

RESOLUTION NO. 2103

Introduced by Commissioner: Frank Orrell

Exempting the Warrenton Wastewater Treatment Plant Construction Contract  
from the Low Competitive Bidding Requirements


As required under ORS 279.015 (2)(a) and (b), be it resolved that the Warrenton City Commission, sitting as the Local Contract Review Board, hereby exempts the Warrenton Wastewater Treatment Plant Construction Contract from the Competitive Bidding Requirements based on the following:

- A. Background Facts: The Warrenton Commission, sitting as the Local Contract Review Board, adopts the attached Background Facts to support the exemption.
- B. Findings and Conclusion: Based on the Background Facts, the Warrenton City Commission, sitting as the Local Contract Review Board, adopts the Following Findings and Conclusions:
  - 1. It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition for the contract, and;
  - 2. The awarding of this public contract pursuant to the exemption will result in a substantial cost savings to the City.

PASSED by the City of Warrenton Local Contract Review Board this 17th day of January, 2005.

This Resolution takes effect immediately upon its passage.

APPROVED

  
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Gilbert Gramson, Mayor

ATTEST

  
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Linda Engbretson, City Recorder

## BACKGROUND FACTS

### FINDINGS:

City staff makes the following findings in support of the exemption and in compliance with the statutory requirements described above.

- 1) **Appropriate Alternate Contracting Practice:** The qualification based RFP process for selecting a contractor is defined by ORS 279.015(6). The process used will be competitive and a contractor will be selected based not only on price but on ability to best complete the Project. The qualification based RFP approach is widely used and recognized as one of the preferred alternative approaches where the Project is large, complex, with difficult site conditions, special Project coordination and time constrained. In addition large sewer plant projects often use the RFP process because of the special requirements to work within an operational wastewater treatment plant. The existing plant must continue to operate and produce clean effluent during the construction.
- 2) **No Favoritism or Diminished Competition:** In order to assure the Board that this exemption does not encourage favoritism or substantially diminish competition, a well defined, very competitive procedure will be followed.
  - i. The Project will be advertised in the Portland Daily Journal of Commerce and the Daily Astorian in order to maximize exposure and interest in the Project. The staff believes the market conditions are good and anticipates that the same contractors that bid the Project under a traditional low competitive bid method will compete in the qualifications based RFP process.
  - ii. An evaluation committee will be formed to review the contractors' proposals. The committee will recommend to the Board the best qualified contractor based on the specific evaluation criteria provide in the RFP. The Committee membership will not include any person with an affiliation or conflict with any proposing contractor.
  - iii. The evaluation criteria include consideration of the contractors' background, references, experience, capacity, personnel, client relations, schedule, quality control, problem and solution identification, and overhead rate.
  - iv. A scoring system will be utilized to help quantify the Committee's review of each criteria on a contractor by contractor basis. Consideration of these performance and cost criteria is important from a public benefit and public safety perspective.

Upon completion of the initial evaluation process, the Committee may at its discretion decide to negotiate certain terms and conditions of the contract, including but not limited to price, with apparent best proposer.

3) **Substantial Cost Savings:** City staff also believes that using the qualification based RFP process will result in substantial cost savings on the Project.

- i. **Most Capable Contractor:** There are a considerable number of uncertainties and complexities associated with the work on the Project due to the extent and unique nature of the construction, high level of coordination required, and definitive time schedule requirements. Because of the uncertainties, the opportunity to select the best overall contractor, considering many factors, will help anticipate and avoid Project problems and as a procedure where bid price is the only factor. The qualifications based RFP process will allow the selection committee to give appropriate weight to the contractor who is not only reasonably priced, but also the most skilled and experienced in performing complicated sewage treatment plant construction within the confined schedule and deliver the best product available.
- ii. **Restricted Time Schedule:** Timely completion of the Project is vital. It is essential that the Project be completed on time so the City meets its required schedule. This creates a tight time line for completion of the Project that can be accomplished by a competent contractor with proper planning and management. There are many other uncertainties and complexities associated with the work and a potential for delay if a good contractor is not selected. Delay could be very costly to the City due to potential fines from DEQ for not completing the Project within the time line designated. Specifically the MAO states, "(13) Within fifteen (15) months of the awarding contracts identified in paragraph 8.A(12) above completed construction of approved P&S." (MAO NO. WQ/M-NWR-01-281, page 7). The work must be completed within the prescribed time line. The right contractor must be selected to complete the required work for this Project.
- iii. **Unique Site Conditions and Challenges:** The new wastewater treatment plant will be constructed at the site of the existing treatment facility. Construction will occur on, around and within the existing facility. While this construction is occurring the old existing plant must continue to operate. It must not only operate but it must produce a clean effluent. Disruption to the existing plant may cause a discharge of water that does not meet NPDES permit requirements. Violation of the City's discharge requirements may result in fines and penalties. Also there are physical conditions at the site that require a qualified contractor. The soils at the site are very

difficult to work, with heavy construction equipment. These river sediments from the Columbia River make planning and coordination critical in the construction of the new WWTP facilities. The contractor must anticipate the problems and be able to react to the conditions encountered in the field.

Another soil condition that will take extra precaution and care is the clay liner at the bottom of the existing lagoon. The City's design is based on the contractor not damaging or penetrating the clay liner. The selected contractor will demonstrate an aptitude for delicate work and care and concern over providing worker over-site on situations that require the utmost attention. Damage to the liner will be very costly to the City in the future. Monitoring and remediation for years will be required if there is contaminate leakage through a breach liner. Next there will be other contractors performing work associated with the final facilities, outfall and dike construction. Some of those activities may be occurring at the time of the construction of the treatment plant facilities. Good cooperation and assistance with others at the Project site is vital.

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