

LEGISLATIVE DIGEST

[Contracting Process for the Van Ness Bus Rapid Transit Project]

Ordinance modifying the requirements of Administrative Code, Section 6.68, as applied to the proposed construction of the Van Ness Bus Rapid Transit Project, to authorize the Municipal Transportation Agency to, instead of a formal Request for Qualifications, issue a Request for Proposals (RFP) to potential construction managers/general contractors (CM/GC), to include their teams of core trade subcontractors, which RFP will contain minimum qualifications for the CM/GC and certain subcontractors; evaluate the CM/GC primarily on non-cost criteria; negotiate a guaranteed maximum price with the selected CM/GC when the design is sufficiently complete, provided the price is fair and reasonable; and making environmental findings.

Existing Law

- The existing ordinance requires that a request for qualifications (RFQ) be issued to pre-qualify firms prior to issuance of a request for proposals (RFP) to select a CM/GC for a project; pre-qualified firms are then invited to submit competitive proposals for the project in response to the RFP.
- The existing ordinance specifies that cost criteria (the fees proposed for pre-construction services and for construction phase services, including overhead, profit and general conditions) constitute not less than 65 percent of the overall evaluation of the proposals in response to an RFP.
- The existing ordinance does not provide for negotiation of a guaranteed maximum price (GMP).
- Under the existing ordinance, the selected CM/GC procures subcontracts for the trade work by inviting pre-qualified trade subcontractors to submit competitive bids. Those bids are evaluated on price alone, and the CM/GC awards the subcontract to the lowest responsive bidder.

Amendments to Current Law

- The existing ordinance is amended for this project to allow the SFMTA to issue an RFP with minimum qualifications listed for the CM/GC and certain core subcontractors, rather than issuing a separate RFQ.
- The existing ordinance is amended for this project to allow the SFMTA to ask for price proposals for (a) pre-construction costs and (b) a fixed fee (profit and other fixed expenses) for all construction work, based on the estimated cost of the construction, which fee may be adjusted if actual construction costs differ significantly from the estimate. Evaluation of the price proposals will constitute not less than 30 percent of

the overall evaluation; evaluation of non-cost criteria will constitute a maximum of 70 percent of the evaluation.

- The existing ordinance is amended for this project to allow the SFMTA to negotiate the guaranteed maximum price (GMP) with the CM/GC. The GMP will include the cost of all construction work for the Project, as well as the costs for general conditions and the fixed fee referred to above. The proposed GMP will be subject to a cost/price analysis under FTA requirements to determine whether the amount is fair and reasonable. If the SFMTA and the CM/GC are unable to agree on what the SFMTA considers to be a reasonable price for the work, the SFMTA will terminate the contract with the CM/GC, issue an invitation for bids, and award a contract for the Project to the lowest responsive and responsible bidder.
- The existing ordinance is amended to allow the SFMTA to procure for the pre-construction phase of the project, as part of the CM/GC team, the assistance of core subcontractors, such as those with specialties in overhead contact system/traction power construction, paving, sewer/water main replacement, and traffic control, to develop the best plan for scheduling construction in the Van Ness corridor.

Background Information

The Van Ness Bus Rapid Transit (BRT) Project (now known as the Van Ness Corridor Transit Improvement Project) (the Project) is a large-scale plan to implement “full-feature” BRT on one the Van Ness corridor. The SFMTA anticipates that the Federal Transit Administration of the U.S. Department of Transportation will provide \$75,000,000 in federal funding for the Project as part of its Small Starts Program.

Administrative Code Section 6.68 allows the City to procure construction services for public work projects by a process known as “integrated project delivery,” whereby the City retains a construction manager/general contractor (CM/GC) during the design process to review and comment on the constructability of the design within the established budget for the project. To complete the design and construct the Project, the SFMTA has decided to employ a CM/GC project delivery method that differs in certain respects from the process in Section 6.68, but that is similar to the method used by the public transit agency in Portland, Oregon (TriMet) for a project that extended light rail into Portland’s downtown area.

On October 7, 2014, the SFMTA Board of Directors adopted Resolution No. 14-147, which authorized the SFMTA to use a CM/GC project delivery method for the Van Ness BRT Project, and further authorized the Director of Transportation to seek approval from the Board of Supervisors for a Project-specific ordinance to implement the CM/GC delivery method in a manner that is most efficient for the Project.

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