

RESOLUTION NO. 6583

A RESOLUTION EXEMPTING THE DESIGN AND CONSTRUCTION OF WTP-17-02, VINE STREET WATER TREATMENT PLANT (WTP) IMPROVEMENTS PROJECT FROM THE COMPETITIVE BIDDING PROCESS AND APPROVING AN ALTERNATE COMPETITIVE CONTRACTING METHOD, REFERRED TO AS DESIGN-BUILD.

WHEREAS, Albany Municipal Code 2.66.060 and Oregon Revised Statutes (ORS) 279C.335 allow the City Council, acting as the Local Contract Review Board, to exempt a specific public improvement contract or class of public improvement contracts from competitive bidding and selection requirements; and

WHEREAS, such exemption shall be based on the approval of Findings submitted by the contracting agency seeking the exemption and as defined in Oregon Administrative Rules (OAR) 137-049-0600 through 137-049-0690 and attached hereto as "Exhibit A"; and

WHEREAS, this exemption is for a single project requiring a high level of construction knowledge, experience, and management expertise, and granting the exemption will not provide a basis for other similar exemptions or any pattern of exemptions; and

WHEREAS, the Design-Build contracting selection method is based on a formal, competitive, qualifications-based, public selection process using a published Request for Proposals (RFP) to solicit proposals from potential Design-Build teams; and

WHEREAS, no negative impact is expected regarding market place competition since the RFP selection process is open to the same design consultants and contractors who would participate if a traditional Design-Bid-Build contracting method is used; and

WHEREAS, it is unlikely that this exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and

WHEREAS, the RFP evaluation criteria uses an extensive evaluation list to evaluate the Proposer's qualifications, including Contractor and Project Manager's experience and capabilities; the proposed work plan; Proposer's project management capabilities with emphasis on leadership, communications and organization; the project control methodology focused on cost, schedule, safety, and quality control; and the Proposer's cost-based factors including subcontractor markup, overhead, and profit factors; and

WHEREAS, the RFP Evaluation Team will review the proposals and recommend approval to award to the Contractor that best meets the RFP evaluation criteria; and

WHEREAS, the Design-Build contracting method offers a direct public benefit and affords the City the ability to select a qualified and experienced Design-Build team; and

WHEREAS, the Design-Build contractor can aid in making design decisions that will improve the project quality, result in faster project completion, and reduce project risk; and

WHEREAS, the Design-Build contracting method is anticipated to minimize the amount of time the Vine Street WTP is shut down during design and construction of the project; and

WHEREAS, the Design-Build selection procedure adheres to ORS 279A and C; and

WHEREAS, the City published a public notice on March 6, 2017, and held a public hearing on March 22, 2017, before adoption of these Findings in accordance with OAR 137-049-0630.

NOW, THEREFORE, BE IT RESOLVED, that the Albany City Council, acting as the local Contract Review Board, approve an exemption from competitive bidding for the design and construction of WTP-17-02, Vine Street WTP Improvements Project and approve an alternate competitive contracting method, referred to as Design-Build; and

BE IT FURTHER RESOLVED that the Albany City Council, acting as the Local Contract Review Board, adopt each of the Findings set forth in support of the requested exemption, attached hereto as "Exhibit A", are hereby approved and adopted; and

BE IT FURTHER RESOLVED that the Albany City Council, acting as the Local Contract Review Board, finds that awarding of a public contract under this exemption using the Design-Build contracting method will allow the Design-Build contractor to be involved at an early stage in the design process, identify realistic solutions to scheduling issues, realize cost efficiencies, and reduce plant shut-down time; and

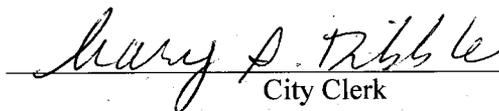
BE IT FURTHER RESOLVED that the Albany City Council, acting as the Local Contract Review Board, finds it is unlikely that the exemption of this contract from competitive bidding will encourage favoritism in the awarding of public contracts or substantially diminish competition for future public improvement contracts.

DATED AND EFFECTIVE THIS 22ND DAY OF MARCH 2017.



Mayor

ATTEST:



City Clerk

Draft Findings of Fact Conforming to ORS 279c.335 (2)
For an Exemption from Competitive Bidding
WTP-17-02, Vine Street Water Treatment Plant (WTP) Improvements Project

Oregon Revised Statute (ORS) 279C.300 requires competitive bidding of public works improvement contracts unless specifically excepted or exempted from competitive bidding under ORS 279C.335(2). The Albany City Council, acting as the Local Contract Review Board, may exempt a contract from competitive bidding under ORS 279C.335 based on findings that (1) the alternative procurement process is unlikely to encourage favoritism or substantially diminish competitions, (2) the award of the contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency, and (3) in making these findings, the contracting agency must consider the type, cost and amount of the contract, and to the extent applicable to the particular public improvement contract, certain factors defined by ORS 279C.335(2)(b).

Project Description

The Vine Street Water Treatment Plant (WTP) is a filtration plant that relies on water passing through layers of special media to filter out pollutants, biological material, and solids. The Vine Street WTP Improvements project will provide plant-wide improvements including pipe inspection and cleaning, filter media testing, and repair of a leak between large filters 9 and 10. The estimated cost for the project is \$310,000, and the project will be funded by the Water System Capital Fund.

The City intends to utilize a design-build contracting method for the project rather than design-bid-build, and is therefore seeking to exempt the project from competitive bidding requirements based upon the following findings.

Findings

ORS 279C.335 (2) (a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

The design-build methodology selects a design and construction team through a competitive selection process to provide design, construction management, and general contracting services. No reduction of competition is expected, since a Request for Proposals (RFP) is advertised to solicit proposals from potential design and construction teams; this selection process is open to the same consultants and contractors that would participate if traditional design-bid-build was used. Uniform criteria will be used to evaluate proposals submitted in response to the RFP and to select a design and construction team.

ORS 279C.335(2)(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050(3)(b), to the contracting agency or the public.

In making these findings, the contracting agency must consider the type, cost and amount of the contract, and to the extent applicable to the particular public improvement contract, certain factors as defined by ORS 279C.335(2)(b) and listed below:

(A) How many persons are available to bid;

The City believes there is a sufficient market for this type of project and will take steps to ensure maximum competition, an open and transparent procurement process, local contractor opportunities, and a fair and equitable evaluation process. No reduction of competition is expected, since an RFP is advertised to solicit proposals from potential design and construction teams. This selection process is open to the same consultants and contractors that would participate if a traditional, design-bid-build contracting method was used.

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

This project is included in the City of Albany fiscal year 2017-2021 Capital Improvement Program. The estimated cost for the Vine Street WTP Improvement project is \$310,000, which is included in the City of Albany 2016-2017 adopted budget.

(C) Public benefits that may result from granting the exemption;

Using the design-build process will allow the contractor to be involved at an early stage of the design process. This will help to ensure realistic solutions to scheduling issues, cost efficiencies, and any impacts to the public, including reducing plant shut-down time.

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

Generally, the greatest savings through value engineering are achieved during the design phase, before design decisions are finalized and before money is spent to develop a final design based on incomplete information. The design-build process allows contractor input during the design process, which enhances the value engineering opportunities. Design options can be considered without issuing change orders.

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

The project requires a contractor with specialized expertise to implement concrete repair technologies on a compressed schedule while working around an active water treatment plant with significant safety and security requirements. This expertise cannot be adequately evaluated in a sealed bid process, which requires selection based on low bid.

The proposed RFP process would allow the City to review the qualifications of each contractor's project manager and design team and confirm his/her ability to fulfill their expected project responsibilities. The process would evaluate the contractor's experience and expertise in this type of work and sensitivity to safety, legal, and operational issues; and review the qualifications of its project manager and support team.

(F) Any likely increases in public safety;

Albany seeks to reduce public safety risk as much as possible. Therefore, Albany requires a contractor with a successful performance record for safety and protection of the public, and with experience performing this type of work. An RFP procurement allows Albany to evaluate a contractor's safety record and previous project success prior to selection.

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

Utilizing the RFP procurement allows Albany to select a contractor with experience and expertise in performing this type of work, instead of requiring that the selection of a contractor be based solely on price. An experienced contractor should reduce scheduling risk, cost overruns, and additional plant down time.

(H) Whether granting the exemption will affect the sources of funding for the public improvement;

The funding for this project is through Albany's Water Capital fund. Granting the exemption will not affect the sources of funding for this public improvement.

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

Market risk will be mitigated because the design-build process will allow proposers to consider market conditions throughout design of the Vine Street WTP Improvements project and take into consideration evolving technology and products.

(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

The Vine Street WTP Improvements project requires special handling of the filter media and working with complex pipe systems for water treatment. The contractor will need to be able to repair the concrete wall without damaging any of the existing systems. The RFP procurement method allows Albany to evaluate a contractor's technical expertise and experience in similar work.

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

The Vine Street WTP Improvement project does not involve new construction; it involves inspection and repair of existing structures and pipe systems. The construction contractor is part of the design team early on in the design-build method, reducing the risk of discovering unknown conditions and minimizing change orders.

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

Improvements will be constructed at the Vine Street WTP, which is a locked facility. City staff will continue to occupy the site during construction of the improvements.

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

Construction phasing is not required for the Vine Street WTP Improvements project. The design-build method will allow the design-build team to evaluate whether phasing the project would allow substantial savings to either time or budget.

(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency 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 contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

Albany has exempted projects from low bid and utilized alternative procurement methods to select contractors in the past including, but not limited to, the North Albany Lift Station and Force Main project in 2008, the Albany Library Renovation in 2008, and the Talking Water Gardens Wetlands in 2009. The Public Works Department and Finance Department contain many professionals who have experience in procuring, negotiating, administering, and enforcing public improvement contracts.