



Legislation Text

File #: 18-0087, Version: 1

Ordinance to Amend and Reenact Chapter 2 of the City Code of the City of Hampton, Virginia, entitled "Administration" by Amending Article XIV, Division 1 to Add Section 2-336.1 Pertaining to the Use of Design-Build and Construction Management Procurement Methods

PURPOSE/BACKGROUND:

On March 24, 2017, the General Assembly enacted Title 2.2, Chapter 43.1, Design-Build Contracting and Construction Management. This is a request for Council to incorporate certain provisions of Chapter 43.1 applicable to local public bodies in order to provide the City with more options for procurement of construction.

Discussion:

The enactment of Virginia Code Title 2.2, Chapter 43.1, established requirements for the procurement of construction using design-build and construction management procurement methods by state and local public bodies, and the conditions under which such methods may be used. According to the provisions of this Chapter, before a locality can utilize these methods of procurement, it must, by ordinance or resolution, implement procedures consistent with the procedures adopted by the Secretary of Administration for design-build or construction management projects. These procedures are detailed in § 2.2-4382 and require the locality to have in its employ or have under contract a licensed architect or engineer with professional competence appropriate to the project who shall (prior to making a determination to use design-build) advise the locality regarding the use of design-build or construction management for a project, and who shall assist in the preparation of the RFP and evaluation of proposals. Additionally, a locality must make a written determination that competitive sealed bidding is not practicable or fiscally advantageous and document the basis for the determination to use the design-build or construction management method and, further, must adopt certain written procedures that govern selection, evaluation and award. Adoption of Virginia Code, Title 2.2, Chapter 43.1, §§ 2.2-4378, 2.2-4379 and 2.2-4382 will establish the conditions under which design-build or construction management methods may be utilized by the City and will effectively implement the procedural requirements to enable the City to take advantage of these alternative methods of procuring construction.

Impact:

See Purpose/Background above.

Recommendation:

Approve the Ordinance amendment.

BE IT ORDAINED by the City Council of the City of Hampton, Virginia, that Chapter 2 of the City Code of the City of Hampton, Virginia entitled "Administration" is amended and reenacted to read as

follows:

CHAPTER 2 - ADMINISTRATION

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ARTICLE XIV. - PROCUREMENT OFFICE

DIVISION 1. - GENERALLY

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Sec. 2-336.1. - Same-Design-Build and Construction Management Contracting.

- (a) Pursuant to Code of Virginia chapter 43 § 2.2-4302, as it may be amended from time to time, the provisions of Code of Virginia chapter 43.1 §§ 2.2-4378, 2.2-4379, and 2.2-4382 related to governmental procurement of construction utilizing the design-build and construction management procurement methods, as those sections may be amended from time to time, are incorporated herein by this reference.
- (b) Notwithstanding subsection (a) of this section, whenever any provision of those sections incorporated thereby are modified or amended by any other section of the city code, or by any rule, regulation, policy, procedure, or administrative directive, such provision shall be interpreted and implemented as modified or amended.
- (c) When design-build and construction management contracting methods are authorized.
 - (1) The city may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the city complies with (i) the requirements of Code of Virginia chapter 43.1 § 2.2-4382, as those sections may be amended from time to time, and (ii) the director of finance or designee shall have implemented procedures consistent therewith.
 - (2) Prior to making a determination as to the use of design-build or construction management for a specific construction project, the city shall have in its employ or

under contract a licensed architect or engineer with professional competence appropriate for the project who shall advise the city regarding the use of design-build or construction management for that project and assist the city with the preparation of the request for proposal and the evaluation of such proposals.

- (3) Prior to taking any action on the use of design-build or construction management for a specific construction project, the department making such request must receive formal approval to proceed from the city manager. The request shall contain a written determination justifying why competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize design-build or construction management. The determination shall be included in the request for qualifications and be maintained in the procurement file.
- (4) Design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Virginia division of engineering and buildings of the department of general services for state agencies.
- (5) Construction management contracts shall include a two-step process and the selection criteria shall be included in the request for qualifications and the request for proposals. The procedures and required construction management terms shall be consistent with the procedures as adopted by the Virginia Secretary of Administration.
- (6) Prior design-build or construction management experience or previous experience with Virginia's Bureau of Capital Outlay Management shall not be a prerequisite for award of a contract. However, in the selection of a contractor, the city may consider the experience of the contractor on comparable projects.
- (7) The following additional requirements apply to construction management contracts:
 - a. Construction management contracts may be utilized for projects where the project cost is expected to be more than \$10,000,000.00.
 - b. Construction management may be utilized on projects where the project cost is expected to be less than \$10,000,000.00, provided that (i) the project

is a complex project and (ii) the project procurement method is approved by the city council. The written approval of the city council shall be maintained in the procurement file.

- c. The construction management contract shall be entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions.
- d. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable.
- e. Public notice of the request for qualifications shall be posted on electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of the request for qualifications.
- f. Price is a critical basis for award of the contract.

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