



Board of Education

Staff Report to the Board

Board Meeting Date: January 10, 2023

Executive Committee Lead:
Nolberto Delgadillo, Chief Financial Officer

Department: Finance

Staff Lead:
Emily Courtnage,
Director, Purchasing & Contracting

SUBJECT: Harrison Park School Conversion Project: Exemption from Competitive Bidding and Authorization for Use of Request for Proposals Contracting Method

BACKGROUND

ORS 279C.335(2) authorizes the 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 Contract Review Board approve an exemption from low bid competitive bidding for the Harrison Park School Conversion Project (“Harrison Park Conversion Project”) and authorize staff to utilize a fully competitive Request for Proposals (“RFP”) process as an alternate procurement method. The RFP method was previously approved and utilized for the Phase IV of the Roosevelt Modernization Project.

Per Oregon law, an exemption request and approval to use an alternative contracting method must be supported by the following findings: (1) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts, *and* (2) 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 public. See ORS 279C.335(2).

A detailed description of the Harrison Park Conversion Project and draft Findings of Fact (“Draft Findings”) supporting the exemption Resolution, as required by ORS 279C.335(2), are set forth in the attached Office of School Modernization staff memo.

RELATED POLICIES / BOARD GOALS AND PRIORITIES

District Policy 8.50.090-P designates the Board as the local government contract review board with authority to exempt certain public contracts or classes of contracts from the standard competitive bidding process otherwise required by the Public Contracting Rules, as per ORS 279C.335(2).

PROCESS / COMMUNITY ENGAGEMENT

Oregon law requires that the District conduct a public hearing, providing interested parties an opportunity to appear and present comment, prior to adoption of a Resolution exempting a

public improvement project from competitive bidding. See ORS 279C.335(5). Notification of the public hearing must be published in a trade newspaper of general statewide circulation at least 14 days before the hearing. At the time of the Notice, copies of the Draft Findings must be made available to the public.

Purchasing & Contracting published a Notice of Public Hearing concerning the Harrison Park Conversion Project exemption request on December 16, 2022 in the Business Tribune, the same Journal in which Purchasing & Contracting posts all required construction solicitation notices. Instructions for requesting copies of the Draft Findings were included in the Notice of Public Hearing.

A public hearing was held via teleconference on January 3, 2023. At that meeting, no attendees presented questions or comments.

ALIGNMENT WITH EQUITY POLICY IMPLEMENTATION PLAN

The RFP alternative contracting method is in alignment with the District's Equity in Public Purchasing & Contracting Policy and implementation plan. A benefit of the RFP method, as opposed to the standard design/bid/build low-bid contracting method, is the District's ability to include evaluation criteria in the RFP to help ensure selection of a prime contractor with strong commitment to use and demonstrated success in using Certified minority owned, women owned, service-disabled veteran owned, and emerging small businesses ("Certified Businesses") subcontractors or partners. The District will award points for demonstration of a history of Certified Business utilization and a substantive plan of outreach to, partnership with, and/or inclusion of Certified subcontractors.

The Request for Proposals will be open and publicly advertised. Purchasing & Contracting and Office of School Modernization 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 RFP 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 to successfully work on a project of this scope and size. Thus, the risk of changes to the final contract amount due to incomplete or inaccurate bid estimates is greatly diminished. Further, the ability to select a highly qualified and experienced contractor will improve scheduling, planning, and coordination of the Project, thereby reducing financial, schedule, and safety risks.

NEXT STEPS / TIMELINE / COMMUNICATION PLAN

If this Resolution is adopted, staff in Purchasing & Contracting and the Office of School Modernization will prepare solicitation documents and issue a Request for Proposals for the Harrison Park Conversion Project.

ATTACHMENTS

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

