

## **Draft Findings Related to Exemption from Competitive Bidding**

### **Water Treatment Plant Replacement Project**

#### **City of Grants Pass, Oregon**

**Prepared by Stantec 3/13/2019**

The City has completed an evaluation of alternative delivery methods for its Water Treatment Plant Replacement Project and anticipates that an alternative delivery process will provide substantial benefits for the City. Alternative delivery methods, their use, and approval procedures are outlined in Oregon Revised Statute (ORS) 279C.300. Use of alternative delivery methods requires an exemption from competitive bidding under ORS 279C.335 by the Local Contract Review Board (LCRB), which for the City of Grants Pass is the City Council. The exemption is to be based on two findings:

1. The exemption is unlikely to encourage favoritism in the awarding of the public improvement contract or substantially diminish competition for the public improvement contract, and
2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the City of Grants Pass.

In granting the exemption, the LCRB is required to consider 14 items under ORS 279C.335(2)(b) as described below including the cost and type of contract.

#### **Background**

The City has made the replacement of its water treatment plant a top priority. The existing water treatment plant is old, has deferred maintenance, is reaching its capacity, is located on a constrained site, and is at risk of structural failure from a seismic event. The existing water treatment plant is the sole source of potable water available to the City.

The project planned by the City is:

- Renovate and reuse the existing Rogue River water intake;
- Build a new raw water pipeline to the new site;
- Build a replacement water treatment plant and finished water pumping station; and
- Build a new finished water pipeline connection to the existing distribution system.

During 2018, the City made some key decisions for the project:

- There are substantial benefits associated with alternative project delivery methods;
- The project will have an initial capacity of 22.5 MGD and will be planned for expansion to 45 MGD;
- Locating the replacement water treatment plant near the existing water treatment plant will reduce the quantity and cost of pipelines required;
- If enough site is available, conventional filtration treatment technology is preferred but other technologies would be considered particularly if the new site is constrained;

- The operation of the water treatment plant will not be contracted out to a private operating company as part of the project delivery;
- The total project budget is \$80.1M including property acquisition.

The baseline water treatment plant would include:

- Coagulation;
- Flocculation;
- Sedimentation;
- Ozonation;
- Filtration;
- Chlorine disinfection;
- Finished water pumping;
- Chemical storage and feed;
- Residuals handling;
- Operations and maintenance facilities.

The project phases and elements include:

- New site investigation;
- New site preparation;
- Intake renovation;
- Pipeline construction; and
- Replacement water treatment plant construction.

The project delivery methods / types of contracts under consideration by the City to accomplish the project phases and elements include:

- Traditional Project Delivery (not requiring exemption)
  - Design-Bid-Build;
- Alternative Project Delivery (requiring exemption):
  - Construction Manager / General Contractor;
  - Progressive Design-Build; and
  - Design-Build.

Recognizing the scale and complexity of its multiple infrastructure projects, the City commissioned an assessment of delivery methods (2015 Strategic Plan for Water and Wastewater Utility Programs, Eisenhardt Group). The 2015 Assessment concluded that delivering Water Treatment Plant Replacement Project using alternative delivery methods could reduce project capital costs between 10% to 40%. Based on this and the evaluation below, the City is proceeding with its request for exemption from competitive bidding from the LCRB. If granted, the exemption would allow the City to perform any or all the following project phases using either traditional Design-Bid-Build or alternative delivery approaches.

### **Summary of Findings**

The exemption of Water Treatment Plant Replacement project phases from traditional competitive bidding is based on the following considerations:

1. The exemption is unlikely to encourage favoritism in the awarding of the public improvement contract or substantially diminish competition for the public improvement contract.

*Evaluation: For any alternative project delivery method used, the procurement of the prime contractor would be performed using transparent and competitive processes. The transparent and competitive processes would include development of solicitation documents with defined scoring criteria, advertisement of the opportunity, and evaluation of submittals using defined scoring criteria by a City-appointed selection panel including at least five members. To gauge the level of interest by the Alternative Delivery Contracting community, the City advertised a request for statements of interest on February 13, 2019, for this project should it be executed using Alternative Delivery methods. The City received nine statements of interest in response to its request, as follows:*

1. California Water Service
2. Graham
3. Haskell
4. Jacobs
5. Mortenson Construction
6. Parsons Construction Group Inc.
7. Stellar J
8. TEK Construction
9. W.M. Lyles and McClure & Sons Inc. (joint venture)

*Finding: Granting this exemption is unlikely to encourage favoritism in the awarding of the public improvement contract or substantially diminish competition for the public improvement contract*

2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the City of Grants Pass.

*Evaluation: The 2015 Assessment cited previously indicates the potential for cost savings when using Alternative Delivery methods for phases of the Water Treatment Plant Replacement project, although realizing the upper end of the cost savings stated is unlikely. Other substantial benefits that are made available to the City through the exemption and use of Alternative Delivery Methods include:*

- *Benefit: Reduced risk of changed conditions claims, reduced contractor contingency budget. The exemption will allow the Contractor to work with the City's project team during the design phase in advance of developing its Guaranteed Maximum Price (GMP) for construction. This provides the contractor an opportunity to identify potential risks (underground, environmental, or other) and to conduct exploratory investigations to reduce uncertainties, resulting in either discovery that the risk does not exist or creation of a defined plan of action that can be priced within the GMP. Contingency budgets can be reduced and cost certainty for the project improved.*
- *Benefit: Efficient construction means and methods, reduced construction costs. Working as part of the project team during design allows the Contractor to propose efficient*

*means and methods to be used in constructing the work and protecting the environment that are required in permit applications. This could be particularly important for the Rogue River Intake renovation. Allowing the contractor to propose efficient and effective means and methods for consideration and adoption by the project team reduces construction cost while meeting permit requirements and protecting the environment.*

- *Benefit: Continuous flow of high-quality water for City use. The exemption will allow the Contractor to work with the City's team during design to plan work sequences to keep high quality water flowing to the City continuously. The project will include many interties with the potential for disrupting flow including renovation of intake, connecting raw water pipeline to existing intake, connecting finished water pipeline to distribution system, and transferring operations from existing water treatment plant to the new one once constructed. The electrical and hydraulic renovation of the intake poses the greatest potential for either flow disruption or water quality contamination. The exemption would allow the Contractor to work with the project team to understand existing operations, properly plan work sequences to maintain continuous operation and avoid contamination and include the pricing of that work within the GMP.*
- *Benefit: Development of project alternatives with reduced construction cost. The exemption would allow the Contractor to work with the City's project team during the design phase to identify project alternatives and help characterize the cost of project alternatives for the City. This would assist the City's project team with selecting the preferred alternative based on value and cost prior to the Contractor developing the GMP for construction. This would apply to all elements of construction.*
- *Benefit: Accelerated schedule and reduced construction costs. The exemption would allow the Contractor to participate with schedule development and optimization during the design phase, prior to developing the GMP for construction. An optimized schedule that accelerates the project will reduce project costs in an escalating economic market.*
- *Benefit: Earlier cost certainty. The exemption would allow the Contractor to provide a GMP for construction prior to the completion of design documents. Obtaining this cost certainty earlier in the project can benefit the City with verifying budgeting and financing.*
- *Benefit: Increased subcontractor and local subcontractor participation. The exemption would allow the Contractor to perform subcontractor outreach to increase interest in the project, potentially increasing participation by local subcontractors, and potentially decreasing project construction costs.*

*Finding: Awarding phases of the project under the exemption using Alternative Delivery Methods provides the opportunity for cost savings while providing other substantial benefits to the City of Grants Pass.*

## Findings Related to ORS 279C.335(2)(b)

To grant the exemption in accordance with the ORS, the LCRB must consider the type, cost and amount of the contract, and the applicable 14 items below. The types of Alternative Delivery contracts being considered by the project team include Construction Manager / General Contractor, Progressive Design-Build, and Design-Build.

### A) How many persons are available to bid

*The solicitations developed under an exemption will attract Alternative Delivery Contractors with the skills, capacity, and specialized knowledge for this project. To gauge the level of interest by the Alternative Delivery Contracting community, the City advertised a request for statements of interest on February 13, 2019, for this project should it be executed using Alternative Delivery methods. The City received nine statements of interest in response to its request, as follows:*

1. *California Water Service*
2. *Graham*
3. *Haskell*
4. *Jacobs*
5. *Mortenson Construction*
6. *Parsons Construction Group Inc.*
7. *Stellar J*
8. *TEK Construction*
9. *W.M. Lyles and McClure & Sons Inc. (joint venture)*

### B) The construction budget and the projected operating costs for the completed public improvement

*The total project cost estimate for the project is \$80.1M. The operating costs of the project are anticipated to be in the range of \$1.3M per year. The project may increase the staffing need for water operations by 1 Full-Time-Equivalent employee. The goals of the exemption and Alternative Project Delivery are to deliver a project with exceptional value for the City while minimizing short- and long-term cost impacts.*

### C) Public benefits that may result from granting the exemption

*The goals of the exemption and Alternative Project Delivery are to deliver a project with exceptional value for the City while minimizing short- and long-term cost impacts. This is anticipated to occur through the substantial project benefits described prior. The exemption provides the City access to these benefits by allowing the Contractor to collaborate with the City's project team in advance of developing the GMP and final construction documents.*

### D) Whether value engineering techniques may decrease the cost of the public improvement

*When using an Alternative Delivery method under the exemption, the City intends to maximize the benefits associated with value engineering early and throughout the project. This would be facilitated by the Contractor's involvement during design phase prior to development of the GMP and final construction documents. As described prior, the Contractor would participate with the identification of project alternatives that increase value or reduce costs for the City. The City would benefit from the cost-estimating expertise of the Contractor in selection of preferred alternatives to incorporate into the project.*

E) The cost and availability of specialized expertise that is necessary for the public improvement

*Contractors with the specialized expertise necessary to successfully complete this project generally provide these services in an Alternative Delivery format. Therefore, granting the exemption is not expected to impact the cost and availability of specialized expertise. Contractor's responding to the City's statement of interest that are available to perform the work are listed under Item A.*

F) Any likely increases in public safety

*When procuring the prime Contractor for an Alternative Delivery project under this requested exemption, the City intends to consider the Contractor's record of safety, safety procedures, and safety summary indexes. Further, collaboration with the Contractor during design phase allows identification of means and methods along with evaluation and selection of preferred approaches considering safety, prior to developing the GMP for construction and final construction documentation. Public safety will be protected through a secure and adequate supply of high-quality water that can be well-planned through alternative delivery as described above.*

G) Whether granting the exemption may reduce risks to the contracting agency or the public that are related to the public improvement

*The increased ability to reduce risk through the exemption and Alternative Delivery methods are described prior including maintenance of plant operations during construction, increased costs for potential changed conditions, development and selection of alternative means and methods. Through collaboration during the design phase of an Alternative Delivery project, the Contractor may gain an increased understanding of the City's infrastructure and operations prior to developing the GMP for construction, potentially reducing project risks.*

H) Whether granting the exemption will affect project funding sources

*The project funding source of revenue bonds will not be impacted by the exemption or use of Alternative Delivery Methods.*

I) Whether granting the exemption will better enable the City to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement

*As described prior, exemption and use of Alternative Delivery Methods can lead to an optimized / accelerated schedule along with reduced costs with the current escalating economic market. Earlier procurement of equipment and subcontractors may reduce the impact of cost escalation. Through the exemption, the Contractor's cost-estimating expertise can be engaged during the design phase, improving the selection of alternatives that provide value with reduced cost for the City. These features of the exemption and Alternative Project Delivery improve the City's ability to control the impact of market conditions on the project.*

J) Whether granting the exemption will better enable the City to address the size and technical complexity of the public improvement

*Granting the exemption will better enable the City to address the size and technical complexity of the Project. The project is large and will require the use of many subcontractors. With the exemption and use*

*of Alternatively Delivery, the City and its Contractor can perform subcontractor outreach to increase the interest of local and regional subcontractors in this work. The City can also provide input to the Contractor's site supervision staffing plan prior to GMP development through Alternative Delivery. The scale of the work is suited to management by an Alternative Delivery Contractor. The complexity and risk of underground construction at a new site, the potential for existing contamination, and critical electrical and hydraulic connections can be better addressed by the City using Alternative Delivery Methods supported by the exemption.*

K) Whether the public improvement involves new construction or renovates or remodels an existing structure

*The project includes both new construction and renovation of existing structures. The replacement water treatment plant will be primarily a new structure. The treatment plant site will likely require renovations to existing structures or other site preparation activities. The pipelines will be primarily new construction but will require connection to existing facilities and potentially relocation of existing structures or utilities. The intake and its associated electrical supply will require renovation of existing structures.*

*Through the exemption and design collaboration prior to GMP development, the Contractor will have an opportunity to gain familiarity with the City's existing infrastructure and operations, provide input to explorations to reduce uncertainties, and have input to the design process. These features of Alternative Delivery are anticipated to improve new construction and renovation of existing facilities, including maintaining continuous operation of the water supply to the City.*

L) Whether the public improvement will be occupied or unoccupied during construction

*The new site will likely not be occupied during construction until the time that it is substantially complete and ready for commissioning and startup. The pipelines will be in public rights of way, easements, or roadways and will require traffic control measures and safety practices to protect the public. The existing water treatment plant is constrained and will be occupied during the planned pipeline, intake, and electrical construction. The exemption would provide an opportunity for the Contractor to collaborate with the City's project team and operations staff to effectively plan for safety and continuous operations of the existing facilities that will be occupied during construction.*

M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions

*As described in the Background, the project is anticipated to include multiple project phases and elements of construction. These elements would be coordinated by the City's Owner's Representative, Stantec. Each of the project elements requires multiple disciplines of subcontractors and work sequences that may benefit from the early coordination with the Construction Contractor using Alternative Delivery Methods under the exemption as described herein.*

N) Whether the City has, or has retained under contract, and will use city personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the City will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract

*The City has retained Stantec to assist with expertise regarding Alternative Delivery methods and management. The City has also committed to retaining legal counsel with respect to Alternative Delivery contracting. City staff will also be involved and provide input, having executed the Water Restoration Plant project using Alternative Delivery Methods. This City project team has the necessary expertise and substantial experience in Alternative Project Delivery Methods.*

*Stantec is a member of both the Water Design Build Council and the Design Build Institute of America. Stantec was among the first firms to introduce alternative delivery to the municipal water market in the Pacific Northwest during the 1990s, and remain a leader in APD for water and wastewater infrastructure projects. In the Pacific Northwest alone, Stantec has delivered over \$430 million of alternative delivery projects in the past 15 years, including \$150 million in Oregon. Representative Alternative Delivery projects include:*

- *Green River Filtration Facility for Tacoma Public Utilities, WA*
- *Willamette River Water Treatment Plant for Tualatin Valley Water District and City of Wilsonville, OR*
- *Tri-City Water Pollution and Control Plant Expansion for Clackamas County, OR*
- *Capital Regional District Seatera Program, Capital Regional District City of Victoria, BC*
- *Willamette Water Supply Program (WWSP), Tualatin Valley Water District and Cities of Hillsboro and Beaverton, Oregon*

#### Summary

The City is requesting the exemption from competitive bidding to allow use of Alternative Project Delivery methods for its Replacement Water Treatment Plant Project. Alternative Project Delivery has been used successfully in Oregon and throughout the world to delivery similarly complex and significant projects. For example, the Portland Water Bureau and the Willamette Water Supply Program have recently decided to complete some of their significant water treatment and conveyance projects using Alternative Delivery. Granting the requests for exemption would allow the City to access the benefits of Alternative Project Delivery as determined to be beneficial, for each project element or phase.