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**APPROVAL OF DESIGN-BUILD ALTERNATIVE PROCUREMENT  
FOR BETHANY ELEMENTARY DOMESTIC WATER REPIPE PROJECT**

**POLICY ISSUE / SITUATION:**

OAR 137-49-0620 and ORS 279C.335 permits the Beaverton School District Board of Directors to exempt specific projects from the competitive bidding requirements of ORS 279. District staff is proposing to use the DESIGN-BUILD procurement method for a domestic water re-pipe at Bethany Elementary School. This solicitation would involve a Request for Proposals (RFP) to select the contractor that best meets the needs of the District. The selection criteria will be included in the RFP and will grade their experience, capabilities, safety record, and price. This process will allow the District to receive competitive pricing while ensuring that we are contracting with capable contractors.

**BACKGROUND INFORMATION:**

Bethany Elementary was constructed during the early 1970's and the original waterline piping within the building was constructed with galvanized steel piping. During recent testing for lead, 2 classroom fixtures were identified with high levels of lead and have been marked for non-use. This project involves the replacement of the domestic water piping, hot water heaters, and misc. subsequent repairs due to water leakage in the past at Bethany Elementary School. It is the District's intent to complete the project during the summer of 2018.

The time available to construct these improvements as well as current market conditions requires the use of an alternative procurement process for the construction to allow the District to ensure that we contract with a firm capable of constructing the work in the limited construction window. Under the proposed design-build process, the School District would request proposals, a committee of qualified individuals will select the contractor who best meets the needs of the project. Most local mechanical contractors who are capable of undertaking the project of this size are very experienced with this approach. This approach encourages the contractors to look for innovative and cost savings solutions.

The School Board, acting as the Local Contract Review Board, must adopt a set of facts supporting the use of this Design Build methodology (Attachment A).

**RECOMMENDATION:**

It is recommended that the School Board approve the alternative procurement process. Board approval to award the contract will be requested after receipt of the proposals.

BE IT RESOLVED that the Beaverton School Board of Directors adopts the findings of fact and grants a specific exemption from competitive bidding requirements for use of a design-build alternative procurement process for construction of improvements at Bethany Elementary School.

## ATTACHMENT A

### FINDINGS

#### ALTERNATE CONTRACTING PROCEDURE DESIGN-BUILD CONSTRUCTION CONTRACT BETHANY ELEMENTARY DOMESTIC WATER REPIPE PROJECT

- (a) *BSD Staff finds that this exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.*

The Design-Builder will be selected through a competitive process in accordance with a Request for Proposals authorized by the Board of Directors. Pursuant to ORS 279C.360, a Design-Build solicitation will be advertised in the Daily Journal of Commerce, the Oregon Procurement Information Network, and the Beaverton School District procurement webpage in order to attract competitive proposals. The Design-Build proposals and interviews will be rated based on a predetermined list of criteria as required by ORS 279C and the Attorney General's Model Contract Rules. The District will enter into a contract with the highest-ranking firm.

- (b) *BSD Staff finds that this exemption is likely to result in substantial benefit to the District.*

**In making this finding, staff have considered the type, cost, and amount of the contract and, to the extent applicable to the contract, the following:**

- A. Findings related to how many persons are available to bid:** Staff finds that granting this exemption will not unreasonably limit the number of firms available to bid, since procurement will be through a publicly-advertised process and is the preferred method of many contractors.
- B. Findings related to the construction budget and the projected operating costs for the completed public improvement:** Staff finds that granting this exemption is likely to result in reduced construction and design costs. Because the preferred design and specific requirements for the domestic water re-pipe at Bethany Elementary School is unknown at this time, using a Design-Build delivery method will enable the District to quickly and efficiently generate and analyze several iterations to best meet permit requirements and available funds. After the design is completed, the Design-Build contract allows the District to initiate construction without a lapse in Project timelines. It also integrates the design firm with the contractor to consider alternative means and methods of construction and optimize cost savings.
- C. Findings related to public benefits that may result from granting the exemption:** Staff finds that the public will benefit from the granting of this exemption. Because of the age and condition of the piping at Bethany Elementary School, it is critical that the project be completed on time. Granting of this exemption will assist the District in contracting with a capable, qualified contractor. Additionally, Staff finds that because of the continuity of team members throughout the process and the improved timeline, there will be a public benefit by receiving potentially reduced construction costs.
- D. Findings related to whether value engineering techniques may decrease the cost of the public improvement:** Staff finds that granting this exemption has the potential to increase value engineering opportunities. Contractors will be bidding a scope narrative, therefore, there will be incentive and opportunity to include value engineering ideas in their approach.
- E. Findings related to the cost and availability of specialized expertise that is necessary for the public improvement:** Staff finds that specialized expertise will be required to coordinate, procure, and install various products, services, and supplies needed for replacement of the domestic water piping and associated equipment. Implementation of this project involves a number of issues of technical complexity. Special skill and expertise are needed for design and optimization of system components for this work to meet performance criteria.

## Attachment A

- F. Findings related to any likely increases in public safety:** Not applicable. Staff finds that granting this exemption will have no effect on public safety.
- G. Findings related to whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement:** Staff finds that granting this exemption will reduce risk to the School District by allowing only bidders who have demonstrated they are qualified to complete the work successfully. Also, by integrating the design firm with the contractor they are able to consider alternative means and methods earlier in the process.
- H. Findings related to whether granting the exemption will affect the sources of funding for the public improvement:** Not applicable. Staff finds that granting this exemption will have no effect on funding sources for the project.
- I. Findings related to 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:** With the multitude of construction market factors that exist today in Oregon (e.g. completion of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, inflation, etc.), Staff finds that granting this exemption allows the School District to be more responsive to market conditions by structuring the project delivery method that contractors most prefer.
- J. Findings related to whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement:** Staff finds that granting this exemption will allow the School District to accept bids only from contractors who have demonstrated considerable experience in delivering similar projects successfully.
- K. Findings related to whether the public improvement involves new construction or renovates or remodels an existing structure:** This project will involve the remodel of an existing structure that fits the Design-Build project delivery method well.
- L. Findings related to whether the public improvement will be occupied or unoccupied during construction:** This project will be unoccupied during construction. This is not affected by granting of this exemption.
- M. Findings related to whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions:** This project will have a single phase and will not be affected by the granting of this exemption.
- N. Findings related to whether the contracting agency has, or has retained under contract, and will use contracting 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 will use to award the public improvement contract:** Staff will rely on their experience, having successfully used the Design-Build method on many other projects. The District also relies upon outside legal counsel, appointed by the School Board to provide construction contracting legal advice. Using their combined expertise and experience, staff and counsel will oversee developing the alternative contracting method and its implementation, including negotiating, administering and enforcing the terms of the Design-Build contract.