

MINUTES OF THE WORK SESSION MEETING OF
THE SPRINGFIELD CITY COUNCIL HELD
MONDAY, APRIL 16, 2007

The City of Springfield Council met in a work session in the Jesse Maine Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, April 16, 2007 at 6:00 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Lundberg, Wylie, Ballew, Ralston, Woodrow and Pishioneri. Also present were City Manager Gino Grimaldi, Interim Assistant City Manager Mike Harman, City Attorney Joe Leahy, City Recorder Amy Sowa and members of the staff.

1. Justice Center Contract – P50434.

Project Manager Carole Knapel presented the staff report on this item. Oregon Revised Statutes (ORS) provides for an exemption from public bidding requirements when the exemption is unlikely to encourage favoritism or substantially diminish competition in the awarding of public improvement contracts and when the award of the public improvement contract under the exemption will result in substantial cost savings to the City and the public. In order to approve an exemption, Council must conduct a public hearing, consider testimony, and adopt a resolution exempting the project from competitive bidding.

In November 2005, the City selected Heery+Hyland to perform Construction Manager/General Contractor (CM/GC) services on the Justice Center project. This selection was based on a process which included written proposals (including cost proposals), interviews and reference checks. As the selected CM/GC, Heery+Hyland participated in the design of the Justice Center, providing cost estimates, schedules and constructability review. In February 2007, Heery+Hyland presented a Guaranteed Maximum Price (GMP) for the construction of the Justice Center, however, the GMP was greater than the City's approved budget. In an effort to bring the project within budget, Heery determined to end their participation and allow Hyland to continue to work to develop a GMP which is within the City's budget. Hyland is currently soliciting bids for subcontractor work in an effort to obtain this GMP. Hyland will submit their GMP to the City on May 3, 2007. If the GMP presented by Hyland meets the City's budget as determined by the project's value engineering process, it is recommended that the Council authorize the City Manager to execute a construction contract with Hyland. Because Hyland was part of the original team selected for CM/GC services, approval of this exemption has not encouraged favoritism or diminished competition in the awarding of this contract. The City will be continuing on the course previously established without one of the initial participants. Because Hyland has participated in the design process and is currently bidding subcontractor work, the approval of this Resolution allows for the best opportunity for the City to receive a GMP proposal which is within budget and which includes substantial construction cost savings.

Mr. Leahy said an Executive Session on this item would only be necessary if Council had questions related to negotiations following this work session.

Ms. Knapel noted the reason for holding a public hearing tonight on this item.

Councilor Pishioneri asked if allowing Hyland Construction to continue would place the City in a position for someone to file a claim against the City that would stop the process.

Mr. Leahy said there were four courses of action noted in the resolution that Council would be authorizing the City Manager to take. The first action was for Heery to step back and Hyland to step forward for cost savings on the project. He explained the public process that was used to select Heery+Hyland and that Hyland was the local contractor surviving from that team. The second action authorized the staff to bid the project. Staff believed the first option was the best at this point because Hyland was the contractor that knew the most about this project and was local. The third option was regarding change orders and the fourth option was to take other action necessary to effectuate Council's goals. All of the things that Council had already done, such as the Request for Proposal (RFP) process, the exposure to the marketplace, the public bidding occurring now through Hyland and the public hearing tonight, provided the legal framework for Council to make the findings needed. The process of choosing one contractor was authorized under Oregon law if it could be shown that there was competition in the marketplace and it would do the public good regarding costs. The information provided by staff plus the public hearing, validated this process.

Councilor Woodrow asked for an estimate of what it would cost to go out and re-bid the project.

Ms. Knapel said the major cost implication would be timing that would be lost. It was the prime bidding season now, and the project was competing in the marketplace and had committed their workforce to other projects. She didn't have a dollar figure, but there could be an implication regarding the bids.

Councilor Ralston said it looked like we were going to have to pay Heery for work already done.

Ms. Knapel said that was correct. The City was working to identify those costs. It may not be the full \$580,000 that Heery had submitted. Heery had a not-to-exceed price of \$390,000. Beyond that amount, Heery needed to demonstrate a basis for spending the additional funds.

Councilor Ralston said he wanted to know that was not wasted money.

Ms. Knapel said it was not wasted and the work they did was advantageous to the project.

Mr. Leahy said the \$390,000 was agreed upon for Phase I. Heery and Ms. Knapel's office were determining whether or not Heery had shown sufficient documentation for that amount. To keep this project moving and not miss the construction season, there was a system for arbitration built into the agreement. If Heery indicated they wanted more than the City said they earned, the case would go to arbitration in Lane County Circuit Court before a Lane County judge to determine the cost figure. The City agreed to that to keep the project moving.

Councilor Ballew asked if we still had an architect.

Ms. Knapel said Robertson/Sherwood was still the architect and would continue through the construction. Mr. Sherwood was in the audience.

Councilor Ballew asked if staff had confidence Hyland could bring the amount to within our budget.

Ms. Knapel said that was why Hyland was bidding the project now to get the cost down within the budget. The goal was to bring the project to within budget.

Mr. Leahy said this was not authority to build anything other than what had already been approved.

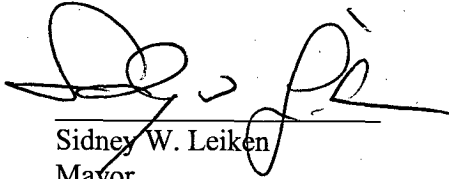
Councilor Lundberg agreed that this project couldn't go outside the budgeted amount. She said she knew that Ms. Knapel was vividly aware of that and was trying to make it work.

Mayor Leiken said this made sense because Hyland had been involved since the beginning. Hyland was local and understood the local economy and for Hyland to take it out for bids now made sense. He commended Ms. Knapel and Mr. Leahy on their work.

ADJOURNMENT

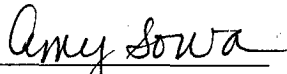
The meeting was adjourned at 6:16 pm.

Minutes Recorder – Amy Sowa



Sidney W. Leiken
Mayor

Attest:



Amy Sowa
City Recorder