

CITY OF SALEM
ASR IMPROVEMENTS AT WOODMANSEE PARK PROJECT
CM/GC FACTS AND FINDINGS
April 13, 2020

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

The CM/GC contractor will be selected through a competitive and open RFP selection process authorized by the City.

A) Solicitation Process: Pursuant to ORS 279C.360, the CM/GC solicitation will be advertised at least once in the *Daily Journal of Commerce*, and in as many additional issues and publications as the City may determine.

B) Full Disclosure: To ensure full disclosure of all information, the RFP solicitation package will include:

1. Detailed Description of the Project
2. Contractual Terms and Conditions
3. Selection Process
4. Evaluation Criteria
5. Role of Evaluation Committee
6. Provisions for Questions and Comments
7. Complaint Process and Remedies Available

C) Competition: The City anticipates that competition for the Project will be similar to that experienced in other projects of this type. The competition will remain open to all qualifying proposers. The City will communicate with the construction contracting community about the CM/GC contracting method. The evaluation and solicitation process employed will be open and impartial. Selection will be made on the basis of final proposal scores derived from price, experience, quality, innovation, and other factors. The competitive process used to award subcontracts for all competitively bid construction work will be specified in the CM/GC contract and will be monitored by the City. The City may designate in the contract the proposed percentage of construction work that must be subcontracted and may not be self-performed by the CM/GC contractor.

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

Awarding construction contract(s) for the Project using the CM/GC delivery method will likely result in substantial cost savings to the City. This finding is supported by the following information required by ORS 279C.330 and ORS 279C. 335(2)(b).

A) How many persons are available to bid?

Based on previous experience in Oregon, a typical RFP of this size and complexity will result in between three and five interested proposers. The actual number of proposals received may be lower but a minimum of three proposals for this project are anticipated.

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

Budget: The City has a budget for the Project and will make every effort to meet, or improve upon, that budget. The completion date cannot be extended because a new ASR water treatment facility must be in operation before August 31, 2021, as mandated by Oregon Health Authority (OHA). Early reliable pricing provided by the CM/GC contractor during the design phase reduces the potential for time delays due to subsequent discovery of higher-than-anticipated costs and consequent changes of plans.

Long-Term Costs: The CM/GC contracting method is expected to produce a scope of work and constructible design that best meets the requirements of the Project with significantly lower risk to costs. Integrating the CM/GC contractor into the design process allows for early identification of risks and facilitates teamwork between the City, designers, and the CM/GC contractor. The Project requires expertise regarding the constructability and long-term cost/benefit analysis of innovative design, knowledge best obtained directly from the construction industry. Many decisions arising during the design process will require immediate feedback on constructability and pricing. Under the traditional design-bid-build contracting method, there is a higher risk of increased change orders and schedule impacts for a project of this size and complexity. Since there are significant costs associated with delay, timely project completion is critical.

Fewer Change Orders: When the CM/GC contractor leads and participates in the design process, fewer change orders occur during project construction than in the traditional design-bid-build contracting method. This is due to the CM/GC contractor's better understanding of the City's needs and the design intent providing the opportunity to design to the budget rather than budgeting for the design. As a result, the Project is more likely to be completed on time and within budget. Fewer change orders reduce the administrative costs of project management for both the City and the CM/GC contractor.

GMP Change Orders Cost Less: In addition to being less frequent, change orders are processed at less cost under a GMP. The design-bid-build method typically results in the contractor charging fifteen percent markup on construction change orders. The GMP method applies lower predetermined markups. The experience of the industry is that the markup is in the range of ten to twelve percent.

Cost Savings: The GMP method allows the City to obtain the full savings if the actual costs are below the GMP. When the CM/GC contractor completes the Project, savings between the GMP and the actual cost accrue to the City.

Contractor's Fee Is Less: CM/GC contracts are designed to create a better working relationship with the contractor than the traditional design-bid-build contracting method. As a consequence, the overhead and profit fee is generally in the five to ten percent range for this type of project. Contractors indicate this is slightly lower than the fee anticipated on similar design-bid-build contracts.

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

Time Savings: Use of CM/GC as an alternative contracting method allows construction work to commence relatively rapidly on some portions of the work while design continues on the remaining portions. The CM/GC method shortens the overall duration of the construction and provides for completion of the Project by the due date. It is critical to adhere to both the schedule and budget of the Project.

Cost Savings: The Project will benefit from the active involvement of a CM/GC contractor during the design process:

1. CM/GC contractor input regarding the constructability and cost-effectiveness of various alternatives will guide the design toward the most economic choices.
2. Consideration of the specific equipment available to the CM/GC contractor allows the designer to implement solutions that utilize the capacity of that equipment.
3. The CM/GC contractor provides current and reliable information regarding the cost and availability of materials, especially those that are experiencing price volatility and/or scarcity.
4. The CM/GC contractor can order materials while design is being completed, avoiding inflationary price increases and providing the lead-time that may be required for scarce materials.

GMP Establishes a Maximum Price Prior to Completion of Documents: The CM/GC contractor obtains a complete understanding of the City's needs, the design intent, the scope of the Project, and the operational needs of the Project by participating in the development of the construction documents. By participating in the design phase, the CM/GC contractor can provide suggestions for improvement and cost reduction. With the benefit of this knowledge, the CM/GC contractor also guarantees a maximum price to be paid by the City for constructing the Project.

Coordination of Work While Woodmansee Park is Open and the Aquifer Storage and Recovery (ASR) System is Operating: The intent is to keep Woodmansee Park open and the ASR System operational during construction and having the CM/GC contractor participate during the design phase will provide an opportunity to work out details of how to coordinate and phase work to minimize or avoid impacts to park users, neighbors, and operations of the ASR System.

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

CM/GC Process: The CM/GC process offers an opportunity for value engineering ("VE") which is more effective than can be attained through VE during the traditional design-bid-build process. VE is most effective prior to construction and during the design phase by a team consisting of the owner, consultant, and the CM/GC contractor. When VE is conducted during the design phase led by the CM/GC contractor, the team can render the most comprehensive evaluation of all factors that affect the cost, quality, and schedule of the project prior to construction. Design phase VE minimizes delays and additional administrative costs that would otherwise be a factor with VE during the construction phase on a design-bid-build project.

Design-Bid-Build Process: If the City uses the traditional design-bid-build process, the contractor would not participate in the VE process until after the design phase was complete. Contractor participation in the VE process during the construction phase tends to be less effective than when it is implemented during design, and it is typically accompanied by delays and additional administrative costs from the review and evaluate of the contractor's VE proposals. When compared to VE on a CM/GC project, there tends to be less incentive and time for the contractor to investigate and suggest VE options.

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

Early integration of the CM/GC contractor with the project team creates more informed, better quality decision-making. A more efficient construction team saves the City money.

Several benefits of CM/GC on this Project will be realized:

- Developing the design documents to reflect the best work plan that accommodates the City, design team, and CM/GC contractor;
- Producing the best grouping of bid packages that will help ensure better trade coverage;
- Determining the most efficient construction staging area;
- Coordinating construction with the needs of an active community park and an operating ASR System; and
- adjusting the work plan as necessary.

These benefits cannot be realized by the traditional design-bid-build method of construction because the contractor is selected solely by having the lowest bid.

F) Any likely increases in public safety.

Construction will occur concurrent to operation of the ASR System and within an active community park among established sensitive trees and other environmentally sensitive natural resources. All work must be coordinated to avoid safety risks to the public, protect natural resources, and ensure efficiency in construction. In addition to the safety and environmental protection issues on site, maintaining the operation of the ASR System, which in turn assures adequate supply of safe drinking water to the general public, is

paramount. The collaboration between the City, designer, and the CM/GC contractor assures coordination of work and consideration for the safety of the general public and natural resources within the project area. CM/GC contracting ensures that safety is effectively managed in a “fast track” mode to minimize delays.

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

The CM/GC process mitigates risks arising from site coordination at a Park. This includes site staging and laydown coordination, site safety and work hours.

The CM/GC contractor’s GMP provides a complete project within the City’s budget.

A CM/GC contractor engaging in early work provides insight and verification of unforeseen conditions to the designers, CM/GC contractor, and City, as well as expediting the construction schedule by starting early work during the design phase.

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

The City is funding the Project with Water Utility System Development Charges and the sale of revenue bonds; therefore, the CM/GC process has no impact on the funding sources.

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.

In addition to the multitude of construction market factors that exist in Oregon, the difficulty in establishing the capacity of new ASR wells during design of this project complicates the ability to accurately estimate the cost and finalize the scope of the ASR System capacity expansion. CM/GC allows for construction and flow testing of wells concurrent with the final design of the Project. This allows for the design of the ASR System capacity expansion to be accurately scoped to actual site conditions and funding availability and may result in significant cost savings if less wells are required than initially planned. Additionally, this will result in acceleration of the overall project schedule which can inform the result in timely completion of the project.

The early involvement by the CM/GC contractor allows for the opportunity to sequence and phase aspects of construction as well as gauge the market and take advantage of early procurement of materials to lock in material cost savings. The complexities to be addressed throughout the Project are not well served by the design-bid-build process.

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

Technical expertise is required for environmental management, quality management, scheduling, estimating, and ensuring energy efficiency. The complexity and scheduling issues require special expertise. The Project draws upon existing skills and capabilities

available in the construction community, as it presents overall challenges similar to those faced on many public works projects. Specialized skills are required of the CM/GC contractor to negotiate and price multiple options and schedule complex tasks. A high level of coordination among the City and all the design and construction entities is required which is best accomplished by the CM/GC contracting method.

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

The Project involves both piping reconfiguration to existing portions of the ASR System and the addition of a new water treatment facility.

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

Existing ASR facilities are only occasionally occupied by City staff during operation. The existing ASR System will continue operation during construction with occasional occupation by City staff.

Woodmansee Park is an actively utilized community park. The intent is to keep the park open during construction, although access to areas of the park will be closed.

CM/GC contractor participation is critical to determine the most effective solution to the associated coordination issue of working in the middle of an operating facility and park.

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

The Project currently anticipates phased construction for the new water treatment facility and ASR System capacity expansion, as budget allows, by one CM/GC contractor.

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.

The City is supported by its legal counsel. In addition, the City has contracted with a consultant with extensive experience delivering CM/GC projects.