

5  
RESOLUTION NO. 25-04

**A RESOLUTION OF THE ASTORIA CITY COUNCIL ADOPTING FINDINGS TO  
SUPPORT AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS  
FOR THE CONSTRUCTION OF THE SEWAGE LIFT STATIONS REHABILITATION  
PROJECT AND AUTHORIZING A PROCESS TO AWARD A CONSTRUCTION  
MANAGER/GENERAL CONTRACTOR (CM/CG) CONTRACT**

WHEREAS, the City of Astoria ("City") City Council ("Council") is the Local Contract Review Board of the City; and

WHEREAS, ORS 279C.335(2) authorizes a Local Contract Review Board to exempt specific projects from the competitive bidding requirements of ORS Chapter 279C.335(1) upon approval of certain findings of fact, and "when appropriate, direct(s) the use of alternate contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition;" and

WHEREAS, Oregon Administrative Rule 137-049-0610 defines permissible alternative contracting methods, including Construction Manager/General Contractor (CM/GC) methods of contracting for public improvements; and

WHEREAS, the City's Local Contract Review Board has determined that using the CM/GC form of contracting for the construction of the Sewage Lift Stations Rehabilitation Project will be most beneficial to the City and its residents, based on the findings attached as Exhibit A; and

WHEREAS, selection of a CM/GC firm for rehabilitation of the sewage lift stations will be made using a Request for Proposal (RFP) that identifies specific selection criteria, includes the CM/GC's fee for services, and requires the CM/GC to provide full performance and payment bonds for the work, following detailed review of the design documents; and

WHEREAS, pursuant to ORS 279C.335(5)(b), the City published notice of the proposed exemption in the *Daily Journal of Commerce* 14 days prior to the date on which the City Council intends to take action to approve the exemption, with an additional notice published in *The Astorian*; and

WHEREAS, pursuant to ORS 279C.335(5), the City held the requested public hearing to allow comments on the Local Contract Review Board's draft findings on February 18, 2025; and

WHEREAS, after due deliberation, the City Council, acting as the Local Contract Review Board, hereby adopts the Findings of Fact in support of an exemption from competitive bidding to permit the award of a CM/GC contract for construction of the

Sewage Lift Stations Rehabilitation Project, as set forth in Exhibit A.

**NOW, THEREFORE, THE CITY OF ASTORIA RESOLVES AS FOLLOWS:**

**Section 1.** The City Council adopts findings as found in Exhibit A attached hereto, to support an exemption from competitive bidding requirements for construction of the Sewage Lift Stations Rehabilitation Project, declaring such an exemption, and authorizing a process to award a Construction manager/General Contractor (CM/GC) contract.


**Section 2.** This Resolution is effective upon its enactment by the City Council.

ADOPTED BY THE CITY COUNCIL THIS 18 DAY OF February, 2025.

APPROVED BY THE MAYOR THIS 18 DAY OF February, 2025.

ATTEST:

  
\_\_\_\_\_  
Scott Spence, City Manager

  
\_\_\_\_\_  
Sean Fitzpatrick, Mayor

ROLL CALL ON ADOPTION:		YEA	NAY	ABSENT
Councilor	Davis	X		
	Mazzarella	X		
	Adams	X		
	Lump	X		
Mayor	Fitzpatrick	X		

## **FINDINGS OF FACT FOR THE USE OF THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACTING METHOD FOR THE SEWAGE LIFT STATIONS REHABILITATION PROJECT**

As part of the City's efforts to maintain the existing wastewater program, the Public Works Department is implementing a project to rehabilitate three sewage lift stations to maintain continuous transport of wastewater through the collection system to the existing wastewater treatment plant. A Project Definition Report has been prepared to evaluate and determine the rehabilitation work that needs to be completed and the best method for performing this work. The report has recommended the alternative project delivery method of Construction Management/General Contractor (CM/GC) due to the construction complexity and potential impacts on the community when performing this work. This document provides the findings as required by ORS 279.335 to use the CM/GC delivery method to perform this work. The approval of the City Council to use the CM/GC delivery method will satisfy the requirement to be exempt from using the conventional Design-Bid-Build contract.

### **Overview**

The City has three lift stations using screw pump technology that were placed into operation in the early 1970's. These three stations are three of the five major wastewater pumping stations transporting raw wastewater to the wastewater treatment plant located on the northeast side of the City near Tongue Point. The lift stations pump in series lifting the wastewater to an elevation where it can flow by gravity to the next lift station. Each of the lift stations service a wastewater drainage basin where it collects additional flows from the service area. Therefore, the capacity of each station increases as additional wastewater is collected in each of the drainage basins.

The City received a grant in the amount of \$185,880 from the Oregon Department of Environmental Quality (DEQ) under the Overflow Sewer and Stormwater Grant Agreement to perform the planning and initial phases of this project. In addition, the city has received a loan of \$119,920 from DEQ to perform this project. The City is also working with DEQ to obtain an additional loan of \$3.1M for construction of this project.

The first phase of the project was to develop a Project Definition Report to define the project, develop a cost estimate for the project, and to determine the limitations to perform the project. An evaluation of each of the three lift stations determined that the project would need to replace the existing screw pumps, motors, and gear boxes with new pumps. In addition, the project will require replacement of the inlet sluice gates, grating, and miscellaneous metals in the wet well that are failing due to the corrosive environment within the stations. Additional work may need to be performed to repair issues observed with structural concrete.

The Project Definition Report recommended that the CM/GC delivery method be used for this project. This method was selected due the need to work cooperatively with an experienced contractor to properly phase the rehabilitation work as well as develop the means and methods that will be used to perform the work in the limited spaces available. It is critical to develop a rehabilitation plan that can provide continuous service at the stations when the work is being performed while minimizing the impact on neighboring properties and the community. The location of the three stations will require closing of traffic lanes and traffic control on ODOT facilities (Hwy 30 and Marine Drive) when the work is being performed. It is essential that an experienced contractor perform this type of work as well as one that is aware of the need to cooperatively work with the engineer and City staff to minimize the impact of this work on the community.

### **Project Funding Requirements**

In addition to the DEQ Overflow Sewer and Stormwater Grants, the funding for this project will be provided through the DEQ Clean Water State Revolving Loan Funds. The loan requires that the project be performed using the Design/Bid/Build project delivery method unless a waiver is obtained from DEQ to use the CM/GC delivery method. The requirements to obtain this waiver and to proceed with the project using this contracting method is provided in a DEQ document titled, "Construction Management/General Contractor Alternative Contracting Process, Updated November 2021." This document provides a step-by-step process to meet the requirements specified in the loan documents. The first is to develop a finding as defined by ORS 279C.330.

ORS 279C.330 specifies that the process includes the submittal of findings to the public agency's governing body. An exemption requires the findings demonstrate it is unlikely that an exemption will encourage favoritism or substantially diminish competition and that award pursuant to the exemption will likely result in substantial cost savings to the agency. Oregon law [ORS 279C.335(5)] also requires public notice of a proposed exemption and an opportunity for the public to comment on the findings before the governing body considers approval of an exemption.

Before DEQ can fund a project using the CM/GC alternative contracting process, the loan recipient must provide documentation that the use of an alternative contracting method has a benefit to the public. This benefit can be financial or otherwise if the project is particularly complex. The loan recipient must submit the following documents to their DEQ project officer to document that benefit:

- A copy of the findings, as defined by ORS 279C.330, justifying an exemption from competitive bidding
- A signed copy of the final finding's adoption by a local contract review board or a signed resolution by a loan recipient's governing body approving the exception to competitively bidding a project
- A copy of the legal opinion indicating that all applicable contracting requirements have been met

The City Council's adoption of these findings is an essential element in obtaining DEQ authorization to utilize this process.

### **CM/GC Process**

The first step in utilizing the CM/GC alternative delivery process is to obtain the waiver to use the alternative contracting process. This requires obtaining approval from the City's contacting authority which is the City Council. Next the rationale for using the alternative process must be submitted to DEQ to obtain their approval and the waiver.

The next step is to issue an RFQ/RFP to contractors that can provide the required service. The proposals can then be reviewed, ranked, and the contractors interviewed. The contract price has yet to be determined, so the contractor can be selected based on qualifications, understanding of the impact the project may have on the community, and experience in performing similar types of work. A critical element in the selection of a contractor for this project will be their expertise and experience in performing work in active wastewater pumping stations while not disrupting operations.

Once the contractor is selected and placed under contract, the contractor, engineer, and City staff will work together to develop a sequence of construction and the means and methods for the project. This information combined with the Project Definition Report can then be used to document the project in a Predesign Report that will be submitted to DEQ for approval. The contractor can then use this information to determine a Guaranteed Maximum Price (GMP) for the project. The work will then be performed on a time and materials basis not to exceed the GMP. Contingency funds can be placed under the control of the City and used for those unexpected items that were not anticipated when developing the GMP. An example of this is the repair of the structural concrete and replacement of miscellaneous metals that cannot be quantified while the station is being operated. All equipment, materials, and subcontractor work will be given a cost in the schedule of values and bid by the contractor. If the cost is less than the anticipated cost in the schedule of values, the City will receive the benefit of those cost savings. If the cost is higher, the contingency will be utilized. This bidding of equipment, materials, and subcontractors will provide assurances to the City and funding agency that the work is being performed at a competitive cost.

An advantage in using the CM/GC project delivery method is that the City will still contract with an engineer to define the project and write the predesign report in cooperation with the contractor and construction manager during the construction planning (design) process to provide constructability input. The construction manager provides input regarding scheduling, pricing, construction phasing, and means and methods that will provide a more constructible project. At approximately an average of 60% to 90% design completion, the city and the construction manager negotiate a guaranteed maximum price (GMP) for the construction of the project based on the defined scope and schedule. If this price is acceptable to both parties, they execute a

contract for construction services, and the construction manager becomes the general contractor.

The benefits of using the CM/GC approach are greatest for projects that:

- Are high risk
- Possess a high level of technical complexity
- Are governed by significant schedule constraints
- Require complex phasing
- Contain budget limitations requiring a construction cost guarantee during design
- Can result in substantial savings from value engineering

It is believed that the primary considerations when evaluating CM/GC for use on a project are time savings, cost savings, technical complexity, and not diminishing competition or encouraging favoritism. If at least two of these measures indicate that an alternative contracting method is in the best interest of the public, taxpayers, and other stakeholders, and the public agency has the experience and resources to administer the CM/GC process, the use of CM/GC is appropriate for a project.

## FINDINGS

ORS 279C.335.(2)(b) states the following:

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 (Procurement authority) (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

The rational for each of the required findings following the above statement are presented in the following sections.

### **(A) How many persons are available to bid.**

Four contractors with experience in performing construction in operating wastewater pump stations located in the State of Oregon were contacted to determine their interest in this project. Three of the contractors stated they were interested in this project. The interested contractors are RL Reimers, ORR, Inc., and Big River Construction. The RFQ will be publicly advertised for others to provide a Statement of Qualifications.

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

The construction budget estimated in the Project Definition Report is \$3,504,600. The projected operating costs for the rehabilitated lift stations will be the same as the existing budgets as the new pumps will be of the same capacity as the existing pumps being replaced. There may be some power savings due to the use of more efficient motors and the efficiency gained from the new pumps over the existing pumps.

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

The rehabilitation of the three lift stations will require removing the covers on the stations. Two options are available to the contractor to maintain operation of the stations when performing the work. The first option is to continue operating one of the pumps while replacing the second or redundant pump. This work must be done during the dry weather season when the flows are lowest. Operating the lift stations without the covers on the wet wells will present the potential for increased noise and odors when the work is being performed. The second option is to provide pumping around the station to provide work to be done on both pumps at the same time. This option will provide for a shorter work time in each station and minimize the potential for odors and noise but will provide restrictions to traffic on Hwy 30 and Marine Drive. There will also be periods of time when pumps are removed and placed that there will be required closure of one lane on Hwy 30 and Marine Drive. Careful planning and coordination of the work with the engineer and City Public Works staff can minimize these disruptions.

The CM/GC project delivery method allows the engineer, City Public Works staff, and contractor to work together to develop the project schedule and means and methods for performing the work. The input of an experienced contractor during the planning stages of the project will provide the necessary knowledge and experience of the contractor's staff to minimize costs, schedule, and disruption around the project site. Having the contractor's knowledge and experience available during the planning of the project will provide a direct benefit to the public and minimize project costs.

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

The current cost estimate for performing the rehabilitation work on the three lift stations was developed by the engineer in the Project Definition Report. A bid was obtained for the screw pumps from Lakeside Corporation and for the sluice gates from the Golden Harvest equipment representative. These cost of these equipment items is about 30% of the cost estimate. The remaining 70% of the cost estimate was for labor,

materials, other contractor services using assumptions of the labor hours required to perform the work in each of the stations. In addition, a condition assessment was performed, but the visual inspection was only done on Lift Station No. 5 with photos taken by City staff used to assess the condition of the other two stations. The assessments were done while the stations were operating so there may be unknown deficiencies that need to be corrected that could not be observed due to the grating covers over the pumps and the wastewater in the channels. An unknown labor and material allowance of 25% was applied to the rehabilitation cost estimate for each of the stations. In addition, 30% contingency was applied to the estimated project cost as is typical for a Class V cost estimate for a project at the planning level of completion.

The CM/GC project delivery method will provide for an experienced contractor to work with the engineer and City Public Works staff to better quantify the work that needs to be done, the means and methods for performing the work, and developing a project sequence and schedule to estimate the labor requirements to perform the work. The contractor can provide the expertise necessary to limit the contingencies used in developing the Project Definition Report cost estimate and give a Guaranteed Maximum Price (GMP) for the project. This GMP may decrease the cost of the project due to providing a better definition of the project and incorporating the value engineering concepts provided by the contractor for performing the project.

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

Phase I of the CM/GC delivery method is to provide the specialized expertise of a contractor experienced in working with active pump stations into the development of the means of methods for performing the project as well as developing the GMP. Three contractors with the expertise to perform this work have expressed interest in this project and others may be available once the RFQ is publicly advertised.

**(F) Any likely increases in public safety.**

Lift Station No. 4 is located on a small parcel with limited access. A crane will be required to remove the existing screw pumps and place the new screw pumps as well as installing the gates and grout for the pumps. Due to the limited access, the crane will need to be located on the south lane of Marine Drive when this work is being performed. This will require traffic control on Marine Drive that may present a public safety risk.

Lift Station No. 3 is located between the parking access for Park Medical Center and Hwy 30. A crane will be required to perform the rehabilitation just as with Lift Station No. 4. There is a possibility of staging the crane in the parking lot of a neighboring business, but the trucks delivering the



pumps and other materials and equipment will need to be accessed on the eastbound lane of Hwy 30. This will require closure of the eastbound lane of Hwy 30 and directing traffic through the center turn lane. This will require traffic control on Hwy 30 that may present a public safety risk.

In addition, the station's wet well covers will be removed for the period of time the rehabilitation work is being performed. This will expose the work area to the public areas next to these small parcels. Security will need to be provided to keep the public from accessing the open structures.

**(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.**

The exemption from the conventional Design-Bid-Build project delivery method so that the CM/GC project delivery method can be used will reduce potential project risks. Utilizing the expertise of the contractor during Phase I of the CM/GC contract will provide for incorporating the expertise of the contractor when developing the project schedule and means and methods for performing the rehabilitation work. This allows the contractor to incorporate the specific skills of his crew, provide the appropriate expertise of subcontractors, and obtain the appropriate equipment for performing the work. This will reduce the overall potential risk when completing this complex project.

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

The funding for this project will be provided through the DEQ using Clean Water State Revolving Loan Funds. The loan requirement specifies that the project be performed using the Design-Bid-Build project delivery method unless a waiver is obtained by DEQ to use the CM/GC project delivery method. The requirements to obtain this waiver and to proceed with the project using this contracting method is provided in a DEQ document titled, "Construction Management/General Contractor Alternative Contracting Process, Updated November 2021." This document provides a step-by-step process for following this process to meet the requirements specified in the loan documents. City staff have discussed using the CM/GC project delivery method with DEQ and have received authorization to move forward using this alternative project delivery method if the process outlined in the document are followed.

**(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.**

The exemption will not enable the City to control the impact that market conditions may have on the cost to perform the project. The project rehabilitation work will need to be performed during the dry season of

2026 and will be subject to the market conditions at that time. There is a 6- to 9-month delivery time for the screw pumps. The CM/GC project delivery method will allow the contractor to lock in the price of the screw pumps in 2025 mitigating the impact of increasing steel prices. Other materials can be purchased by the contractor in 2025 also minimizing the cost of inflation. Contractor and subcontractor labor costs will be based on the 2026 BOLI rates.

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

The exemption will not address the size and technical complexity of the project. The exemption will provide the opportunity to utilize the expertise of the contractor during Phase I of the contract to optimize the project schedule and develop the means and methods for performing the rehabilitation work so that it can be done efficiently and safely.

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

This project is for the rehabilitation of the existing 50-year-old lift stations. The lift pumps, motors, and gear boxes will be replaced with new pumps having the same capacity.

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

The lift stations are unoccupied structures that are visited periodically by City Operations staff. An alarm system is provided in each station that sends an alarm to City staff if there is an equipment failure in the station.

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

There will be a single phase of construction work once the rehabilitation work begins. The rehabilitation work may be done in each station in sequence or at the same time depending on the development of the means and methods determined when planning the project during Phase I of the project. The major decision that will determine the phasing of construction work is whether temporary pumps will be used to pump the wastewater around each station when the work is being completed or if the work will be performed on one pump at a time while keeping the station active.

**(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 Engineering staff have administered CM/GC contracts previously. One such project was the 16<sup>th</sup> Street Distribution Waterline Replacement. In addition, the City upgraded the electrical equipment in Pump Station No. 1 using the Progressive Design Build alternative project delivery method.

The City has contracted with Richwine Environmental, Inc. that provided consulting services during the electrical equipment upgrades on Pump Station No. 1. In addition, Dale Richwine of Richwine Environmental, Inc. was the engineering project manager for the \$80M Phase I Expansion of the Tri-City WPCP using the CM/GC alternative delivery method.

The combined experience of the City Engineering staff and Richwine Environmental, Inc. provides the experience and expertise required to negotiate, administer, and enforce the terms of a CM/GC contract for the Sewer Lift Stations Rehabilitation Project.

## **CONCLUSION OF FINDINGS**

It is in the best interest of the City Council and the City of Astoria to utilize the CM/GC project delivery method for the above-referenced scope of work. The CM/GC will (a) result in greater cost control and reduce risk to the City; (b) allow the City to select a contractor with the specialized expertise required; (c) benefit the public by improving safety and coordination during construction; and (d) not encourage favoritism or diminish competition.