



## Staff Report

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**File #:** 20-108

**Version:** 1

**Date:** 4/27/2020

**Item #:** 3.a.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Peter Fernandez, PE, Public Works Director

### **SUBJECT:**

Exemption from Competitive Bidding Process and authorization of an Alternative Contracting Method, and adoption of Resolution No. 2020-15 declaring a public need to acquire easements for the Aquifer Storage and Recovery (ASR) Improvements Project at Woodmansee Park.

Ward(s): Ward 3

Councilor(s): Nanke

Neighborhood(s): Faye Wright

Result Area(s): Safe, Reliable, and Efficient Infrastructure

### **ISSUE:**

Shall City Council, acting as the Local Contract Review Board, adopt Resolution Nos. 2020-15 and 2020-16 in support of an exemption from the competitive bidding process and use of a Construction Manager/General Contractor contracting method for the improvements to the City's ASR System, and declare a public need to acquire easements to construct the ASR Improvements at Woodmansee Park?

### **RECOMMENDATION:**

Adopt Resolution Nos. 2020-15 and 2020-16 in support of an exemption from the competitive bidding process and use of a Construction Manager/General Contractor contracting method for the improvements to the City's ASR System, and declare a public need to acquire easements to construct the ASR Improvements at Woodmansee Park.

### **SUMMARY:**

Salem's long-term plan for providing safe and reliable drinking water includes constructing an ozone facility at the Geren Island Water Treatment Facility to treat algal toxins; expanding the number of groundwater wells at the Geren Island Water Treatment Facility to augment the raw water supply; and improving the ASR System at Woodmansee Park to increase capacity and improve water

treatment processes. Construction of the ozone facility has begun, and construction of one of the groundwater wells will begin this summer.

Design work on the ASR system is progressing and staff has determined that the Construction Manager/General Contracting (CM/GC) delivery method is preferred for the Project. CM/GC is a collaborative delivery method that brings the owner, designer, and CM/GC contractor together in a shared risk environment during the design phase of a project to significantly increase the likelihood for project success as measured by cost and schedule.

Oregon Revised Statutes (ORS) Chapter 279C and the City's Public Contracting Rules (PCR) 9.7, allow City Council, acting as the Local Contract Review Board, to exempt a public improvement contract from the competitive bidding requirements if, after a public hearing, they find that such an exemption is unlikely to encourage favoritism in awarding a public improvement contract or substantially diminish competition for the contract. The Board must also find the exemption will likely result in substantial cost savings and other substantial benefits to the City or the public.

## **FACTS AND FINDINGS:**

The full findings for exempting the Project from competitive bidding are attached to Resolution No. 2020-16 (Attachments 1 and 2).

The CM/GC form of contracting utilizes an open and competitive RFP process to select a contractor. This is the same delivery method used successfully on the Salem Police Facility and Geren Island Water Treatment Facility projects. The competition will be open to all qualifying proposers. City staff will communicate with the construction contracting community about the CM/GC contracting method for the Project and the proposal evaluation process 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 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.

Awarding the Project contract under the exemption will likely result in substantial cost savings and other substantial benefits to the City and the public. CM/GC uses a guaranteed maximum price (GMP). A GMP allows the City to obtain the full savings if the actual completed costs are below the GMP.

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 constructability and the 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.

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 entire team's 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.

Change orders are processed at less cost under a GMP, because they are less frequent. 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.

Woodmansee Park and the existing ASR System need to remain open and operational during construction of the improvements. Early involvement by the CM/GC contractor will allow for the opportunity to work out details of how to coordinate and phase work to minimize or avoid impacts to park users and operation of the existing ASR system.

In addition, the Project is being designed and constructed in the public interest and there is a public need to acquire private property in order to construct the required public improvements. Acquisitions will be necessary from two adjacent properties. Attachment 4 (Exhibit A of Resolution No. 2020-15) identifies the properties to be acquired, the owners of record, and type of acquisitions required. The City will negotiate with the property owners to acquire the required easements and will pay just compensation for all areas acquired.

## **BACKGROUND:**

The existing ASR System includes a network of wells located in Woodmansee Park that allow the City to inject potable water into a groundwater aquifer during low-demand times and recover the water from the aquifer during peak-demand times. The ASR Improvements Project will improve the system by adding the following elements:

- A new centralized ASR water treatment facility to consolidate existing water treatment systems at each ASR well and ensure compliance with new regulatory requirements by the Oregon Health Authority (see Attachment 3, Project Location Map). The new treatment facility needs to be complete by August 31, 2020.
- Water pipeline upgrades to improve distribution of ASR water through Salem's water system.
- Capacity upgrades to the ASR system, including new wells as funding allows.

A Woodmansee Park Master Plan process will occur as a parallel process to the ASR System design work. Virtual and in-person outreach events are being planned as appropriate, such as project websites, open houses, and online surveys to gather feedback, provide updates and provide opportunities for input for short- and long-term park improvements.

Brian D. Martin, PE

City Engineer

Attachments:

1. Resolution No. 2020-16
2. Exhibit A to Res. No. 2020-16 - Facts and Finding
3. Resolution No. 2020-15
4. Exhibit A to Resolution No. 2020-15 - Identified Properties
5. Project Location Map