

Resolution No. 23-02

A RESOLUTION ADOPTING FINDINGS FOR A PUBLIC CONTRACTING EXEMPTION AND AUTHORIZING AN ALTERNATIVE CONTRACTING METHOD FOR THE SMITH ROAD PUMP STATION PROJECT

WHEREAS, ORS 279C.335(2) permits the Scappoose City Council, acting as the Local Contract Review Board, to exempt a public improvement contract or class of contracts from the competitive bidding requirements of Resolution 22-21, Section C(2), and the Oregon Attorney General's Model Public Contracting Rules; and,

WHEREAS, on February 21, 2023, the Scappoose City Council conducted an advertised public hearing on the proposed findings (attached hereto as **Exhibit A**) to exempt the Smith Road Pump Station Project from competitive bidding and authorize an Alternative Contracting Method; and,

WHEREAS, on February 21, 2023, after due consideration of public comment and the proposed findings in the record, the Scappoose City Council, acting as the Local Contract Review Board, deliberated, and decided to approve the exemption, thereby authorizing the Alternative Contracting Method; and,

NOW, THEREFORE BE IT RESOLVED,

SECTION 1: RECITALS. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2: APPROVAL. The Scappoose City Council, acting as the Local Contract Review Board, hereby approves the required findings to support the exemption from competitive bidding and the use of an Alternative Contracting Method for the Smith Road Pump Station Project. The findings are attached hereto as **Exhibit A** and incorporated herein by this reference.

SECTION 2: EFFECTIVE DATE. This Resolution shall take effect upon its passage and approval.

PASSED AND ADOPTED by the City Council this 21st day of February, 2023 and signed by the Mayor and City Recorder in authentication of its passage.

CITY OF SCAPPOOSE, OREGON


Joseph A. Backus, Mayor

Attest:


Susan M Reeves, MMC, City Recorder



Date: February 13, 2023
To: Alexandra Rains, City Manager
Cc: Dave Sukau, Public Works Director
From: Huell Whitehaus, Assistant to Public Works Director
RE: Findings in Support of Alternative Contracting Method – Procurement of Design-Build Services for the Smith Road Pump Station Project (SRPS)

I. Alternative Contracting Methods

City Staff is proposing the use of an Alternative Contracting Method called “Design-Build” for the Smith Road Pump Station Project. “Design-Build” means a form of procurement that results in a contract in which the construction contractor also provides or obtains specified design services, participates on the project team with the Contracting Agency, and manages both design and construction. In this form of contract, a single [entity] provides the Contracting Agency with all of the personal services and construction work necessary to both design and construct the project.¹

Alternative Contracting Methods are types of procurement processes that deviate from typical methods such as Qualifications Based Selection for design (standard RFP) or Competitive Bidding for construction (i.e., low bid). The use of Alternative Contracting Methods is governed by ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive bidding under strict circumstances.

In order to utilize an Alternative Contracting Method and pursuant to ORS 279C.335, the local contract review board (City Council) may exempt a specific contract(s) from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings and other substantial benefits to the Contracting Agency. Additionally, the Model Rules provide for public notice and opportunity for the public to comment on draft findings in favor of an exemption before their final adoption.

“Findings” means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:²

- a) Operational, budget, and financial data
- b) Public benefits
- c) Value engineering
- d) Specialized expertise required
- e) Public safety (*not applicable to this project*)
- f) Market conditions
- g) Technical complexity
- h) Funding sources

¹ OAR 137-049-0610(6)

² ORS 279C.330



In addition to making findings, ORS 279C.355 requires the contracting agency to prepare a formal post-project evaluation of Public Improvement projects in excess of \$100,000 when the traditional competitive bidding process is not used. The purpose of the evaluation is to determine whether it was actually in the contracting agency's best interest to use an Alternative Contracting Method. The evaluation must be delivered to the local contract review board (City Council) within 30 days of acceptance of the completed project. The evaluation has three required components:

- a) Financial information, consisting of cost estimates, any Guaranteed Maximum Price, changes and actual costs;
- b) A narrative description of the successes and failures during design, engineering and construction; and
- c) An objective assessment of the use of the Alternative Contracting Method as compared to the exemption findings.

II. Project Background

The Smith Road Pump Station (SRPS) is the largest of seven pump stations in the City's wastewater collection systems – thus serving as a critical component for conveying wastewater from the northwestern region of Scappoose to the treatment facility. During the development of the City's Collection System Facilities Planning Study (CSFPS), a number of deficiencies were identified with SRPS. Deficiencies include: (1) installed 20 years ago, the pumps are nearing the end of their useful life; (2) small operating volume and nearing capacity in the wet well; (3) access hatch is heavily corroded; (4) Confined Space Entry is required to access and maintain the pump and motor equipment – a strain on the 2.5 FTE in wastewater treatment; (5) excessive grease build up which has caused overflowing; (6) no pre-screening capabilities. For these reasons, the CSFPS recommended that the pump station be removed and replaced within a new facility.

III. Findings

Operational, Budget, and Financial Data

The project cost estimate according to the 2021 CSFPS is approximately \$900,000 for all necessary design, permitting, and construction. The City was awarded \$900,000 in ARPA-SLFRF funds for this specific project. SRPS is a critically important pump station that is responsible for conveying wastewater from Northwest Scappoose to the treatment facility on the Eastern edge of the City.

Public Benefit

By utilizing the Design-Build method for delivery of the project, the engineering design work will be completed by the same entity responsible for the project's construction, as opposed to the traditional design-bid-build method. The integration of design and construction work under a single responsible contractor has two primary benefits: (1) minimizing the amount of change orders during construction; and (2) decreased time-to-build for the project, as the contractor that will construct the project will already be on the project team.



Value Engineering

Rather than using the traditional Qualifications Based Selection (QBS) method for procuring an engineering firm to develop engineering plans and specifications, the Design-Builder will work together with the City to develop a design that is cost-effective to construct and within the City's budgeted amount for this project. This integration is intended to reduce the potential for change orders during construction, as the contractor will be involved in and responsible for the design.

Specialized Expertise Required

Specialized expertise is required to understand and integrate the new SRPS with the City's SCADA system. The City retains a SCADA Integrator of Record that has a proven track record with managing, updating, and improving the City's SCADA system. The Integrator of Record will work closely with the City and Design-Builder to select, design, and optimize systems necessary to complete the project.

Market Conditions

This project is particularly sensitive to current and anticipated market conditions and is a primary driver for the rationale in using the Design-Build method. Record inflation since the beginning of the COVID-19 Pandemic has resulted in increased costs for everything from equipment and vehicles to professional services. Additionally, the adverse economic conditions have resulted in significant disruptions in the supply chains for manufactured goods – such as those components, equipment, and materials that will be necessary for this project. A substantial benefit of the Design-Build method is that material submittals can be reviewed and approved *well in advance* of construction. Given the challenges currently facing the manufacturing sector and the grant funder's timeline for completion, mitigating delays in material delivery is a substantial benefit to the Agency.

Technical Complexity

As mentioned above under the Specialized Expertise heading, the project has significant technical complexities – such as SCADA integration, value engineering, and a physically constrained site – which will be best addressed by the full integrated project team approach that the Design-Build method offers. All proposers for this procurement opportunity will be required to visit the SPRS site to fully understand existing conditions.

Unlikely to Encourage Favoritism or Diminish Competition

While the Design-Build method deviates from competitive bidding as that term is defined in State statute, the resulting contract will still be awarded on a competitive basis. The procurement documents in the form of a Request for Proposals (RFP) will solicit competitive proposals from Design-Build firms qualified in providing the type of services requested. It is worth noting that the City did release a traditional RFP for the engineering design work for SRPS in July 2022 but received only one responsive proposal.



Funding and Cost Savings

This project is funded by a \$900,000 grant award from the State of Oregon's ARPA State and Local Fiscal Recovery Fund (SLFRF). Business Oregon is the State agency charged with administering the funds and is requiring that all funded projects be complete by September 2026. The award was based on cost estimates developed in 2020 for the CSFPS, which when combined with the current market conditions, it is likely that the total project cost for a new SRPS may be higher. As such, the Design-Build method's defining feature of a unified project team that is flexible to designing around budgetary constraints is likely to result in cost savings to the City.

Additionally, the proposed Design-Build method will be procured using a one-step procurement process by soliciting competitive proposals via an RFP. The City will not need to develop contract documents and design specifications to procure a contractor separately, thus saving the City: (1) staff time and capacity; (2) consultant costs to develop contract documents for public bidding.

Project Time

Because of the team approach of the Design-Build method, City staff anticipates a shortened project timeline. The time savings will be achievable due to early material submittals and contractor mobilization as construction activity can commence prior to completion of a traditionally "biddable" design.