Findings of the Veneta City Council

January 22, 2018

The Veneta City Council, acting as the Veneta Contract Review Board, finds, with regard to the question of adopting an exemption to Veneta’s standard contracting procedures so as to allow the use of a design-build solicitation process:

1. The City of Veneta will benefit from additional telecommunications access to the Internet and the major telecommunications carriers that provide access to the Internet and to such contemporary drivers of economic and cultural development as large scale electronic data transfers, storage and access. Advanced telecommunications services, especially the services tied to the Internet, are, in the twenty-first century, keys to business stability and growth and form an important part of advancing quality of life for residents of cities where such services are available. The greatest advantages come to cities where there is an opportunity for several competitive telecommunications providers to serve the community.

2. The closest point of access to these telecommunication systems is Eugene, where the City of Eugene, the Regional Fiber Consortium and the Lane Council of Governments have partnered with several private companies to provide reliable, open access to the systems Veneta desires make available to its residents and businesses.

3. To further the goal of improved connectivity, the City of Veneta has obtained funding from the State of Oregon, Oregon Business Development Department to support the design and construction of a fiber optic cable from the Eugene area to a centrally located point of presence in Veneta. The purpose of the project is to create an open access system, including a point of presence in Veneta, available to any service provider wishing to use the connectivity to provide competitive service with the City of Veneta. Providing an open access platform to multiple service providers should reduce costs and develop the most choices for Veneta businesses, giving them improved access to the business advantages that can come from access to the advanced services provided through modern telecommunications. Such advantages will help existing businesses grow and will provide a hospitable environment for new businesses.

4. Funding for this project is limited, so achieving a least cost solution to the problem is essential to project success.

5. The City of Veneta has worked with Lane Electric Coop, a private, non-profit electric utility. It is important that the selection of any contractor for the design and construction of the desired connection to Eugene include the ability to work closely with Lane
Electric. Companies with construction experience are often more knowledgeable about how to work with pole owners.

6. The design to install fiber optic cable from one specific site to another, in cooperation with the utilities that own and control the utility poles along the intended route, is a fact specific, detailed program involving assessment of the available space on a pole, the length of the span and other factors that often vary a great deal with each pole or collection of poles along the route. Working out such individual details is often better done by persons experienced in the installation of fiber optic cable.

7. Most experienced and capable contractors who install fiber optic cable have the knowledge and qualifications to design and install fiber optic cable in cooperation with capable engineers. In contrast to the larger range of experience among installation contractors, there are few engineers in the profession who have experience designing the installation of fiber optic cables, working with utilities in a cooperative partnership for the design and installation of fiber optic cable, or working with publicly financed and controlled projects without including close cooperation with a specific installation contractor. Including the selection of a construction contractor at the time the design team is selected will increase the opportunity for innovative design solutions and problem avoidance throughout the project. Offering the opportunity to combine design and construction is likely to attract the largest number of bidders, since this method of integrated design and construction is the most common approach to the installation of fiber optic systems.

8. Using experienced contractors who can work in cooperation with the participating utilities and qualified engineers to develop the most effective design is the process most likely to achieve project cost savings through value engineering.

9. Facilitating a cooperative system that integrates design and construction experience with experience in working on implementation questions with utilities to create a single point of responsibility will reduce the risk of design flaws, construction implementation conflicts and change orders.

10. Using experienced contractors who can work in cooperation with the participating utilities and qualified engineers to develop a design process that can most easily be implemented is the best way to move quickly toward completion of the construction phase of the project. The opportunity to combine design and construction may open opportunities for innovative partnerships between the City, Lane Electric Coop and the construction contractor that will reduce the cost to the City, and avoid the delays associated with having to seek additional funds for construction.

11. Using experienced contractors who can work in cooperation with the participating utilities and qualified engineers in design will insure the smooth implementation of the
installation process and traffic safety during installation, thus maximizing public safety during implementation. The reduced costs of a single mobilization and access during the design phase to contractors experienced in obtaining materials at reduced prices is anticipated to result in a substantial cost savings.

12. The Council anticipates that it will benefit from utilizing the Design-Build process by:

(A) Obtaining, through a Design-Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control, and required documentation as a fully integrated function with a single point of responsibility;

(B) Integrating value engineering suggestions into the design phase, as the construction contractor will join the project team early with design responsibilities under a team approach, with the potential of reducing contract changes;

(C) Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction contractors building from designs in which they have had no opportunity for input, with the potential of reducing contract claims;

(D) Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance work) commences prior to completion of a “Biddable” design, and where a design; and

(E) Obtaining innovative design solutions through the collaboration of the contractor and design team, which would not otherwise be possible if the contractor had not yet been selected.

13. It is unlikely that the exemption considered by these findings will encourage favoritism or substantially diminish competition because the RFP process will invite participation from multiple contractors who have experience with design-build contracts in partnership with design specialists statewide, and award will be made based upon identified selection criteria. This ensures: (1) reasonable competition; (2) the best contractor to complete the job for the City and the public; and (3) a cost-effective process for responding contractors. The solicitation will be advertised in accordance with the city of Veneta’s standard process, including statewide public notice and disclosure of the solicitation documents and process.

14. The public hearing regarding the consideration of and adoption of these draft findings has been properly advertised, including notice of the opportunity to review the draft findings and to testify at the public hearing. Any award of a design-build contract will be made in accordance with the identified selection criteria provided in the RFP solicitation. All procedures will include an opportunity to protest all aspects of the consideration and award process.
15. The proposed exemption has the potential to achieve substantial cost savings for the City through the involvement of the contractor in the design and construction phases of the Project. Early input by a contractor during the design process is expected to contribute to general cost savings through constructability assessments, life cycle cost analysis, value engineering, cost saving revisions, and result in fewer costly change orders.

a) Cost savings will also be realized because, through the RFP selection process, the City will select a well-organized, experienced design and construction professional. That expertise should also lead to fewer change orders and, in turn, reduce City and design staff time to design, negotiate, and administer any needed change orders.

b) The proposed exemption allows for earlier contractor procurement, allowing the Project to avoid cost increases due to material shortages or cost escalation. If subcontracted costs are less than identified in individual contract prices, some or all of the savings will be passed on to the City under the agreement required of contractor.

c) Further, only one solicitation will be required, avoiding a second formal competitive bidding process and associated costs of up to $5,000.

d) **Time Savings.** The proposed exemption allows the City to condense the overall time required to complete construction of the Project by enabling the City to contract for construction services simultaneously. Having a contractor on board early in the process allows for coordination in the development of the Project construction schedule and the initiation of early site work, where advantageous or warranted. This can help to shorten construction periods and minimize construction operational impacts. Early detection of potential construction difficulties, from a contractor’s view, can also prevent potential delays and costly and time consuming change orders.

16. For the above stated reasons, the Veneta Public Contracting Review Board finds that it is in the public interest to take an exception to the standard rules regarding the solicitation of design services and construction services and allow for a design-build solicitation for the project to construct a fiber optic cable system between Eugene and Veneta.