

RESOLUTION NO. 10-22

A RESOLUTION EXEMPTING THE I-205 / OR 213 "JUGHANDLE" TRANSPORTATION IMPROVEMENT PROJECT FROM THE COMPETITIVE BIDDING REQUIREMENT FOR A PUBLIC IMPROVEMENT CONTRACT AND AUTHORIZING PRICE PLUS QUALIFICATIONS PLUS TECHNICAL BEST VALUE ALTERNATIVE CONTRACTING

WHEREAS, the City of Oregon City ("City") is working with the Oregon Department of Transportation ("ODOT") for the construction of the I-205 / OR 213 "Jughandle" Transportation Improvement Project ("Jughandle Project" or "Project") in Oregon City; and

WHEREAS, ORS 279C.300 and OCMC 2.40 require all public contracts, including contracts for public improvements, to be based on competitive bids, unless an exemption is adopted therefore; and

WHEREAS, ORS 279C.335(2) authorizes public contracting agencies to adopt exemptions to the competitive bid requirement if findings can be made that the exemption would not result in favoritism and the exemption will result in substantial cost savings to the agency; and

WHEREAS, a Best Value contracting process which assigns weight to price along with specified non-price factors has been recommended for the Jughandle construction project by the project's design consultant, OBEC Consulting Engineers ("OBEC"); and

WHEREAS, ODOT and City engineering staff both concur with the use of this contracting process for the Jughandle Project, given the highly specialized and complex nature of the Project; and

WHEREAS, a Best Value process is represented by the use of "A" referring to "Price," "B" referring to "Time," "C" referring to "Qualifications," and "D" referring to "Technical Approach" and an "A + C + D" procurement process would include evaluation of a Price component, a Qualifications component and a Technical approach component; and

WHEREAS, when it comes to considering complex and complicated projects, ODOT has observed (and City engineering staff agrees) that the traditional low bid competitive bid process is often inefficient in that it fails to take into account the qualifications and technical expertise that a contractor may add to a project; and

WHEREAS, the development of the Jughandle Project will require significant expertise and knowledge of rapid bridge construction techniques in conjunction with complex traffic control sequencing, time-sensitive utility relocation, and extensive coordination of interrelated construction activities; and

WHEREAS, for the reasons discussed below, it is appropriate to exempt this public improvement project and authorize procurement based on A + C + D Best Value process.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. The City Commission ("Commission"), sitting as the Oregon City Contract Review Board, adopts the following findings regarding an exemption for the Jughandle construction contract from competitive bidding:

The Commission anticipates, based on advice of the OBEC, ODOT, and City staff Jughandle project team ("Project Team"), that competition for this Project's construction contract will be vigorous in that the competition will remain open and impartial to all qualifying proposers in a competitive contract environment. Proposers will be evaluated equally based on criteria that is reflective of the significant work elements of this type of project. Selection will be made on the basis of final proposal scores derived from a price, qualifications, experience, and technical approach.

Due to the extensive complexity of traffic staging, need to maintain a very specific timeline for the closure of OR 213, and the complexity of the Rapid Bridge Replacement on OR 213 which must be completed within the specified 4 day closure, the Project Team has recommended the use of A+C+D alternative contracting, and the Commission concurs. The expected outcome of this contracting method will be the selection of a contractor that has the qualifications (including successful experience of similar work) and an acceptable approach (as described in a written proposal) to perform the work.

The time component "B" of the alternative bidding process was not recommended for inclusion due to the tight time constraints which will be mandated in the project specifications. Extensive project staging of traffic including the full closure of OR 213 will be very specifically prescribed by contract special provisions to ensure the project is in compliance with mobility agreements made with ODOT, the Freight Advisory Committee and the public at large. These constraints will result in a very well defined and rigid schedule which will not offer bidding contractors potential schedule acceleration incentives that would be needed to leverage a "B" component to the selection process. The Commission concurs with this advice.

The selection criteria for evaluation of technical qualifications will address particular Project facets that the Project Team and the Commission believe will require additional controls to assure a successful Project outcome. The value of these results has an importance equal to or greater than the value of having the work done at the lowest possible price. Qualification scoring may apply to the expertise of individuals within a contracting firm or the expertise of subcontractor entities. In Project areas where such specific expertise is imperative, the solicitation will require that the individuals or subcontractor entities upon whom the qualification score is based are contracted subconsultants to the Contractor. Selection criteria for evaluation of the project approach will include a series of questions that require the contractor to describe their approach to critical project elements, such as the traffic staging and rapid bridge construction technique.

In considering whether the contract award for the Jughandle Project will result in substantial cost savings, this Board takes into account not only fiscal cost savings to the City but also those indirect cost savings to the traveling public in that it will reduce the overall period of road closures. The risk of using inexperienced or unqualified contractors will increase the additional costs associated with rework. Cost savings are also more likely with an experienced contractor who is more likely to participate in problem solving and have a project that runs more smoothly with the correct labor, equipment, and material arriving in a timely manner.

Section 2. The Commission, sitting as the Oregon City Contract Review Board, adopts the following findings regarding use of the A + C + D Best Value contracting process:

1. **Operational, Budget and Financial Data:** The Project was approved by the 2009 Legislative Assembly, Oregon House Bill 2001, and amended into the Statewide Transportation Improvement Program. The total Project budget (right-of-way, design, and construction) is estimated at \$26,220,000. The construction is anticipated to be funded with state funding resources. The A + C + D method of contracting is the best available procurement method that will ensure technical expertise and quality that will minimize any construction time delays and assures that the project will be completed with the identified budgetary restraints.

2. **Public Benefits:** The A + C + D contracting method provides an optimal way to minimize the Project's impacts on the public.

3. **Value Engineering:** The A + C + D contracting method is acknowledged by ODOT to result in more reliable and higher quality Value Engineering solutions for the Project. This method allows the contractor to identify cost reducing proposals in its technical approach so that City can expect to realize those benefits in the initial contract price.

4. **Specialized Expertise Required:** By using the A + C + D contracting method, the Board will ensure that the prospective contractor has the necessary knowledge and experience to complete this Project. The Project is a complex combination of challenges, and the final product must be capable of a long service life. Further, the Project involves significant technical work including highly specialized expertise in rapid bridge construction techniques that must be accomplished with a very strict timeline. The consequence of error or inexperience in Project components could result in increased project costs, safety problems, and schedule delays.

5. **Public Safety:** Every effort must be made to minimize traffic interruption while construction proceeds. It is crucial that all work be coordinated to avoid unnecessary delay and safety risks to the traveling public, and to ensure efficiency in construction.

6. **Market Conditions:** Given the highly specialized nature of the Project, the Commission does not anticipate any measurable difference in overall market conditions if this Project is contracted under the traditional low bid or the A + C + D method.

7. **Technical Complexity:** To be successful in completing this Project a contractor must be able to develop and follow an accurate work plan that incorporates the large variety of work items that must flow together seamlessly so as not to extend the Project duration. In order to achieve this end, the Project Request for Proposal will require submittal of a price proposal and a qualifications and technical proposal. The qualifications and technical proposal will be evaluated and scored first. Then the price proposals will be publicly opened. Then the final scores will be calculated to determine the Best Value proposer.

8. Funding Sources: As mentioned earlier, the Project construction is anticipated to be funded with state funds, the use of which has been approved by the Oregon Transportation Commission.

Section 3. In accordance with the findings in Section 1 and 2 of this resolution, the Commission, sitting as the Oregon City Contract Review Board, hereby adopts Resolution 10-22:

1. Exempting the Jughandle Project from the competitive bidding requirement for a public improvement contract; and

2. Authorizing the use of the Price plus Qualifications plus Technical Approach (A + C + D) Best Value alternative contracting method as described above for the Jughandle Project.

Approved and adopted at a regular meeting of the City Commission held on the 1st day of September 2010.



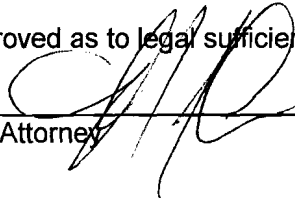
ALICE NORRIS, Mayor

Attested to this 1st day of September 2010



Nancy Ide, City Recorder

Approved as to legal sufficiency:



City Attorney