



**APPROVAL OF ALTERNATE CONSTRUCTION CONTRACTING PROCEDURE,
DESIGN-BUILD, FOR MERLO STATION HIGH SCHOOL
ROOFING AND HVAC REPLACEMENT**

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 in conjunction with the use of a U.S. Communities cooperative agreement for a roofing replacement at Merlo Station High School. This process will allow the District to receive competitive pricing for this work while ensuring that we are contracting with capable contractors.

BACKGROUND INFORMATION

Merlo Station High School roofing and HVAC replacement projects were included in the 2014 Bond to improve the existing school facility. As such, the District would like to utilize the U.S. Communities cooperative purchasing program to deliver this work. Construction is estimated to begin in the summer of 2018 and be completed by the fall of 2018 at Merlo Station High School.

Because Merlo Station High School will be partially occupied, it is important that the construction is carefully planned with the General Contractor. The use of the Design-Build process with regard to planning, construction, staging, and general site coordination will aid in the success of this project. The time available to construct these improvements as well as current market conditions requires the use of an alternate procurement process for the construction.

Pursuant to ORS 279C.335(5), the District advertised a minimum of 14 days and held a Public Hearing on September 28, 2017 to provide an opportunity for any interested party to appear and comment on the findings (Attachment A). No interested parties chose to attend the Hearing other than District staff and no comments were offered.

District Goal: WE Empower all students to achieve post-high school success.

The Beaverton School District recognizes the diversity and worth of all individuals and groups. It is the policy of the Beaverton School District that there will be no discrimination or harassment of individuals or groups based on race, color, religion, gender, sexual orientation, gender identity, gender expression, national origin, marital status, age, veterans' status, genetic information or disability in any educational programs, activities, or employment.

The School Board, acting as the Local Contract Review Board, must approve particular findings supporting the use of this construction contracting procedure, pursuant to ORS 279C.335 (Attachment A).

RECOMMENDATION

It is recommended that the School Board approve exemption of the Merlo Station High School Roofing and HVAC Replacement Project from the competitive bidding requirement of 279C.335(1), and approve use of the proposed Design-Build contracting procedure. Board approval to award the contract will be requested after receipt of the proposals.

BE IT RESOLVED that the Beaverton School Board of Directors (i) adopts and approves the findings of Attachment A, (ii) grants a specific exemption from competitive bidding requirements of ORS 279C.335(1), and approves and directs the use of the Design-Build Construction Contract process, for the Merlo Station High School roofing and HVAC replacement and (iii) requires that the procurement be in accordance with the Attorney General Model Rules adopted under ORS 279A.065.

ATTACHMENT A

FINDINGS ALTERNATE CONTRACTING PROCEDURE DESIGN-BUILD CONSTRUCTION CONTRACT MERLO STATION HIGH SCHOOL ROOFING AND HVAC REPLACEMENT

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

The Design-Builder was selected through a competitive bidding process facilitated through the U.S. Communities cooperative Invitation to Bid 14-5903. Beaverton School District was a named participant in the Joint Cooperative Procurement as required by ORS 279A.210. The solicitation was advertised in the Daily Journal of Commerce and a competitive bidding process was used.

(b) *BSD Staff finds that awarding a public improvement contract for this project through the Design-Build method will likely result in substantial cost savings and other substantial benefits 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 alternate contracting procedure will not unreasonably limit the number of firms available to bid, since the procurement was completed through a nationally solicited U.S. Communities cooperative procurement process. The Design-Builder will obtain competitive quotes from local Garland approved roofing contractors and experienced mechanical contractors. Additionally, staff finds that granting this exemption likely increased the number of contractor firms that were able to propose on the cooperative contract.
- B. **Findings related to the construction budget and the projected operating costs for the completed public improvement:** Staff finds that the ability to select firms utilized through the U.S. Communities cooperative agreement will positively affect the project outcome as it relates to cost by utilizing Master Agreement pricing agreed upon within U.S. Communities cooperative agreement for all roofing work. 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 roofing and HVAC replacement project at Merlo Station 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 contractors 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 multiple roofing and HVAC solutions available at Merlo Station High School, it is critical that the project team is able to evaluate each available solution with regards to longevity, cost, and constructability. Granting of this exemption will assist the District in selecting the most feasible option. 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 alternate contracting procedure will provide the most comprehensive team evaluation of all factors that affect the cost, quality, and schedule of the project, which may decrease the ultimate cost of the improvement. The Design-Build process offers the opportunity for integrated design solutions between the designer and contractors that make up this project based on the District's project requirements.
- E. **Findings related to the cost and availability of specialized expertise that is necessary for the public improvement:** Staff finds that no specialized expertise will be needed for this project.
- F. **Findings related to any likely increases in public safety:** Not Applicable. Staff finds that granting this exception 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 alternate contracting procedure will reduce safety risks to the School District, by allowing additional coordination related to the site staging and construction efforts. 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 effectively utilize existing cooperative agreements with contractors who have demonstrated considerable experience in delivering projects of similar phasing successfully.

- K. **Findings related to whether the public improvement involves new construction or renovates or remodels an existing structure:** This project involves renovation of existing structures 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 public improvement will occur in a building that is occupied during construction. During the summer it will be partially unoccupied.
- 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 consist of a single phase.
- N. **Findings related to 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:** Staff will rely on their own experience, having successfully used the Design-Build method on many other projects in the current and prior bond programs. 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.