (D/B) ALTERNATIVE CONTRACTING  
METHOD FOR SYLVANIA CAMPUS HEALTH  
TECHNOLOGIES BUILDING WEST SIDE & POOL  
RENOVATION PROJECT

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STRATEGIC THEME: Enterprise: Cultivate a long-term sustainable college  
enterprise

REPORT: As part of the 2017 Bond Program the Sylvania Campus  
Health Technologies (HT) Building East Side is undergoing  
a comprehensive renovation. The west side of the building  
and the pool area are also in need of a similar renovation  
project.

This will be a complex project that includes the need to  
keep the east side of the building operational during  
construction. In addition, swing space will need to be  
identified and prepared before construction can start.

Design and pre-construction services on this project will be  
funded from the 2017 Bond. Proceeding to an agreed  
Guaranteed Maximum Price (GMP) and the subsequent  
construction phase will be contingent on the College  
successfully obtaining voter approval for a 2022 bond  
program.

The College has several critical needs related to the work  
going forward for the project:

- The timeline is schedule critical due to the impact  
of the building use;

- Work will need to be coordinated with building users and after-hours work;
- The service to staff, faculty and students in the HT building must, to the maximum extent possible, continue unimpeded through construction;
- Public, student, faculty, and staff safety must be protected in a complex, construction environment;
- Disruptions, delays, and unplanned events must be kept to an absolute minimum.

The estimated project budget is between \$20-\$25M depending on options for the future of the pool.

The Design/Build (D/B) form of contracting is a competitive request for proposal process that requires the contractors to provide detailed information and examples from past projects that demonstrate how they are able meet the criteria the college sets forth. One of the criteria is utilization of MWESB contractors and subcontractors. They have to demonstrate their commitment, prepare an outreach plan, share utilization from past projects, and their engagement has to be above and beyond the minimum of phone calls and emails. Using a D/B process allows for higher MWESB utilization. Without the D/B contracting process the college will have little to no input into the selection criteria of the subcontractors as the decision would be made solely on price.

This project will also have workforce participation and apprenticeship goals and this process allows the contractors plans to meet these goals to be part of the selection criteria. The contractor will also be required to have a PCC approved respectful workplace program in place,

Because of the size and complexity of this project, Staff recommends that the Design/Build (D/B) process be utilized. The D/B alternative contracting process is authorized for procurement of construction services under ORS 279C.337 provided that the Local Contract Review Board (the Board of Directors for PCC under ORS 297A.060) approves an exemption from competitive bidding. Under the D/B contracting method:

- Prospective contractors are solicited at the start of the project using a competitive request for proposals (RFP) process, where selection is based upon criteria relating to the experience and expertise of the contractor rather than low bid.
- The contractor is the lead and partners with an architectural firm as part of the team during the design phase, assisting in design development, constructability review, value engineering, scheduling, and estimating. It also enables the contractor to be involved in development of the construction program, including implementation of the College's inclusivity goals. (Under the standard design/bid/build method, the design is completed before the project is bid, award is based upon low bid, and the contractor comes on board at that point.)
- At the end of the design phase, the owner and contractor negotiate and agree on a guaranteed maximum price ("GMP") and the construction schedule for the construction phase of the project. Execution of the GMP Amendment starts the construction phase of the project.

The D/B alternative contracting method is commonly used by public contracting agencies for complex projects such as the HT Westside Renovation.

Findings:

ORS 279C.335(2), implementing ORS 279C.330, requires the Board to make certain findings in order to grant an exemption, as follows:

*" (a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts."*

Finding: The requested exemption will not encourage favoritism or substantially diminish competition. The College will utilize a competitive RFP process to select the D/B firm. The procurement will be formally advertised with public notice. Full competition will be encouraged and all qualified contractors will be invited to submit a proposal. The award will be based upon an objective review and scoring of proposals by a qualified College review committee based on identified selection criteria.

The selection criteria includes the experience and qualifications of the proposed design team.

Once selected, the D/B will select subcontractors via competitive process in accordance with PCC Contracting Rules and as required by ORS 297C.337(3). This competitive process will include outreach to and solicitation of diverse and small contractors pursuant to the College's inclusivity goals. The D/B process should increase competition by maximizing the opportunity for all interested large, small, and/or diverse contractors to participate in the project.

*"(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency . . . that seeks the exemption. 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 to the particular public improvement contract or class of public improvement contracts, the following:*

*(A) How many persons are available to bid;"*

Finding: Based on previous PCC D/B contracting processes, the College expects that a substantial number of contractors will be interested in the HT West project, and that there will be vigorous competition during the RFP process.

*"(B) The construction budget and the projected operating costs for the completed public improvement;"*

Finding: The estimated project budget is set forth above in the project description. The College has not conducted a detailed analysis of the operating costs, but expects that the improved design resulting from the integration of the contractor and the design team during the design phase, and particularly the contractor's assistance with energy efficiency improvements designed to meet the College's rigorous energy efficiency goals, will substantially reduce long- term operating cost. This is one of the design goals of the project and bringing the contractor on board during the design phase will improve the College's ability to achieve this goal.

*"(C) Public benefits that may result from granting the*

*exemption;"*

Finding: Unlike a traditional design/bid/build procurement, an RFP process allows the District to review the qualification of the proposed project team including the design team, ensuring the selected firm(s) has experience and expertise in development of education and related facilities, including the required City of Portland permitting process. This is important to ensure that the selected contractor has the experience and capacity to renovate complex facilities on an operating college campus.

Utilizing the D/B process also promotes an early team approach that leads to better communication, continuous value engineering, and improved constructability review, which results in an improved final design and, consequently, a more streamline construction process. The College's past experience with the D/B process has been that this reduces change orders and limits delays during the construction phase. The College also expects that the D/B team approach will also allow better monitoring by PCC staff to ensure that the Project stays within budget.

It is vital that the College minimizes the disruption to the services provided at the HT Building and that the project is completed in the shortest practical time needed to accomplish the work. Use of a D/B process will allow this to happen on a flexible schedule and will reduce the possibility that the College will experience increased costs due to delay and disruption.

The D/B process will also enable PCC to work with the contractor to maximize opportunities for participation by minority, women-owned, and emerging small businesses for subcontracting work. This will increase competition among subcontractors. The College's experience with past D/B contracts demonstrates that the College achieves higher MWESB utilization and subcontractor participation than it does through traditional contracting methods.

Overall, the public benefits of the D/B process include cost savings, better achievement of College community goals, and more timely delivery of the project due to fewer changes and disruptions.

*“(D) Whether value engineering techniques may decrease the cost of the public improvement:”*

Finding: Value engineering is a routine practice in public improvement projects regardless of procurement method. The D/B delivery method allows for the general contractor to participate in the value engineering process during the design phase, resulting in a more effective and efficient process as compared to value engineering via change orders to a completed design. The inherent flexibility and team approach of the D/B process allows the College to more easily change the design and scope of work as necessary to meet the project budget before the final design is fixed. This is not something that the traditional bid process offers.

Value engineering may or may not decrease the contract sum but it will improve the College's ability to be able to manage the project within the budget and will reduce extra-cost change orders and the costs associated with any project delay. PCC also expects to be able to take advantage of reduced architectural and other professional consultant service fees as a result of this more streamlined D/B approach.

*"(E) The cost and availability of specialized expertise that is necessary for the public improvement:"*

Finding: This project is complex and requires a contractor with the expertise and experience to manage multiple subcontractors, to construct the project while the existing building is in use by staff and students, and that understands the particular needs of the College in terms of construction management and project delivery times. The RFP process allows for review of contractor expertise and the particular expertise of the contractor's proposed team not afforded by a low-bid procurement.

*"(F) Any likely increases in public safety:"*

Finding: The D/B process will enhance public safety because PCC will be able to consider the safety record of the contractors selected and because the D/B will be integral to planning the construction schedule and safety measures during the design phase. Because the adjacent PCC buildings will be occupied and open to the staff, faculty, and students throughout the project, this public safety benefit is particularly important.

*"(G) Whether granting the exemption may reduce risks to*

*the contracting agency . . . or the public that are related to the public improvement;"*

Finding: The scope and magnitude of the work requires long- term planning and scheduling around the college's academic calendar. The public interest will be best served by establishing a construction methodology that encompasses that capability over the long duration of the Program. Directly involving the contractor in development of these key plans during the design phase will result in a more realistic, achievable, and expeditious schedule.

In addition, the D/B process allows the contractor to discover and help address complicated technical issues during the document design process, which facilitates advanced problem-solving. The risks are better understood and are addressed early in the process, reducing financial and schedule risks as a result.

*"(H) Whether granting the exemption will affect the sources of funding for the public improvement:"*

Finding: Design and pre-construction services will be funded by the 2017 Bond. Construction will be contingent on the 2022 Bond Program obtaining voter approval. There will be no impact on this funding source due to the D/B process.

*"(I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement:"*

Finding: Because the D/B process results in the selection of the general contractor before the design phase commences, the College is better able to take advantage of market prices by facilitating early purchase of certain project elements. The essential added value of the D/B process is the real time market job costing from projects around the Portland market and the West Coast. This knowledge allows the contractor and architect time to consider less costly complementary or alternative items.

*"(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;"*

Finding: The HT West project is complex and will require careful planning and coordination to reduce the impact on users of the HT Building and surrounding buildings. One of the biggest advantages of the D/B method is the ability to coordinate all technical work before the start of construction and more accurately establish a construction schedule. Being able to apply best practices as a team will make for a better product within the budget constraints.

*"(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;"*

Finding: As noted above, the HT West project involves substantial impact to a heavily used building on the Sylvania Campus. Occupied building renovations are typically much more complex than greenfield development because there are typically unforeseen issues that arise once the project is underway. Conducting such work on an operating campus significantly increases that complexity. Use of the D/B process will ensure that the selected contractor has the experience and expertise to do the job.

*"(L) Whether the public improvement will be occupied or unoccupied during construction;"*

Finding: As noted above, the east side of the HT Building will be operating as usual throughout the duration of the construction requiring careful and accurate project scheduling.

*"(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions;"*

Finding: The construction may be done in one or two phases depending on recommendations from the design and construction teams and what works best for the students, staff, and faculty.

*"(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state 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 or state agency will use to award the*



*public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract."*

Finding: The College's Office of Planning and Capital Construction has experience in implementing successful D/B contracting processes, including the successful OMIC project and the ongoing Sylvania AM Building renovation. The District's outside legal counsel, Miller Nash LLP, has extensive experience with the D/B alternative contracting methods and has represented the College on previous D/B projects.

Ultimate Finding: For these reasons, use of the D/B Alternative Contracting Method for the HT West Renovation project is likely to result in substantial cost savings and deliver other significant public benefits as compared to use of the standard/bid/build process within the meaning of ORS 279C.335(2)(b).

**RECOMMENDATION:** That the Board of Directors, acting as the Local Contract Review Board for the College, adopt the findings presented and grant an exemption from competitive bidding for Sylvania HT West & Pool Renovation Project to authorize the use of a D/B alternative contracting method for the project. Funding for the design and pre-construction phases of the project will be from the 2017 Bond Program. Funding for the construction phase will be contingent on the 2022 Bond Program obtaining voter approval.