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**APPROVAL OF ALTERNATE CONSTRUCTION CONTRACTING PROCEDURE,
CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CM/GC), FOR
THE BEAVERTON HIGH SCHOOL HVAC 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. Proposals from prospective CM/GC firms will include a competitive quote for their Fee for the Project. The selected CM/GC will provide the District with a Guaranteed Maximum Price (GMP) and a 100% Performance and Payment Bond for the work. Subcontract work will be competitively bid.

BACKGROUND INFORMATION:

The Beaverton High School HVAC Project (Phase 1) is part of the \$98M District-wide Facility Repairs Bond line item. An architectural firm and other consultants are currently under contract for design services for Phase 1. It is the District's intent to be complete with construction of Phase 1 before teachers arrive on August 28, 2017 for the 2017-2018 school year.

Due to the complexity of the project over the short summer break, the existing conditions on site, and the long lead time on equipment that will be installed, the project requires the alternate contracting method of the CM/GC construction contract. The District would request proposals from general contractors and enter into a negotiated contract. The contractor would then guarantee a maximum price for the construction work. The advantage of this process is that it allows a simultaneous design/construction phasing and expeditious procurement of long lead equipment. This will help assure project completion before the 2017-2018 school year begins.

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 approves exemption of The Beaverton High School HVAC project (phase 1) from the competitive bidding requirement of 279C.335(1), and approves use of the proposed CM/GC 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 CM/GC Construction Contract process, for construction of the New K-5 Elementary School in North Bethany and (iii) requires that the procurement be in accordance with the Attorney General Model Rules adopted under ORS 279A.065(3).

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.

ATTACHMENT A

FINDINGS ALTERNATE CONTRACTING PROCEDURE CM/GC CONSTRUCTION CONTRACT BHS HVAC Upgrades Phase 1

- (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 CM/GC 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 CM/GC 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 CM/GC proposals and interviews will be rated based on a predetermined list of criteria as required by ORS 279C.337 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 awarding a public improvement contract for this project through the CM/GC 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 procurement will be through a publicly-advertised request for proposals.
- 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 based on the firm's performance history will positively affect the project outcome as it relates to cost by providing feedback on the design development phase and participating in the construction document phase of the design process. With the CM/GC participating in these phases they will be able to offer suggestions for improvement and make recommendations that will reduce costs. With the benefit of this knowledge, the CM/GC will also be able to guarantee a maximum price the District will pay to construct the project, which may result in savings accruing to the District.
- C. **Findings related to public benefits that may result from granting the exemption:** Staff finds that the ability to select firms based on the firm's performance history will significantly affect the project outcome as it relates to schedule. It is critical that the project be completed on time due to the need for proper ventilation in classrooms for students and staff. We believe that utilizing the CM/GC method will reduce the project schedule by allowing the project to begin critical path equipment procurement prior to the completion of the building documents. The time savings associated with early equipment procurement is crucial in the short summer construction period.

The CM/GC process allows the CM/GC to inform and recommend the best practices in sequencing of work based on their early involvement in the project. This early involvement will save the District from procuring the equipment on an owner purchased/furnished basis. This in turn will save the District from the inherent risk involved such as late delivery, the high potential of change orders and further delays in construction schedule.

- 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 cost of the improvement. The CM/GC process offers a unique opportunity for value engineering that is not as effective through the design-bid-build process, since the CM/GC does not have an opportunity to suggest cost-saving measures during the design process. An essential part of each construction project is the value engineering evaluation, which is the means used to determine the best project design that meets the needs and priorities of the Owner, within the Owner's budget, and the schedule constraints. Value engineering is done most effectively by a team consisting of the Owner, Architect, Consultants, and the CM/GC during design development and construction document completion.
- 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 HVAC upgrade.
- F. **Findings related to any likely increases in public safety:** Staff finds that the ability to select firms based on the firm's performance history will allow the District to select a contractor with a demonstrated record of 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 schedule risk to the School District, by allowing critical path equipment procurement to proceed during final design.
- 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.), establishing the best work sequence is crucial to accurately estimating the cost and schedule implications of this project. Staff therefore finds that selecting a firm through the CM/GC process allows the District the advantage of working with a CM/GC who has knowledge of market conditions and experience in finding the best people qualified for this fast-track work, and to

provide accurate estimates for subcontracts. In addition, the CM/GC may plan for early procurement of goods and services where shortages, inflation or other market conditions could increase costs under the traditional design-bid-build method.

- 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 proposals only from contractors who have demonstrated considerable experience in delivering projects of similar complexity successfully.
- K. **Findings related to whether the public improvement involves new construction or renovates or remodels an existing structure:** This project involves renovation of the structures HVAC system. Renovations of the school's HVAC system involves a specialized design element, where the CM/GC's preconstruction input will prove valuable.
- L. **Findings related to whether the public improvement will be occupied or unoccupied during construction:** This is a phased project where only a section of the building will be affected by the construction during first phase. Some areas of the building may be occupied during construction.
- 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:** Staff finds that the project will have multiple phases of construction work to allow the project team to best address the many different HVAC issues in much of the building and schedule constraints, rendering CM/GC contracting (and the CM/GC's early input on these phasing issues) desirable.
- 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 CM/GC method on many other renovation projects in the current and prior bond programs. In addition, architectural, engineering, and planning consultants with experience in alternative contracting have been retained for professional services. The District also relies upon outside legal counsel, appointed by the School Board to provide construction contracting legal advice. The combined expertise and experience of such staff, consultants and professionals will oversee developing the alternative contracting method and its implementation, including negotiating, administering and enforcing the terms of the CM/GC contract.