



PORLAND PUBLIC SCHOOLS
OFFICE OF SCHOOL MODERNIZATION
501 North Dixon Street / Portland, OR 97227
Telephone: (503) 916-2222

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To: Board of Education

From: Marina Cresswell, Senior Director, Office of School Modernization

Subject: Direct Appointment Authorization Request – Division 48 over \$100K
Roosevelt High School Window Restoration Project

REQUEST: Staff requests that the Board of Education (Board), acting as the Local Contract Review Board for the Portland Public School District (District), grant approval for a direct appointment of additional Architect services for the Roosevelt High School Window Restoration project.

BACKGROUND: The Roosevelt High School Window Restoration project originally solicited the Architect to do an assessment of the historic wood windows at Roosevelt High School, determine how best to address thermal comfort issues associated with the windows, develop and complete construction documents, and provide construction administration during completion of the work. The full scope of the project was unknown at the time due to the unknown conditions of the wood windows. The Architect's initial direct select contract for \$81,010 was executed on November 6, 2019. Portland Public Schools (PPS) Public Contracting Rules allow for direct selection of a consultant under Division 48 when the total contract fee remains under \$100,000.

The completed window assessment, State Historic Preservation Office (SHPO) review, and selection of a contractor have now defined the scope with more detail. This full scope will require more construction administration, and support addressing conditions of approval from the SHPO, than what was originally assumed in the Architect's contract. OSM has solicited and received a proposal for a contract amendment from the Architect for \$63,060 for additional construction administration and State Historic Preservation Office (SHPO) support. The addition of the contract amendment to the initial contract will result in a total fee of up to \$144,070.

The District may enter into a contract directly with a consultant for a total fee over \$100,000 when the Contract Review Board grants approval for a direct appointment in accordance with PPS Public Contracting Rules 48-0200 (1)(f). These rules identify the following three components that must be demonstrated:

- (i) *Approval by the Board is unlikely to encourage favoritism in the award of public contracts or substantially diminish competition for public contracts; and*
- (ii) *Is reasonably expected to result in substantial cost savings to the District or to the public; or*
- (iii) *Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with the selection procedures otherwise required by these rules.*

ANALYSIS: Following are staff's demonstration of how the proposed direct appointment of additional services meets the requirements of PPS Public Contracting Rule 48-0200 (1)(f).

- (i) *Approval by the Board is unlikely to encourage favoritism in the award of public contracts or substantially diminish competition for public contracts; and*
 - Approval of this contract amendment will be an extension of the Architect's current effort and will be in the best interest of PPS because of the current Architect's continuity with the development of the project scope and documents, their coordination with SHPO, as well as their initial construction administration efforts. It is unlikely another consultant would be interested in providing construction administration of design details that were not their own.
- (ii) *Is reasonably expected to result in substantial cost savings to the District or to the public; or*
 - The Architect's expertise in historic wood windows has already resulted in substantial cost savings to the District, both in regards to the rehabilitation design solution as well as schedule-related savings due to their understanding of SHPO's requirements.
 - Extending the Architect's current effort will be more cost effective than bringing on a new consultant that would require the use of billable time to: familiarize themselves with the construction, the project scope, and the stakeholders; re-develop documentation per their own standards; and re-initiate SHPO contact and coordination, in addition to the necessary construction administration services.
 - The requested contract amendment is based on Time and Materials Not To Exceed, utilizing fair and reasonable hourly rates, and will therefore only cost the minimum amount necessary to complete the scope of work.
- (iii) *Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with the selection procedures otherwise required by these rules.*
 - A competitive solicitation would likely be necessary to bring on a new consultant, due to the potential cost, as well as a desire to avoid any further direct appointments. A competitive solicitation would require several weeks to complete, leading to significant delays in completion of the work. These delays would likely require the bulk of the construction be delayed to summer 2021 to address school occupancy and weather constraints, and would leave school occupants addressing thermal discomfort for another school year.
 - It would be necessary to suspend construction while completing the competitive solicitation, since a consultant would not be available to provide construction administration services. A suspension of construction would likely lead to a delay claim from the construction contractor that would add to the overall project cost.
 - It is unknown if a competitive solicitation would result in a better price for the additional construction administration to be performed. The requested contract amendment appears to be fair and reasonable in its scope, and the hourly rates are very competitive within the market.