

Board of Education

Staff Report to the Board

Board Meeting Date : September 25, 2018

Executive Committee Lead:
Claire Hertz, Deputy Superintendent,
Business & Operations

Department : Finance

Presenter /Staff Lead :
Emily Courtnage,
Director, Purchasing & Contracting

BACKGROUND

ORS 279C.335(2) authorizes the Contract Review Board to exempt certain public improvement contracts or classes of contracts from the traditional design/bid/build competitive bidding (i.e., low bid) procurement process. Staff requests that the Board approve an exemption from low bid competitive bidding for the Kellogg Middle School Project and authorize staff to utilize a publicly

competitive bidding process otherwise required by the Public Contracting Rules, as per ORS 279C.335(2).

PROCESS / COMMUNITY ENGAGEMENT

The Public Contracting Rules require that the Contract Review Board conduct a public hearing prior to adoption of a Resolution exempting a public improvement project from competitive bidding. PPS-49-0145(4)(a). Notification of the public hearing must be published in a trade newspaper of general statewide circulation at least 14 days before the hearing. PPS-49-0145(4)(b). At the time of the Notice, copies of the Draft Findings must be made available to the public. PPS-49-0145(4)(c).

In compliance with these requirements, Purchasing & Contracting published a Notice of Public Hearing concerning the Kellogg Middle School exemption request on September 11, 2018 in the Business Tribune, the same Journal in which Purchasing & Contracting posts all required construction solicitation notices. Also on September 11, 2018, staff made the attached Draft Findings available to the public. Instructions for requesting copies of the Draft Findings are included in the Notice of Public Hearing.

At the public hearing, the District must offer an opportunity for any interested party to appear and present comment. PPS-49-0145(3)(d).

Adoption of the attached Resolution will not affect any other contract to which the District is a party nor effect any change in Public Contracting Rules or District policy.

ALIGNMENT WITH EQUITY POLICY IMPLEMENTATION PLAN

The Two-Step solicitation method will not affect the District's Equity in Public Purchasing & Contracting Policy or implementation path. The Request for Qualifications will be open and publicly advertised. Purchasing & Contracting will notify minority contracting communities about the solicitation and encourage Certified business participation. The selected contractor will be required to comply with the District's Workforce Equity and Career Learning requirements, as well as report on Certified business subcontractor utilization during the course of the contract.

BUDGET / RESOURCE IMPLICATIONS

The Two-Step method allows the District to carefully screen firms to assure that the contractor chosen to work on the project has the necessary experience and qualifications, and proven track record, to successfully complete the project.

NEXT STEPS / TIMELINE / COMMUNICATION PLAN

A public hearing is scheduled for the September 25, 2018 Board Meeting. At that meeting, the

If this Resolution is adopted, staff in Purchasing & Contracting and the Office of School Modernization will prepare solicitation documents and issue a Request for Qualifications for a General Contractor for the Kellogg Middle School public improvement project.

ATTACHMENTS

- A. Resolution to Authorize Alternative Contracting Method
- B. Office of School Modernization Staff Memo with Draft Findings

MEMORANDUM

Date: August 29, 2018

To: Board of Education

From: Dan Jung
Senior Director, Office of School Modernization

Subject: Draft Findings in Support of Alternative Contracting Method and Use of Two-Step Solicitation for Kellogg Middle School Project

REQUEST: Staff requests that the Board of Education (Board), acting as the Local Contract Review Authority for the Portland Public School District (District), grant an exemption from the traditional Design-Bid-Build low-bid procurement process and approve the use of an Alternative Contracting Method for the construction of the Kellogg Middle School (the "Project"). Specifically, staff seeks to use a two-step solicitation process: First, staff will issue a Request for Qualifications (RFQ) to identify the most qualified firms. Second, those firms deemed qualified in the RFQ process will be invited to participate in an Invitation to Bid (ITB) (low bid) process to select the contractor for the Project.

PROJECT SCOPE: The Project includes, but is not limited to, construction of a new facility that will house the new Kellogg Middle School. Total Project budget is approximately \$59M including the 2017 voter approved bond funds. The cost of construction is estimated to be approximately \$45M of the overall budget. The Project schedule has targeted June 1, 2019 as the contract start for construction.

CONSTRUCTION PLAN: The Project will create a brand new, model middle school in Southeast Portland where one has not existed for over a decade. The Project team has engaged with the surrounding community throughout the planning and design process, with the aim of creating a new neighborhood-centered resource for students, parents and staff. The District's goal is that this new facility reflect its detailed framework for exemplary middle schools as a means to provide expanded options and stronger programs to more students. It will be important to utilize a construction firm with the following specific traits:

- Requisite expertise in constructing K-8 and middle school facilities
- Experience working with Oregon public contracting requirements
- An exemplary reputation for on-time delivery
- Employs staff with the requisite skills and experience to be successful in delivering a project of this size/complexity
- Employs staging and construction approaches that are sensitive to the surrounding residential neighborhood and community
- Experience working closely with architects and engineers with emerging building technologies

The conventional design-bid-build contracting methodology (DBB) that represents the basis of public improvement contracting in the State of Oregon would expose the District to a significant amount of risk based on the parameters of this project. DBB, which only considers the lowest priced bid that conforms to the bidding requirements, does not allow the District to consider any of

the following issues when selecting the most appropriate contractor:

1. Contractor has experience in projects of similar scope and scale which reduces the risk to the District for cost and schedule overru

The Public Contracting

District Policy 8.50.090-P. The Contract Review Board must offer an opportunity for any interested party to appear and present comment. After the public hearing, the Board will reconvene and vote on the attached Resolution.

Staff from the Office of School Modernization will be available at the September 25, 2018 Board Meeting and public hearing to respond to questions relating to the work described in the attached Resolution and Draft Findings.

If this Resolution is adopted, staff in Purchasing & Contracting and the Office of School Modernization will prepare solicitation documents and issue a Request for Proposal for a Construction Manager/General Contractor for the Benson Modernization public improvement project.



Board of Education Informational Report

MEMORANDUM

Date: September 10, 2018

To: Board of Education

From: Dan Jung, Senior Director of Office of School Modernization

Subject: Draft Findings in Support of Alternative Contracting Methodology/ Use of Construction Manager/General Contractor ("CM/GC") Method for the Benson Polytechnic High School Modernization Project

INTRODUCTION

Pursuant to ORS 279C.335, following is the
INTRODUCTION

Benson Polytechnic Modernization: Alternative CM/GC
Contracting Method

- Ability and commitment to advise the District on the state of the current market and engage the local subcontracting community in support of the District's Equity in Public Pur ion

Benson Polytechnic Modernization: Alternative CM/GC Contracting Method

CM/GC firm for the project. That procurement is formally advertised with public notice and disclosure of the planned Alternative Contracting Method. Full competition will be encouraged and all qualified contractors will be invited to submit proposals. The award will be based upon an objective review and scoring of proposals by a qualified District review committee based on identified selection criteria. Once selected, the CM/GC will select subcontractors via competitive bid process in accordance with PPS Public Contracting Rules and applicable statutes. As required by the District's Equity in Public Purchasing and Contracting policies, this competitive process will include outreach to and solicitation of certified minority owned, women owned, service-disabled veteran owned, and emerging small business contractors ("Certified businesses"). The process will therefore provide for vigorous competition and provide the opportunity for all interested large and small contractors to participate in the bidding for the project.

"(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency thaw 0.54 0 Td [(s)4 (8 0 Td (i)Tj -0.01 Tc 0.01 Tw 0.27 0 Tdu0 Td [(t)12 (he)]TJ 0

Benson Polytechnic Modernization: Alternative CM/GC Contracting Method

design/bid/build process doesn't allow enough time for permitting before construction.

- d) Bringing the CM/GC on board during the design phase will provide the CM/GC with clear, upfront knowledge of project constraints and an early opportunity to collaborate with the design team on the work sequencing, staging, and site access.*

"(G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the improvement;"

process.

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Benson Polytechnic Modernization: Alternative CM/GC
Contracting Method

"(M) Whether the