



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No. 113-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS TO ALLOW ALTERNATIVE CONTRACTING FOR THE LEDDING LIBRARY RENOVATION AND EXPANSION PROJECT.

WHEREAS, the City of Milwaukie adopted Public Contracting Rules by resolution 101-2011 and amended by resolution 82-2013; and

WHEREAS, The Construction Manager/General Contractor form of alternative contracting is allowed per Public Contracting Rule 10.105.A; and

WHEREAS, the use of Construction Manager/General Contractor for the Ledding Library Renovation and Expansion Project complies with Public Contracting Rule 10.105.A; and

Now, Therefore, be it Resolved that the City Council, acting as the local contract review board for the City of Milwaukie hereby adopts findings attached as Exhibit C pursuant to the authority granted the Board by Milwaukie City Code Chapter 3.05, local Contractor Review Board, to allow the use of the Construction Manager/General Contractor alternative contracting for the Ledding Library Renovation and Expansion project.

Introduced and adopted by the City Council on November 1, 2016.

This resolution is effective on November 1, 2016.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Scott Stauffer,
City Recorder

Peter O. Watts
City Attorney

Exhibit C

FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE LEDDING LIBRARY OF MILWAUKIE RENOVATION AND EXPANSION PROJECT

Introduction

Use of Alternative Contracting methods, such as CM/GC (Construction Manager/General Contractor), is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards. Like other alternative contracting methods, CM/GC has significantly different legal requirements than a typical design-bid-build project delivery method.

Pursuant to ORS 279C.335, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings and other substantial benefits to the public agency. The Oregon Attorney General's Model Public Contract Rules provide for public notice and opportunity for the public to comment on draft findings in favor of an exemption before their final adoption.

ORS 279C.330 provides that: "findings" means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity; and
- Funding sources.

Findings

Operational, Budget, and Financial Data

History

The Ledding Library of Milwaukie was built in the early 1960s and has become a community focal point since that time. When the Ledding Library first opened, Milwaukie had only 10,000 residents, and the library has not been significantly improved since 1987. During the fall of

1999, the Ledding Library Board requested permission from the Milwaukie City Council to develop a long range plan for the Ledding Library. With the City Council's approval, the Ledding Library Long Range Planning Committee (LLRPC) was formed and subsequently began meeting in January 2000. As its work progressed, the Committee decided that a library consultant would be an asset in bringing its work to a successful conclusion. A plan, entitled Planning for the Future, was affirmed by the Ledding Library Board and presented to the Milwaukie City Council for adoption at its April 3, 2001 meeting. After reviewing the plan, the Council directed the Library Board and staff to move forward with the project outlined in the Long Range Plan. In regard to the Ledding Library facility, the 2001 long range plan document stated that the current facility would need to be expanded or relocated within three to seven years to meet Oregon Library Association Standards for Oregon Public Libraries minimum facility standards and that the library would be a viable linchpin of the Downtown Development Plan. In December 2003, the architectural firm of Dortinacq and Associates developed the Ledding Library Master Plan, which called for a Ledding Library on the current site expanded to 26,000 square feet. No funding for the project was identified or provided and the library expansion project came to a halt.

Today, the City has more than 20,000 residents, but the library has not expanded to meet demand that has more than doubled in the past 50 years. In May 2016, the citizens of Milwaukie passed a bond measure to fund improvements and expand the Ledding Library. Money raised from the approved bonds will be used in part to increase space for the popular children and teen learning programs, as well as an expansion of audiobooks and large print materials for the city's growing senior population. Shorter shelving and wider aisles will also be installed to increase accessibility for people with disabilities. The City has hired Shiels Obletz Johnsen, Inc. (SOJ) as the Project Manager/Owner's Representative. SOJ will coordinate the full project, starting with assembling the Project Team (architectural design team and CM/GC), and then coordinating the design, public approvals and permits, construction, and occupancy in the completed project.. The Library plans to continue offering its services to the community during construction.

Budget and Financial Data

The bond funds made available to renovate and expand the library is \$9,200,000 dollars. An additional \$1,000,000 dollar contribution will be provided by the Library Information Network of Clackamas County (LINCC). The integration of the old and the new in an occupied space in a fast track manner with a limited budget will be a large challenge for this Project. The Project requires a fast track process as the expanded space is currently necessary to adequately service the needs of the community.

CM/GC provides opportunities for cost saving in a variety of ways. The inherent flexibility and openness of the process allows the City to more easily make appropriate changes as necessary to meet the project budget. The integration of the new spaces and systems into the existing building will present a large challenge.

The firm Guaranteed Maximum Price (GMP) contract amount to be negotiated includes the expected cost to construct the project, the CM/GC firm's fee, and a contingency amount that the CM/GC believes should be available to cover changes to the proposed scope.

Available Bidders

The number of available qualified and experienced bidders for a Project of this type is expected to be limited. The Project involves construction upon a special purpose building, a public library. The Project involves renovation of existing space in a 50 year old building and constructing a substantial expansion that is planned to integrate visually and architecturally into the existing details and forms. The integration of new and modern systems with the existing facility and materials in a manner that achieves the Project goals will be extremely challenging. The work will occur in and around an occupied space. The number of contractors who have past experience in work of this nature and adequate resources to successfully complete such a project is limited in number.

Construction Budget

The amount of funds available to plan, design and construct the needed improvement to the library is limited. The opportunity to get additional funds is not expected. The CM/GC process is viewed by the City and its consultant SOJ as the best procurement form to achieve the necessary construction within the limited funding available.

Public Benefit

The Project is needed to accommodate library services for the foreseeable future. This expansion is in fact well past due. There are numerous limitations with the current space that increasingly hamper the City's efforts to provide quality and efficient library services to the residents of the City. The capacity of the existing library facility has clearly been exceeded, and the library is not currently accessible to all the members of our community. The Project will provide improvements such as electrical, plumbing, heating and cooling, and seismic upgrades into the existing structure, and access to additional space for currently popular activities, as well as adding capacity to serve our aging and disabled residents. The additional areas will make the City's provision of library services more efficient and more widely available to the public.

Value Engineering

The CM/GC process provides many benefits and opportunities for cost savings, a process that will be necessary to achieve the desired improvements within the limits imposed by available funding. System options and real-time cost estimates provided by the CM/GC throughout the constructability reviews will aid the Project and allows the City to make an informed cost-benefit tradeoff. During the Preconstruction phase, the CM/GC will be evaluating the budget and making suggestions for cost-saving changes and value enhancements. The CM/GC will evaluate major systems and make design recommendations to the Project Team about which systems are most cost-effective both in purchase price and installation, and for long term maintenance and operations.

The CM/GC also identifies whether Project sequencing is viable and design elements can be built as drawn. All of these beneficial actions by the CM/GC will improve design, expedite construction and eliminate the potential for costly change orders. The benefits of value engineering are not available with the low bid process.

Specialized Expertise Required

Working in occupied buildings, integrating new systems into older building systems, renovating older buildings, constructing special purpose public buildings, and integrating a substantial expansion of area into an existing older building and style is a challenge. The contractor ultimately selected as CM/GC will demonstrate experience and expertise in providing CM/GC services to public and/or private organizations under these challenging circumstances, and will be well qualified in the area of repairing and renovating older buildings and integrating newer construction and systems into exiting older systems, all while such is occupied.

The CM/GC selection process is based on qualifications, with price as factor. The fee is, however, less important than the overall qualifications and specialized expertise of the selected CM/GC. The City will benefit by acquiring a CM/GC which has established experience and specialized expertise to manage this Project. A low bid process does not provide an opportunity to obtain the most qualified contractor with the specialized expertise needed for the Project.

Public Safety

The Project will provide for safe public access and compliance with ADA requirements. All work during the construction will be done in accordance with Oregon Occupational Safety and Health Administration (OR-OSHA) safety regulations. The CM/GC selected will be highly qualified and capable and show evidence of construction safety practices that are at the highest level of integrity. The CM/GC's input into work and trade sequencing, and construction methodologies can reduce issues related to safety and provides for close controls and related risk reductions on the site.

The CM/GC method of delivery is a team approach and provides for a high level of responsibility and visible adherence to public safety. The contractor's performance on prior projects in satisfying these safety needs can be determined as part of the City's contractor selection process. This determination is not available under the low bid process.

Effect on Funding

The use of CM/GC will have no effect upon the availability of funding.

Market Conditions

The CM/GC contracting process is a modern construction delivery method used by both public and private organizations. The CM/GC is tasked with keeping the Project Team up-to-date on the latest construction techniques and products. The CM/GC will inform the Project Team of current market conditions, labor and materials availability, and construction methodologies that can reduce design and construction time and costs.

The CM/GC process allows "fast track" construction to start while detailing structures, interiors, and systems at the same time as awarding site work, foundations, and long-lead items. Timing the market for the various aspects of construction can result in cost savings and ultimately keeps the Project Team on a schedule. These fast-track benefits are not available under the low bid process.

In addition, using the CM/GC process will allow trades to become involved earlier in the process. The current market for construction services is becoming increasingly tight with substantial increases in material and labor costs for public and private construction projects. By allowing the involvement of trades earlier in the process, the CM/GC will be able to acquire and involve higher quality subcontractors, which will lead to higher quality product for the City and its residents. Regardless, the CM/GC will be required to bid the major subcontracts for the project. These benefits are not available under the low bid process.

Technical Complexity

The project has significant technical complexities which will be best addressed by a full team approach, with the CM/GC firm working with the City and the Architect to solve specific challenges identified during the pre-construction phase.

The project is technically complex due to its integration with the 1960 era existing building. Certain land use and natural resource overlays and requirements will drive and affect the construction that will occur and will require the CM/GC's input to handle in a cost effective manner and stay within the available budget. The ability to coordinate and manage this Project, while working with the City and major stakeholders, is highly complex in nature. This complexity is especially challenging to an inexperienced firm.

This Project also requires technical expertise and experience in special purpose construction involving public entities. The CM/GC process enables the City to competitively select a prime contractor who has the necessary competence to deal with the technical complexities of this project and can provide quality workmanship, dependable performance, fair and reasonable pricing and efficient management as Project Team member. Under a low bid process the technical competence of the contractor is difficult to evaluate.

Funding Sources

Funding for this Project will come from the special purpose bond approved by the citizens of the City and an LINCC contribution. The City needs budget predictability and project efficiency. The CM/GC process, with its negotiated contract price, will provide the necessary predictability.

The CM/GC method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The team approach, the schedule, the value analysis, and constructability reviews provides the ultimate in effective cost analysis. It is critical, and also consistent with the spirit of collaboration encouraged throughout the process that everyone on the Project Team works towards a budget of which they can take ownership.

Experienced Consultants

The City has retained Shiels Obletz Johnsen, Inc. (SOJ) as its Project Manager/Owner's Representative. SOJ will coordinate the full project, starting with assembling the Project Team (architectural design team and CM/GC), and then coordinating the design, public approvals and permits, construction, and occupancy of the completed project,. SOJ has substantial experience using CM/GC for project delivery. SOJ has recently successfully overseen the use of CM/GC to add a two-story, 14,500 square foot addition to the back of the 102 year old Carnegie Library located in Oregon City. SOJ advises that it believes CM/CG is the best available procurement method to achieve the City's desired goals for Ledding Library.

Competition and Cost Savings

Unlikely to Encourage Favoritism or Diminish Competition

It is unlikely that the process of selecting a CM/GC firm will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract. Competition will not diminish because the CM/GC contract will be awarded based on a competitive process, the procurement will be advertised, competition will be encouraged, award will be made on specified criteria and an opportunity to protest will be available. In short, it is unlikely to encourage favoritism or diminish competition in the future. Again, the CM/GC will be required to bid all major subcontracts.

Cost Savings

During the design phase prior to material and subcontractor selection, the CM/GC will provide value engineering and update cost estimate information. This cost estimating will assist final decision-making about the project scope, product quality and material finish. Using a CM/GC will allow more flexibility to develop, evaluate, and implement design changes with less impact on construction cost and time. Substantial cost savings are anticipated from the Project Team approach that is utilized in the CM/GC method of delivery because decision-making is based on cost effective and informed solutions. Progress reviews are frequent and diligent, thus resulting in fewer design corrections and change orders during construction. Additionally, the use of value engineering through cooperation among the architect, engineer, contractor and City is essential to the project delivery on time and within budget. CM/GC value engineering will reduce bid addenda, contract change orders and progress delays to help meet the tight time schedule for the Project. These savings are not realized under a low bid process.

In addition, the CM/GC process has been recently used by Oregon City to renovate and expand its historic library on time and within the available funds. In short, CM/GC has a proven track record of achieving successful results in Projects of this nature.

Summary

After careful consideration, the City has found the Alternative Contracting Method CM/GC more appropriate than a traditional design-bid-build process to meet the overall project objectives for the Ledding Library renovation and expansion.

The project is technically complex due to its integration of a substantial expansion with the older building and the special purpose of this public building. The level of challenge, available budget and fast track nature will require a level of management and flexibility above that ordinarily available with traditional competitive low-bid public contracting. There are multiple firms with the experience and expertise in this type of work, so it is anticipated that there will be multiple proposals submitted on the project. The CM/GC process offers the best opportunity for successfully managing the construction on a budget and on time.