

[DRAFT] CONSTRUCTION MANAGER/GENERAL CONTRACTOR FINDINGS

Water Reclamation Facility – Digester 4 and Hauled Waste Project (Project No. 1SD4H)

June 03, 2026

Background

Oregon Revised Statutes (ORS) 279C.300 requires competitive bidding for construction of public improvement projects unless specifically excepted or exempted as provided under ORS 279C.335. The exemption must be supported by findings showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition, and that it will result in substantial cost savings and other substantial benefits to the contracting agency or the public.

For the reasons set forth more fully below, it is recommended that the **Construction Manager/General Contractor (“CM/GC”)** delivery method be selected by utilizing the competitive proposals process in accordance with ORS 279C.400 for a specific contract to build the **Digester 4 and Hauled Waste Project (1SD4H) (the “Project”)**. Under this process, the City will individually advertise requests for proposals (RFP) for firms interested in Owner’s Representative (OR), Engineer of Record (EOR), and construction services. This allows the City to evaluate proposals based on price and qualifications to select and issue three separate contracts for the successful team members. The CM/GC delivery method is appropriate to consider for highly specialized, complex projects to ensure the OR, EOR, and contractor all have the specific experience needed to successfully deliver similarly complex work. The CM/GC method allows the contractor to be involved in the design process, providing an opportunity for identification of more accurate cost and schedule certainty and identification of solutions that best address the complexities of the Project. This includes working in an operating facility environment, maintaining critical wastewater treatment services to customers during design and construction, phasing and coordinating work to keep the Wastewater Reclamation Facility (WRF) operational and helping to identify project risks to develop risk mitigation plans.

The Project

The updated WRF Facility Plan, which will be brought to Council for adoption later in 2026, identifies facility-wide improvements necessary to handle current and future treatment of wastewater for the City. The WRF Facility Plan has identified the need for multiple Capital Improvement Plan (CIP) projects at the WRF site, including projects which have been



recommended to be initiated prior to adoption of the WRF Facility Plan. These include the need for Digester 4 (which had previously been identified as a need in the 2006 and 2008 WRF Facility Plans), and a solution to hauled waste handling, and associated improvements.

The CM/GC team will be comprised of three entities under separate, sequential contracts with the City: OR, EOR, and contractor. The OR acts as an extension of City staff, guiding the City through the CM/GC process to help achieve project success. The OR role includes assisting with strategic decisions, managing risk, and providing technical and facilitative support from procurement and design through construction and project delivery. The EOR is the entity responsible for the design of the overall project. The OR and EOR contracts can be procured in advance of the WRF Facility Plan being completed. Advertisement of the construction contract would be delayed until there is a draft WRF Facility Plan for reference.

The Project primarily includes the following improvements:

- Digester 4 and related equipment and facilities; and
- Hauled waste receiving and handling facilities.

These investments are critical to protect employee health and safety; avoid disruption to wastewater treatment services (including hauled waste); maintain environmental regulatory compliance; protect the environment and public health; and ensure the long-term reliability of the City’s wastewater treatment infrastructure.

The Project is anticipated to cost \$115 million. The project will be proposed within the upcoming 2027-2029 biennial budget (Digester 4 and Hauled Waste project (Project No. 1SD4H)) and, upon approval, will be added into the 2026-2030 five-year CIP. The Project will be phased to include design development and early work packages to refine the design within the current biennium. The remaining budget is intended for construction costs within the five-year CIP. The City will continue to explore alternative funding opportunities to potentially offset costs and aid in delivery of this project.

In accordance with ORS 279C.330, ORS 279C.335, and Resolution No. 2967, the Bend City Council, in its capacity as the Local Contract Review Board, determine that the following findings justify an exemption from the competitive bidding requirement, and selection of a Construction Manager/General Contractor procurement method for the Project.

Findings

Finding	Explanation
The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.	A publicly advertised RFP process will be utilized, with public notice in a newspaper with general statewide circulation and disclosure of the planned Alternative Contracting Method. No reduction of competition is expected since the proposed process is open to the same contractors that would have participated in the traditional design-bid-build process, and there are multiple



	<p>contractors both locally and regionally with the ability to compete for this contract. Uniform evaluation criteria will be used in the selection of contractors. Favoritism will not play a role in the selection of the CM/GC. All qualified firms will be invited to submit proposals. Proposers will be evaluated based on clearly stated criteria. A committee consisting of no less than three staff members will perform the evaluation in an effort to minimize the effects of any individual bias.</p>
<p>Substantial cost savings and other benefits, further described as follows.</p>	<p>Early involvement of a contractor through a CM/GC contract is anticipated to result in reduced change orders, disputes, and claims during construction and will provide for the opportunity to identify value engineering and construction sequencing ideas commensurate with the contractor's means and methods that are likely to result in significant construction and operations cost savings.</p> <p>The utilization of the CM/GC contracting method will allow critical path improvements to be identified and phased accordingly to minimize the overall impact to wastewater treatment processes and stay within the project cost through the ability to value engineer elements.</p>
<p>How many persons are available to bid?</p>	<p>The City is aware of three to six firms that would be available to propose on this work. This aligns with the number of competitive bids the City typically receives from multiple qualified bidders when using traditional delivery methods. We expect a similar level of competition through the CM/GC solicitation process.</p>
<p>The construction budget and projected operating costs for the completed public improvement.</p>	<p>The estimated cost for this project is \$115,000,000. The construction budget and operating costs will not be adjusted due to the alternate bidding method; cost savings and/or maximizing value are anticipated to be identified during the remainder of design through value engineering, a shortened project duration and reduced City staff time on the project, reduction in change orders due to contractor involvement in the design, and accelerated project delivery to provide pricing security.</p>
<p>Public benefits that may result from granting the exemption.</p>	<p>Without proper design, construction at the existing WRF has the potential to cause significant extended disruptions to wastewater treatment processes, increase risk to worker safety, increase construction costs or trigger regulatory</p>



	<p>non-compliance. Selection of an experienced, cooperative, and solutions-oriented CM/GC team with the demonstrated ability to coordinate and execute construction of these projects in a safe, proficient, and expedient manner will greatly benefit the public. The City has previously procured low-bid work at the WRF, most recently in the latter half of the 2024–2025 fiscal year. The work delivered was incomplete and unacceptable, necessitating remediation efforts scheduled for later this year.</p>
<p>Whether value engineering techniques may decrease the cost of the public improvement.</p>	<p>This alternative contracting approach fosters a collaborative relationship between the City, EOR, and contractor through all project phases. Early involvement of a contractor through a CM/GC contract is intended to result in reduced change orders, disputes, and claims during construction and will provide the opportunity to identify value engineering and construction sequencing ideas commensurate with the contractor’s means and methods that are anticipated to result in decreasing the cost of the public improvement.</p>
<p>The cost and availability of specialized expertise that is necessary for the public improvement.</p>	<p>The use of the CM/GC contracting method is not expected to change the cost or availability of specialized expertise necessary for the Project. Availability and cost of design services are not anticipated to be impacted.</p> <p>Availability and cost of construction services are also not expected to be impacted because a competitive process will be used for subcontracted work, unless otherwise approved as provided under the General Conditions. This results in costs and availability comparable to those found in the traditional design-bid-build contracting method. Furthermore, this Project is anticipated to garner significant interest from many firms throughout the region, resulting in a competitive environment like we would see under a traditional contracting method.</p>
<p>Any likely increases in public safety.</p>	<p>The CM/GC procurement method allows historical safety performance on similar projects to be considered as a selection criterion. It also permits the City to work closely with the contractor to ensure that the design and work sequences include appropriate safety measures, that the contractor understands the City’s safety concerns, and that the contractor will take appropriate steps to address them.</p>



<p>Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement.</p>	<p>The CM/GC contracting method differs from the traditional design-bid-build method in that the contractor is involved in the design process, typically very early. The contractor’s involvement in design allows the contractor to better understand the design details, existing site and operational conditions, and construction sequencing requirements; this knowledge reduces the risk of change orders, claims, and the exceedance of the project schedule. In addition, the contractor can participate in risk workshops, utilizing their experience to identify potential risks which can be evaluated for severity and probability and in which design efforts may reduce the potential impacts or, in some cases, eliminate the risk altogether.</p>
<p>Whether granting the exemption will affect the sources of funding for the public improvement.</p>	<p>The Project is anticipated to cost approximately \$115,000,000 and will be included in the Adopted 2026-2030 CIP budget using water reclamation funds.</p> <p>The City has considered pursuing a variety of state and federal funding opportunities, including from the Oregon Department of Environmental Quality Clean Water State Revolving Fund (CWSRF). CM/GC is the only alternative delivery method the CWSRF program recognizes. There may be other funding opportunities that the City pursues. Match dollars may be partially funded through wastewater rates and potentially supplemented with a low-interest loan, if necessary. The state and federal funding and low-interest loan allow for the CM/GC contracting method as it complies with State and Federal law.</p>
<p>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.</p>	<p>Using the CM/GC method, benefit-cost decisions can be made using real-time construction costs to keep the project within budget. Materials, equipment, and subcontracted work can be procured early to eliminate price uncertainty and lessen the impact of price escalation during the construction period. In addition, under the CM/GC delivery method, the City has the flexibility of awarding early construction work packages (e.g., demolition work, procurement of long-lead equipment, etc.) prior to design completion of the overall project. Furthermore, having the contractor on board during design provides the City with the ability and time to adjust the Project budget during design when true pricing is</p>



	<p>understood, so the project budget reflects the true cost of the design and construction.</p>
<p>Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement.</p>	<p>The Project will be challenging due to the technical complexity and scale of the digester complex and new hauled waste system. Integrating them within a fully functioning wastewater treatment system—that is, a system that remains operational throughout design and construction—will be a highly complex challenge. Some of the known complexities include: identifying existing infrastructure and tie-in points for new infrastructure, potentially re-routing/relocating existing facilities to allow for system efficiencies, constructing new facilities with minimal interruption to wastewater treatment service, operational cut-over from existing facilities to new facilities, maintaining access for staff to the WRF, and allowing the WRF to remain operational as often as possible.</p> <p>Using the CM/GC method as opposed to traditional design-bid-build will allow for early coordination to inform and further refine the design, allow for City Wastewater Operations staff to be fully integrated into the project team to make decisions based on the current status of the wastewater treatment system, and allows for the contractor to recommend innovative ideas to build the Project more efficiently.</p>
<p>Whether the public improvement involves new construction or renovates or remodels an existing structure.</p>	<p>The public improvement involves new construction and renovates existing facilities. The Project will involve the new construction of Digester 4 and hauled waste receiving facilities that will expand the existing digester complex. Using a CM/GC method, the construction contractor is part of the project team early on and is involved in field investigation and design coordination, thereby reducing the risk of discovering unknown conditions while expanding upon the existing systems.</p>
<p>Whether public improvement will be occupied or unoccupied during construction.</p>	<p>The public improvement will be occupied during construction. Staff access to the WRF will be maintained during project. The WRF is accessible to the public by appointment only so there will be little impact on public access. The CM/GC method would allow the contractor to plan project phasing and timing of the closures of the</p>



	roadways and intersections to mitigate impacts to the public.
Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.	Phasing of the Project has not yet been determined and is a primary area of optimization to be gained by utilizing the CM/GC method and the resulting contractor/EOR/City teamwork. It is expected the Project will be completed in multiple phases due to the significant impacts a single phase could have on the operation of the WRF and spreading project costs over multiple years; however, phasing needs to be evaluated by the CM/GC team to determine the full impact. The utilization of the CM/GC contracting method will allow critical-path improvements to be identified and phased accordingly to minimize the overall impact to ongoing wastewater treatment operations, ensure safety, and stay within the Project cost.
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 has considerable experience with alternate contracting methods, including Design-Build, Progressive Design-Build, and Construction Manager/General Contractor, with in-house engineering project management, procurement, and legal counsel staff. The City will also be contracting for OR services to assist the project management team. The OR will bring additional expertise with this specific procurement method as well as expertise in administering federally funded contracts (if necessary) and assist with Guaranteed Maximum Price (GMP) negotiations.
Additional Findings that address industry practices, surveys, trends, past experiences, evaluations of completed projects required by ORS 279C.355 and related information regarding the expected benefits and	Additional benefits include a more cohesive project team, identifying the most efficient and cost-effective delivery schedule, and increased leverage for the City to negotiate the GMP for construction. Drawbacks may include limited opportunities to make changes once a GMP is established, and this procurement method may result in a shortened timeframe for public outreach on the proposed design,

drawbacks of particular alternative contracting methods.	however, public outreach has been conducted on plans and studies leading up to this Project design.
--	---

**Accommodation Information for People with Disabilities & Language Assistance Services**

You can obtain this information in alternate formats such as Braille, electronic format, etc. Free language assistance services are also available. Please email accessibility@bendoregon.gov or call 541-693-2198. Relay Users Dial 7-1-1. All requests are subject to vendor processing times and should be submitted 48-72 hours in advance of events.

Servicios de asistencia lingüística e información sobre alojamiento para personas con discapacidad

Puede obtener esta información en formatos alternativos como Braille, formato electrónico, etc. También disponemos de servicios gratuitos de asistencia lingüística. Póngase en contacto en correo electrónico accessibility@bendoregon.gov o número de teléfono 541-693-2198. Los usuarios del servicio de retransmisión deben marcar el 7-1-1. Por favor, envíe sus solicitudes con 48-72 horas de antelación al evento; todas las solicitudes están sujetas a los tiempos de procesamiento del proveedor.