

NORTH CLACKAMAS COUNTY WATER COMMISSION

Resolution No. 2025-6

A RESOLUTION APPROVING DRAFT FINDINGS TO EXEMPT FROM COMPETITIVE BIDDING THE COSTRUCTION OF VARIOUS IMPROVEMENTS AT THE NCCWC WATER TREATMENT PLANT UNDER A CONSTRUCTON MANAGER/GENERAL CONTRACTOR (CM/GC) METHOD OF PROCUREMENT

WHEREAS, staff desires to construct a series of complex improvements at the North Clackamas County Water Commission (NCCWC) water treatment plant; and

WHEREAS, such improvements need to be completed under limited schedule to minimize operational disruptions at the plant; and

WHEREAS, staff is recommending the use of a construction manager/general contractor (CM/GC) method for procuring related construction services, as prescribed under ORS 279C.337; and

WHEREAS, the use of said method of procurement shall also require approval of an exemption to competitive bidding based on the findings prescribed under ORS 279C.335(2)(a-b) and accompanying public notice of said exemption outline in ORS 279C.335(5)(b-c), and

WHEREAS, these planned improvements are estimated to cost up to \$2,500,000.

NOW, THEREFORE BE IT RESOLVED, THE NORTH CLACKAMAS COUNTY WATER COMMISSION BOARD OF DIRECTORS HEREBY:

Authorizes an exemption to competitive bidding, as allowed under ORS 279C.335, based on the draft findings outlined in Attachment A, and further grants authority to the General Manager to procure construction services under a construction manager/general contractor (CM/GC) framework, as prescribed under ORS 279C.337, to deliver various improvements at the NCCWC water treatment plant for a construction amount not to exceed \$2,500,000. The period of effect for this resolution shall also be subject to the public notice requirements outlined under ORS279C.335(5)(b-c).

So approved by the Board of Director's on this 26th day of June 2025.

By Chris Hawes
Chris Hawes, Chair

By Wade Hathhorn
Wade Hathhorn, General Manager

Attest this 26th day of June 2025

ATTACHMENT A

FINDINGS TO EXEMPT FROM COMPETITIVE BIDDING CONTRACTOR SELECTION AND CONSTRUCTION OF VARIOUS WATER TREATMENT PLANT IMPROVEMENTS

Background

The NCCWC owns and operates a public water treatment plant located along the Clackamas River. The plant has two main treatment units: slow sand and membrane filters – two very different process technologies. The latter involves a number of highly sophisticated components with computerized, automated controls. The plant is now more than 25 years old and several components of the plant are in urgent need of repair and upgrade, including (but not limited to):

- (i) sodium hypochlorite (chemical) storage and injection;
- (ii) air vacuum system (with industrial compressors and numerous actuated valves);
- (iii) surge tank and separate air compressor;
- (iv) various control and pressure reducing valves; and
- (v) replacement of the original soda ash system with caustic and CO₂.

Many of these items also require the installation and testing of a variety of supporting electrical and mechanical components which are integral to the two treatment platform. Moreover, time is of the essence and the scheduling of these activities is limited by on-going, regular plant operations. The scope of work can be viewed as requiring a series of major, complex repairs, rather than a well-defined construction project. The work will also require adaptation and flexibility to accommodate unknown conditions that commonly arise during retrofitting and repair.

The principal challenge here involves the coordination of a variety of skilled labor resources required to implement the desired repairs and upgrades, with a limited schedule in which plant operations may be restricted or turned-off to accommodate the fixes. Hence, it will require the superior knowledge of a highly skilled engineering and construction team to successfully manage and implement those repairs. Accordingly, this is not a project that lends itself to traditional design, bid, and build delivery; rather, it will likely be best served under an alternative form of delivery, such as a construction management/general contractor (CM/GC), that allows for close coordination between the engineer and contractor in the delivery of a series of repairs (or contract amendments). The repairs are estimated to cost up to \$2,500,000.

Process for Exemption to Competitive Bidding

Oregon Revised Statute (ORS) 279C.300 generally requires competitive bidding of public improvement contracts unless specifically exempted by the Local Contract Review Board (LCRB) under Oregon Revised Statute (ORS) 279C.335 based on two findings:

1. The exemption is unlikely to encourage favoritism in the awarding of the public improvement contract or substantially diminish competition for the public improvement contract.
2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the NCCWC.

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In approving such an exemption, the LCRB must consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract, all items under ORS 279C.335(2)(b)(A-N).

Findings

Staff offer the following findings for each of the items in ORS 279C.335(2)(b)(A-N):

- (A) *How many persons are available to bid?* The contractor selection will utilize a two-step process, allowing the public to first respond to a general request for qualifications (RFQ) that identifies one or more proposers as qualified based on scoring of proposals within a Competitive Range, followed by a request for proposals (RFP) from those proposers deemed qualified that includes pricing and other information such methods of project delivery, management of schedule and budgets, and control of a risk registry during construction. Notice of the RFQ will be posted at least times in the Daily Journal of Commerce and on a sponsoring public website hosted by the Oak Lodge Water Services and the Sunrise Water Authority.
- (B) *What is the construction budget and the projected operating costs for the completed public improvement?* The construction cost of the improvements is estimated not to exceed \$2,500,00. The improvements are not expected to impact the existing operating costs of the plant.
- (C) *What public benefits may result from granting the exemption?* The selected method of delivery will greatly reduce the risk of change orders and other cost impacts during construction, resulting in substantial overall saving to the public.
- (D) *Will value engineering techniques be used to reduce the cost of the public improvements?* Yes, the selected delivery process includes value engineering procedures in finalizing the design under a Guaranteed Maximum Price structure applied to a series of planned improvements.
- (E) *The cost and availability of specialized expertise necessary for the public improvements?* The work will require specialized designers and contractors that have experience renovating existing water treatment facilities and understand the importance of completing repairs during critical periods in which the plant may be shut-off or scheduled for operational disruption. Additionally, expertise in electrical and instrumentation systems will be needed in integrating the improvements within the existing control (SCADA) systems.
- (F) *Any likely increases in public safety?* The existing facility is not open to the public. Hence, the work is not expected to affect public safety and repairs will be coordinated with the Oregon Health Authority, as required. The contractor will also be solely responsible for site safety during construction.
- (G) *Will granting the exemption reduce risks to the contracting agency or the public?* Yes, as explained in item (C) above, the preferred method of construction delivery will likely result in reduced risks to change orders and other cost impacts during construction.
- (H) *Will granting the exemption affect project funding sources?* No, only funds currently held by the NCCWC will be used for this project.

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- (I) *Will granting the exemption better enable the control of potential impacts that market conditions may have on the cost of and time necessary to complete the work?* Yes, the method of delivery allows for close coordination between the engineer and contractor whereby reducing the length of time between design elements and their construction, thus reducing lead time for critical equipment purchases and optimization of the use of skilled labor during construction.
- (J) *Will granting the exemption better enable the NCCWC to address the size and technical complexity of the planned improvement?* Yes, the method of contractor selection will result in improved contractor experience and skill related to the complex nature of the stated repairs and their scheduling.
- (K) *Whether the public improvement involves new construction or renovates or remodels an existing structure?* The work involves the renovation of an existing water treatment plant.
- (L) *Whether the public improvement will be occupied or unoccupied during construction?* The water treatment plant will continue to rely on the availability of its existing operators throughout the entire construction schedule who will be performing their regular duties on the remainder of the plant.
- (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 work is expected to be delivered in a series of repairs assigned in various contract amendments.
- (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?* Yes, NCCWC staff will request authorization from the Board of Directors to issue an engineering services contract under cooperative procurement to Carollo Engineers for this work. Carollo Engineers are very experienced in the level of design required for this work and in the use of various alternative forms of construction contracting, including CM/GC. In addition, the entire use of CM/GC contractor selection and contracting process will be overseen by the NCCWC's legal counsel at Cable Huston who are experts in these matters.

Accordingly, for the many reasons cited above, the NCCWC Board of Directors finds that the proposed exemption to allow for contractor selection and construction of various planned improvements at the NCCWC Water Treatment Plant under a CM/GC process, as prescribed under ORS 279C.337, will:

- (1) unlikely encourage favoritism, nor substantially diminish competition, in the awarding of such a public improvement contract; and**
- (2) likely result in substantial cost savings and other substantial benefits to the NCCWC.**