

RESOLUTION NO. 5335

A RESOLUTION EXEMPTING THE CONSTRUCTION OF W-03-02, HYDROELECTRIC PROJECT FROM THE COMPETITIVE BIDDING PROCESS AND APPROVING AN ALTERNATE CONTRACTING METHOD.

WHEREAS, Albany Municipal Code 2.66.060 and Oregon Revised Statutes 279C.335 allow the City Council, acting as the local Contract Review Board, to exempt a specific public improvement contract or class of public improvement contracts from competitive bidding requirements; and

WHEREAS, such exemption shall be based on the approval of findings submitted by the contracting agency seeking the exemption; and

WHEREAS, the exemption is for a single project of a highly technical and customized nature; therefore, granting the exemption will not provide a basis for other similar exemptions or any pattern of exemptions; and

WHEREAS, the entities that provide materials and services for the project must be qualified by their specialized experience and knowledge about hydroelectric facilities. Because the City has only a single hydroelectric plant and there is no foreseeable possibility of the same or a similar type of project being undertaken by the City in the future, participation in the project will not provide any contractor or subcontractor with experience that would make them a favorite or give them an advantage in the award of any other City contract; and

WHEREAS, the selection of C F Malm Engineers to provide the Phase I report was made pursuant to a formal competitive process that complied with all applicable public contracting laws. The request for proposals, Consultant engineering Services for W-03-02, Hydro Power Project, described the scope of work for the engineer as including all engineering work for the project. Therefore, the selection of C F Malm Engineers to provide all engineering and design services was made in a manner that encouraged competition; and

WHEREAS, approximately 80 percent of estimated project costs for construction services are for mechanical and electrical installation. Because very few small hydroelectric projects are built in the United States, the number of qualified specialty contractors that would be qualified and interested to submit bids for the project is very limited; and

WHEREAS, for the reasons set forth in the Phase I report, the alternate contracting method of having the engineer as design/build is estimated to be the lowest cost method for delivery of the project and significantly lower in cost than the traditional design-bid-build method; and

WHEREAS, the project is to include automation of the facility; therefore, the project engineer will design a customized system that will integrate the new turbine/generator with plant equipment, structures, and upgrades. C F Malm Engineers is highly qualified by knowledge and experience to design, have manufactured, and install the main control panel that will automate the existing and newly purchased equipment and plant upgrades. The manufacture and installation of the main control panel by C F Malm Engineers will minimize communication errors and ensure the plant's automation system is efficient and trouble free. This will provide substantial short- and long-term savings for the City; and

WHEREAS, due to the technical nature of the project, the amount of work that can be performed, supervised, and understood by a general contractor is minimal. Most on-site labor will be performed by specialty mechanical and electrical contractors. Therefore, using a standard construction contract under which a general contractor is selected to supervise and deliver on-site labor would result in increased

communication demands, higher costs due to project risks assumed by the general contractor, greater potential for contract disputes, poor quality work, and the potential for a large number of change orders and cost increases. Using an alternate contracting method that places C F Malm in control of Project implementation will result in substantial cost savings to the City; and

WHEREAS, because close supervision and coordination by the project engineer will be required, allowing the project engineer to pick specialty contractors with whom he has a good working relationship will enhance efficiency and result in fewer construction problems; and

WHEREAS, because the mechanical and electrical installers will perform most of the on-site construction services, and because the expertise of these installers is critical to the success of the project, a traditional competitive bid process to select a general contractor where the qualifications of the subcontractors are not evaluated could result in a failed project; and

WHEREAS, the City provided public notice and held a public hearing on October 25, 2006, before adoption of these findings in accordance with OAR 137-049-0630.

NOW, THEREFORE, BE IT RESOLVED, that each of the recitals set forth above are hereby adopted as findings of fact.

BE IT FURTHER RESOLVED that the Albany City Council, acting as the Local Contract Review Board finds that it is unlikely that the exemption of this contract from competitive bidding will encourage favoritism in the awarding of public contracts or substantially diminish competition for public improvement contracts; and

BE IT FURTHER RESOLVED that the Albany City Council, acting as the Local Contract Review Board finds that the awarding of a public improvement contract under this exemption will result in substantial cost savings to the Contracting Agency; and

BE IT FURTHER RESOLVED that the City Council, acting as the Local Contract Review Board, awards the contract for W-03-02, Hydroelectric Project to C F Malm Engineers in the amount of \$1,588,000; and

BE IT FURTHER RESOLVED that the City Council, acting as the Local Contract Review Board exempts this contract from the requirement to provide good and sufficient payment and performance bonds for the project.

DATED AND EFFECTIVE THIS 25TH DAY OF OCTOBER 2006.



Mayor

ATTEST:



City Clerk