RESOLUTION NO. 4830

A RESOLUTION OF THE ALBANY CITY COUNCIL, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, TO ADOPT FINDINGS AND AUTHORIZE THE WAIVER OF COMPETITIVE BIDDING FOR THE CONSTRUCTION OF PK-03-01, SWANSON FAMILY AQUATIC CENTER.

WHEREAS, Oregon Revised Statutes, and the ordinances of the City of Albany authorize the Local Contract Review Board to waive the requirements of competitive bidding in certain circumstances; and

WHEREAS, a public hearing, following published notice, concerning the merits of the waiver was held on or about May 28, 2003; and

WHEREAS, the Albany City Council, acting as the Local Contract Review Board, has concluded that it is in the public interest to waive competitive bidding and construct the Swanson Family Aquatic Center using a Design/Build process;

NOW, THEREFORE, BE IT RESOLVED as follows:

The following findings are hereby adopted:

1. Competition
   The exemption from competitive bidding of this project will not limit competition or encourage favoritism in the selection process of the construction contractor when compared to the standard "low bid" process. To accomplish this, the City will use a two-step process in selection of a contractor. The City will first issue a Request for Qualifications (RFQ). This RFQ will be published in the local newspaper as well as at least one trade newspaper of general statewide circulation. Contractors that are interested in the project will submit Statements of Qualifications (SOQ) to perform the work. A selection committee consisting of City staff and Pool Advisory Board members will select the two firms that appear to have the best qualifications to meet the project requirements. These two firms will be asked to submit full proposals on the project through a Request for Proposals (RFP). The RFP will have the facility requirements and will clearly identify the weighted selection criteria. The selection committee will evaluate the proposals submitted based on the selection criteria to select the successful contractor. The selection process will be completed under the supervision of Public Works Department staff.

2. Operational, Budget, and Financial Data
   Using the Design/Build process increases the City's opportunity to complete the project within the desired time frame. There is strong community support for the completion of the aquatic facility. The desire of the community and those providing donations and funds for the project is to have the pool open in the summer of 2004. Based upon the experience at Corvallis, it does not appear that the desired opening time can be met without implementing the Design/Build process. The Design/Build process has the potential for minimizing delays and avoiding extra costs in the following ways:

   The use of the Design/Build process will likely reduce the overall cost of the project. The Design/Build process will also help to limit the risk to the City for cost over-runs and change orders during the construction phase and thus reduce the cost to the project from this type of expense. This is because the Design/Build process lends itself to finding creative and economical solutions to meet project goals within partnership with the contractor.

Additionally, there have been several large-scale pledges of in-kind gifts for this project. The Design/Build process will allow the maximum use of these gifts while minimizing the risk to the City and contractor. The contractor will be given a list of in-kind pledges that may be used at the discretion of the contractor to maximize project cost savings and minimize the schedule.

3. Public Benefits

The public benefits in two areas using the Design/Build process. First, the project will be able to be completed in a shorter time frame than if the design-bid-build process were used and thus make the pool available for public use during the latter part of the summer 2004. Work on a similar pool in Corvallis took 8 months in the construction phase alone. The goal is to have the pool open in July 2004. It is very unlikely that the pool can be completed in time to meet this deadline if the traditional design-bid-build process is used.

The use of the Design/Build process will likely reduce the overall cost of the project. In effect, more pool can be constructed for the dollars available. There are a couple of options for pool construction that are very different and will impact both time and cost. The use of the Design/Build process will allow the contractor to have early input into the pool construction method chosen to ensure that project time and cost targets are met.

4. Value Engineering

The Design/Build process will give the contractor an opportunity to partner with the City to perform value engineering. In the traditional design-bid-build process there is no input from the contractor while the project is being designed. Contractor input of value engineering and constructability will likely reduce both the overall project cost and the time for the facility to be completed. It is likely that the selected contractor will have some experience in the construction of outdoor pools. This specialty experience will help identify challenges and opportunities in the design and construction phases of the project.

Additionally, the contractor will be able to influence the construction methods and phasing during the design phase. This will provide greater flexibility and the most efficient construction sequencing, and reduce the subsequent need for design changes and change orders.

5. Specialized Expertise

There are not a large number of contractors that have experience in the construction of outdoor family aquatic centers. To obtain the greatest value out of the facility and minimize the risk, it is important to have a contractor that has some experience in the construction of these specialized facilities. This specialized experience can be acquired most effectively though the RFQ/RFP contractor selection process proposed for this project. The low bid process does not allow for a thorough evaluation of a contractor's experience or qualifications and can result in selecting a contractor whose low bid is reflective of a lack of experience with this work and has the potential for added costs from construction delays and claims.

In that the facility is somewhat unique and special, it is important that the contractor's construction experience be employed during the design of the project. This will assure that the proper construction sequencing, scheduling, and methods are undertaken to meet the facility objectives.

6. Public Safety
There are a couple of safety concerns associated with this project. First is the safety of the workers that will be constructing the improvements. Using the Design/Build process allows the contractor to have input into construction phasing and methods that can improve job site safety.

Second, the disinfection system selected for the pool can greatly impact the safety risk to the pool users and surrounding neighborhoods. With the contractor involved in the design process, the balance between user safety and constructability can be made at the early stages. This is likely to result in the least risk and least cost construction of the project.

7. Market Conditions
The Design/Build contracting process will reach the same market as the conventional low bid process. The RFQ will be published in the same publications that the City regularly uses for advertisement in the low bid process. The selected contractor will have the ability to subcontract out specialty and other work. In addition, there have been pledges of in-kind gifts for this project. The Design/Build process will allow the maximum use of these gifts while minimizing the risk to the City and contractor.

8. Technical Complexity
The construction of an outdoor aquatic facility is a specialty item. Pool construction methods and mechanical systems for the facility are not standard construction items. It is important that a firm with the experience and skill required is selected for this project. The design-bid-build process does not provide a solid method for ensuring the contractor has the expertise needed for this project. There have not been a large number of these facilities constructed in the state so the number of qualified contractors is relatively small.

9. Funding Sources
The project will be funded by a combination of donations and City General Fund money. The City General Fund money will be repaid over time by revenue generated by the aquatic center. The current project costs are estimated to be $2.4 million.

Many pledges have been made for in-kind gifts. The Design/Build process provides for participation of the contractor during the design process to help decide how best to maximize use of these in-kind gifts if/when they are most beneficial to the project as a whole. This allows a greater ability to use the many pledges that have been made for in-kind gifts and the contractor will have the flexibility to use the in-kind gifts if/when it is most beneficial to the project as a whole.

10. Legal Authorization for Exemption from Competitive Bidding
Based upon the foregoing findings, the Albany City Council, acting as a local contractor review board, finds and concludes that the waiver of competitive bidding in the present case is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition and that the exemption will result in substantial cost savings to the City of Albany.

BE IT FURTHER RESOLVED, that competitive bids shall not be required for the construction of PK-03-01, the Swanson Family Aquatic Center; and

BE IT FURTHER RESOLVED, that PK-03-01, the Swanson Family Aquatic Center shall be constructed utilizing the Design/Build process.

DATED AND EFFECTIVE THIS 28TH DAY OF MAY 2003.

Mayor

ATTEST:

City Recorder