

Staff Report

File #: 23-417**Version:** 1**Date:** 11/27/2023**Item #:** 4.a.

TO: Mayor and City Council**THROUGH:** Keith Stahley, City Manager**FROM:** Brian D. Martin, PE, Public Works Director**SUBJECT:**

Exemption from Competitive Bidding Process and Authorization of an Alternative Contracting Method for the Willow Lake Water Pollution Control Facility North Primary Anaerobic Digesters No. 1 and No. 2.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

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

SUMMARY:

The Proposed City of Salem Five-Year Capital Improvement Plan (CIP) for Fiscal Years 2024 through 2028 allocates \$4.48 million for the rehabilitation of the Willow Lake North Primary Anaerobic Digesters No. 1 and No. 2. A Construction Manager/General Contractor (CM/GC) alternative contracting method is recommended for the project because it will allow contractor involvement during the design phase to provide critical input on cost, schedule, and constructability elements that will influence and improve the design.

ISSUE:

Shall City Council, acting as the Local Contract Review Board, adopt Resolution No. 2023-33 in support of an exemption from the competitive bidding process and use of a CM/GC contracting method for the Willow Lake Anaerobic Digester No. 1 and No. 2 Rehabilitation Project?

RECOMMENDATION:

Adopt Resolution No. 2023-33 in support of an exemption from the competitive bidding process and use of a CM/GC contracting method for the Willow Lake Water Treatment Facility Anaerobic Digesters No. 1 and No. 2 Rehabilitation Project.

FACTS AND FINDINGS:

The full findings for exempting the project from competitive bidding are attached to Resolution No. 2023-33 (Attachments 1 and 2).

The CM/GC form of contracting uses an open and competitive Request for Proposal (RFP) process to select a contractor. This is the same delivery process used successfully for recent City projects at the Salem Police Station, Geren Island Ozone Treatment and Filter No. 2 Reconstruction, and Aquifer Storage and Recovery Facility. The competition will be open to all qualifying contractors and City staff will communicate with the construction contracting community about the CM/GC contracting method. The proposal process will be open and impartial with selection made based upon 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 construction cost savings and other substantial benefits to the City and the public. The CM/GC method uses a Guaranteed Maximum Price (GMP) which is established when the design phase of the project concludes. The CM/GC contract allows the City to obtain the full savings if actual 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 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 complexity. Since there are significant costs associated with delay, timely project completion is critical.

When the CM/GC contractor 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. The project is more likely to be completed on time and within budget. Fewer change orders reduce the administrative costs for 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 up to twenty 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 three to seven percent.

The rehabilitation of the North Primary Anaerobic Digesters No. 1 and No. 2 needs to be completed in the middle of an operating wastewater treatment plant. Early involvement by the CM/GC contractor will provide a better opportunity to coordinate the details of how to sequence the contract work safely and efficiently.

BACKGROUND:

The Willow Lake Water Pollution Control Facility located in Keizer, Oregon, has been providing the cities of Salem, Keizer, Turner, the community of Four Corners, West Salem, and unincorporated Marion County with safe wastewater treatment since 1967. Salem provides treatment of wastewater to more than 234,000 residents in the cities and communities cited above.

The North Primary Anaerobic Digesters have been involved in the treatment of wastewater since 1967. While they are still in good condition, the coatings on the interior of the digesters that protect the concrete structures have failed. Due to the nature of anaerobic digestion and the gasses produced because of this process, the digesters are experiencing deterioration and need to be rehabilitated to maintain operation.

The City has allocated \$4.48 million in Utility Rates for the rehabilitation of these two anaerobic digesters. Design phase activities have already begun.

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 from competitive bidding requirements if, after a public hearing, they find that such an exemption is unlikely to encourage favoritism in the awarding of the public improvement contracts or substantially diminishes competition for public improvement contracts, and will likely result in substantial cost savings and other substantial benefits to the City or the Public.

Allen Dannen, PE
City Engineer

Attachments:

1. Resolution No. 2023-33
2. Exhibit A - Findings of Fact