

RESOLUTION NO. 2012-029

**PROCEDURES FOR SELECTION OF CONSTRUCTION
MANAGER AT RISK FOR 6TH AND ST. JOSEPH STREET PROJECT**

Section 1. Purpose

The City of Rapid City, having duly determined that a public/private project on the corner of 6th and St. Joseph Street for the construction of a mixed use facility consisting of public improvements, public parking, private parking, retail, office, commercial, residential and green space as part of City's commitment to revitalize downtown is in the public interest and having entered into a Master Development Agreement and Contract for Construction of Public Improvements through Private Developer Tax Increment District Number Sixty-two and having been advised by the Developer that its licensed design professional advises that because of the nature of the project, the most efficient and cost effective manner of proceeding would be through the use of a Construction Manager at Risk and having determined that it is consistent with the public interest to allow the request for utilization of a Construction Manager at Risk so long as the applicable statutory procedures are followed and having been assured that the construction management services would not unreasonably duplicate and would be in addition to the normal scope of separate architect or engineer contracts, in order to comply with SDCL § 5-18A and B, including specifically SDCL § 5-18B-44, adopts the following procedure for selection of a construction management firm to provide Construction Manager at Risk Services.

Section 2. Definitions

For the purposes of this procedure, the definitions contained in SDCL §5-18A and 5-18B and the following definitions shall apply:

"City" means the City of Rapid City, its departments, commissions, boards and agencies.

"Firm" means any individual, firm partnership, corporation, association, joint venture or other legal entity permitted by law to practice architecture, engineering, or construction contracting in the State of South Dakota and City of Rapid City.

"Project" means the 6th and St. Joseph Street Project.

"Owner" means the Developer of the 6th and St. Joseph Street Project.

Section 3. Method of Selection

The Construction Manager at Risk will be selected through a competitive RFP process in accordance with SDCL § 5-18B-40 through 44.

Section 4. Minimum Qualification Requirements for Firms Providing Construction Management At Risk Services.

Construction Managers at Risk shall be registered with the State of South Dakota as a domestic or foreign corporation, partnership or joint venture as of the date of the contract award. Construction Managers at Risk shall register with the South Dakota Department of Revenue upon selection.

Section 5. Public Announcement Procedures

Notice of any Request for Proposals (RFP) shall be advertised in accordance with the provisions of SDCL § 5-18A-14.

Section 6. Review Committee

There shall be a Technical Review Committee (Committee) consisting of five persons established to determine the most qualified proposals and to rate and score the proposals. The Committee shall consist of two representatives of the owner, the Public Works Director of the City of Rapid City or his designee, the project architect and a community member at large invited by the owner.

Section 7. Request for Proposal – Selection Criteria

A. General Requirements.

The Request for Proposals shall contain the following:

- a general description of the project
- a description of the areas of qualification required for performance of the work such as experience, management resources, and financial capability
- the basis upon which the most qualified offerors will be determined
- a description of the qualifications the Construction Manager will be required to have
- a description of, or reference to, the proposed contract terms and conditions for the construction manager services contract, including a description of the services to be performed

- any other requirements the Owner deems necessary

B. Performance Criteria Package.

- A performance criteria package shall be prepared by the Owner, using a registered architect or engineer.
- The purpose of the performance criteria package is to furnish sufficient information for firms to prepare qualitative proposals. The Firm to whom the construction management at risk contract is awarded shall develop a detailed proposal for construction of the facility in compliance with the performance criteria package.
- The RFP shall consist of the performance criteria package and basis for evaluation of proposals.
- The performance criteria shall establish the requirements for the "at risk" character of the services. At a predetermined time, the Construction Manager at Risk shall agree to a Guaranteed Maximum Price (GMP), which shall include the Construction Manager at Risk fee for services.
- The performance criteria shall establish the requirements for performance and labor/material bonds. At a minimum, bonds shall be provided by each contractor performing work at the site, or by the Construction Manager at Risk covering all work on the project.

C. Selection Criteria.

The Committee shall determine the relative ability of each firm to perform the services required for each project. The Committee shall base its determination upon the following:

- experience with comparable projects
- financial and bonding capacity
- managerial resources
- the ability of the professional personnel
- past performance
- capacity to meet time and budget requirements
- knowledge of local or regional conditions
- recent and current project work load
- the ability of the construction manager to complete the work in a timely and satisfactory manner
- legal judgments against the construction manager
- references from owners of similar projects

Section 8. Competitive Selection of Construction Manager at Risk Services

- A. The Technical Review Committee shall review the Qualitative Proposal submitted by each firm and shall establish a rating for each firm's proposal based upon criteria to be established by the project architect. The criteria shall include, but not be limited to, a rating for each of the following items:
- Corporate information – the Construction Manager at Risk's company history, size, staff, general experience and evidence of financial capacity.
 - Personnel information – an organization chart with resumes of the project team and key corporate leaders.
 - Systems approach – a management plan and project management control systems that will be used on the project.
 - Experience – a list, with references, of similar projects the Construction Manager at Risk has completed.
 - Proposed fee as defined in the RFP.
- B. The Technical Review Committee then will total the qualitative scores for each Firm. The maximum qualitative score is 100. The Firm with the highest total score shall be selected for contract negotiations.

Section 9. Negotiations

The Owner, with the advise and assistance of its design professional, may discuss with the selected firm, significant weaknesses, deficiencies, and other aspects of its proposal that could be altered or explained to enhance materially the proposal's potential for award. Discussions may include technical approach, management plan, and terms and conditions. The primary objective of discussions is to maximize the ability to obtain best value, based on the requirement and evaluation factors set forth in the RFP. The scope and extent of discussions are a matter of Owner's judgment. If the negotiations with the Firm with the highest total score do not result in a contract, the Owner reserves the right to negotiate with the Firm with the second highest score without issuing a new RFP.

Section 10. Right to Reject Proposal

Owner reserves the right to reject all proposals.

Section 11. Award

The Committee shall notify the successful Construction Manager at Risk in writing and simultaneously notify the unsuccessful managers. The Owner shall enter into a contract with the Firm selected. At the time of the award, the Owner may negotiate changes clarifying the design criteria and scope of the work.

Section 12. Confidentiality

City and Owner shall, at all times, make every effort to maintain the confidentiality of information provided by Construction Manager at Risk.

Dated this ____ day of _____, 2012.

ATTEST:

CITY OF RAPID CITY

Finance Officer

Mayor