

RESOLUTION NO. 2808

RESOLUTION ADOPTING FINDINGS FOR EXEMPTION FROM USE OF STANDARD LOCAL CONTRACT REVIEW BOARD RULES FOR CONSTRUCTION OF SURFACE WATER IMPROVEMENT PROJECT

The City of Bend Public Works Department is requesting an exemption from the use of standard Local Contract Review Board Rules to allow the use of an alternative contracting process for a public improvement and contract for services to construct the City of Bend Surface Water Improvement project elements including: raw water intake improvements, raw water pipeline, hydroelectric powerhouse, water treatment plant, and other related facilities.

Background

There are three major issues for the City's existing surface water supply: potential for fire in the watershed; water treatment regulatory requirements; and ageing raw water transmission mains. Since the City's surface water supply is currently not filtered, wildfire and the associated water quality impacts could eliminate surface water as a viable source of drinking water. The City is also required to install new treatment to meet the *Long Term 2 Enhanced Surface Water Treatment (LT2) Rule* issued by the US Environmental Protection Agency (USEPA) by October of 2012. The City is considering either ultraviolet disinfection or membrane filtration water treatment methods, but recognizes that ultraviolet disinfection would not protect the City's water supply in the event a fire impacts raw water quality.

Many of the surface water facilities are beginning to reach the end of their design life span. The two existing conduits (pipelines) are in poor condition and are difficult to maintain. These conduits are also being threatened by encroachment of buildings and heavy vegetation. The intake and intake building on Bridge Creek are functional, but do not comply with modern standards for fish screening, fish passage, automation, security, and resistance to seismic damage. The City plans to install a new raw water transmission conduit and potentially re-build the raw water intake.

The Federal Highway Administration (FHWA) has identified Skyliners Road as a "Forest Highway" and plans to re-build Skyliners Road in the 2013 to 2015 time frame. Since Skyliners Road is a preferred pipeline alignment for the City, the City has been working with FHWA and Deschutes County to coordinate the pipeline and Skyliners Roadway projects. Some potential exists that the roadway and pipeline projects would be constructed as a single project. If that occurs, a single general contractor would be responsible for both elements of the project.

The intake facility is approximately 1,000 feet higher in elevation than the Outback facility. That elevation drop makes hydroelectric power generation an option at the Outback facility. The original design and the existing condition of the transmission mains

are inadequate to supply water to a hydroelectric powerhouse facility. The new raw water transmission conduit would be built to support a proposed hydroelectric powerhouse.

In March of 2007 the City of Bend completed a Water System Master Plan Update. This plan included guidelines for future water system improvements for the planning period through the year 2030. Findings included the need for the City to expand supply, storage and pumping capacities to satisfy growing demands of the study period. The Master Plan capital improvement project list included the need to upgrade and modify the existing surface water supply facilities. The preliminary estimate for this project was \$50,000,000. Due to the magnitude of this project cost, the City decided it appropriate to study other potential alternatives to the surface water supply that might prove to be more economical over time.

The City of Bend initiated the Water Supply Alternatives Study (WSAS) in January 2009. Completed in November 2009, this study evaluated the current surface water system and potential alternatives to that system, in view of upcoming Federal treatment requirements, infrastructure needs and vulnerability of the surface water watershed. The WSAS concluded that renovation of Bridge Creek Surface Water System as the best value water supply alternative available to the community. The WSAS (Surface Water Improvements – Final Report) is available on-line on the City of Bend website, http://www.ci.bend.or.us/depts/public_works/surface_water_improvements_final_report.html.

Based on the WSAS findings and the supporting work of City staff, the Bend City Council approved the following initiatives committed to revitalizing the Bridge Creek surface water supply system;

- Develop water treatment facility preliminary design
- Proceed with initial permitting and financial research for development of hydropower facilities, including preliminary design of these facilities
- Proceed with permitting and preliminary design of the Bridge Creek to Outback transmission main/penstock and procurement of required materials
- Proceed with permitting and preliminary design of Bridge Creek Intake improvements

In April 2010, the City selected HDR Engineering as the engineer for the Surface Water Improvement Project and executed an Engineering Services Agreement on May 20, 2010 (HDR Agreement). The HDR Agreement contemplates that the surface water treatment improvements will include the following new facilities: water intake, 10-mile pipeline, hydroelectric powerhouse, and membrane filtration water treatment plant. Due to the highly specialized and technical nature of in-water construction work for the intake, hydropower facilities, and membrane filtration treatment, HDR has recommended and the City staff concurred, that the City consider using an alternative contracting process for management and construction of the new Surface Water Supply Facilities. The alternative contracting process will also improve coordination of the

multiple projects involved, assist with early procurement of equipment and materials, and accelerate construction of critical path project elements. HDR and the Public Works Department recommend the use of the CM/GC construction contracting process for this project.

Alternative Contracting Process

The City of Bend Local Contract Review Board (LCRB) uses the Attorney General Model Rules for Public Contracting to provide guidance regarding the use of alternative contracting methods for public improvement projects as may be directed by the LCRB under ORS 279C.335. The rules allow the LCRB to enter into public improvement contracts without competitive bidding if the contracts involve design or construction management or expertise beyond normal construction work. This allows flexibility in both proposal evaluation and contract negotiation. The City may select a person or firm to act as a CM/GC to construct public improvements by means of a competitive proposal process. A CM/GC performs specified construction manager services in addition to traditional general contractor services.

In order to use the CM/GC process, the LCRB must direct its use by exception to the traditional public contracting practices by approving findings submitted by the department seeking the exemption. The rules also require that the City give public notice and hold a public hearing to receive public comment on the findings before taking action on granting an exemption to a public improvement contract from the requirement of competitive bidding. The resulting contract will be treated as a public contract for public improvement and will be subject to all requirements of public improvement contracts, including but not limited to hours of labor, retainage and payment, subcontractors, bonds, and prevailing wage requirements.

Recommendation From Public Works Department

The Public Works Department recommends that the Local Contract Review Board, grant a special procurement exemption to allow the use of the Construction Manager/General Contractor process for the construction of the Surface Water Improvement Project. The new Surface Water Improvement Project Facilities are anticipated to include: new intake or intake modifications, raw water pipeline, hydroelectric powerhouse, water treatment plant, other related facilities, and could potentially include Skyliners Roadway improvements.

Findings

After review of the recommendations from City staff, and the City's consultants, and after receiving public comment, the Local Contract Review Board adopts all preceding material in this document as part of its findings and further adopts the following findings:

- 1 Design, installation and construction of the water intake facility modifications, hydroelectric powerhouse, and membrane filtration or ultraviolet disinfection water treatment involve a highly specialized field of construction, requiring the contractor to be well-trained and have previous experience in similar projects.
- 2 The success of this project requires close coordination of the five major construction projects involved: intake, pipeline, powerhouse, water treatment plant, and roadway. The CM/GC construction contracting process will enhance coordination of these multiple projects while maintaining homeowner and recreational access along Skyliners road to the maximum extent possible. The CM/GC process will also assist with early procurement of materials and equipment required for financial incentives and for design to be completed. The complexity of the project and the attendant need for close coordination during the project by required project participants will be best addressed through the use of the CM/GC contracting process. The CM/GC will participate in as much of the design as possible, to integrate the ideas and methods into the design.
- 3 Use of the CM/GC process is expected to accelerate the project schedule compared to a traditional procurement approach. This will assist in meeting US EPA's October 2012 deadline for treatment plant operation and Oregon Business Energy Tax Credit sunset deadline of July 1, 2012.
- 4 The CM/GC process will promote competition among suppliers and subcontractors. The CM/GC process allows the City to select the firms best-suited for the project based on factors such as experience, ability to respond to the technical complexity or unique character of the project, value engineering ideas, schedule enhancement, past performance, price and other factors specific to the project. Selection of the best proposal received will be based on a team review of weighted evaluation criteria described above.
- 5 The CM/GC selection process will be publicly advertised to ensure an open and competitive process. Because all major components of the project will be competitively solicited, the suggested process will not encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts.
- 6 Participation of the contractor in the design of the Surface Water Improvement Project elements, as provided in the CM/GC process, will more easily allow the incorporation of quality materials and equipment, selected on performance and life-cycle cost rather than the lowest initial price.
- 7 The CM/GC will make value engineering recommendations during the design process that will save costs, reduce risks, and improve construction efficiency in the overall Surface Water Improvement Project.

- 8 By selecting a qualified CM/GC through the RFP process, the City will benefit by proper construction of the Surface Water Improvement facilities. This will enhance the performance and protection of the membrane filtration equipment and increase the life expectancy and total life cycle costs for the City's new Water Treatment Plant and other water supply systems.

Adopted by the City Council the 4th day of August, 2010.

Yes: 7 No: 0

Authenticated by the Mayor this the 4th day of August, 2010.

Approved as to form:



Gary Firestone, Legal Counsel



Kathie Eckman, Mayor

Attest:



Patricia Stell, City Recorder