Sewer Plant Procurement Strategy and Additional DEQ Funds

Nick Ducote <ducoteconsulting@gmail.com> Tue, Nov 21, 2023 at 9:26 AM
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Heather, Dave, Casey, and Chris, I think it would be really helpful to have a Public Works Committee meeting soon because we really have some competing ideas for the best way forward. And I say that in the best way - we are finally ready to move forward, but after a week of research and further discussion, I think a Progressive Design-Build procurement may not be the quickest, easiest, or most cost beneficial.

Sufficiency of the 2019 Engineering Procurement

When I began working on the RFP that we all discussed at the last council meeting, I reviewed the 2019 Engineering procurement that led to hiring Flagline + Kennedy Jenks team. That Flagline + KJ team took the project over from Anderson-Perry.

In my non-lawyer opinion, the 2019 procurement selected the Flagline + KJ team to provide Preliminary Engineering (done), Final Design Engineering, *and* Construction Engineering. The RFP calls those categories out directly. I hear everyone on Council's pleas to *get this moving*, so I have been seriously weighing the alternatives here. I have discovered a few additional reasons to go with the typical Design-Bid-Build process after a review of the 2019 RFP and talking with the DEQ-CWSRF funding partners.

In discussion with Jim Pex at Flagline, he was preparing a scope of work for the Final Design work in the past (2021?) and told Nick Green that Flagline couldn't go forward with the Final Design work until there was a permit from DEQ. We have the permit from DEQ now. We have the Biological Assessment formally submitted. Jim says there's no reason why we can't proceed with Final Design *right now*. I don't see why we can't pick up the old Scope of Work for Final Design and have Flagline start working on it. All the existing and potential funding partners would prefer this approach, PLUS it gets us moving immediately.

Difference in PDB vs DBB

Progressive Design-Build (PDB) means we have a General Contractor + Engineering Design team that is procured in addition to an Owner's Rep team AND the Package Plant vendor.

Design-Bid-Build (DBB) would mean we have a Design Engineer that completes a 100% design prior to procuring a General Contractor. The Design Engineer puts together the construction bid documents. The package plant would be procured separately at 30% design.

New Information - DEQ-CWSRF

DEQ's Clean Water State Revolving Loan Funding program offers 1.5-1.75%, 30 year loans with up to $2,000,000 in grant. So that would be something like a $2m loan (terms above) + $2m grant. I will be submitting a Pre-Application for this funding December 8th. It's non-binding and only gets the City on the rating and ranking. It will take 9+ months to on-board the DEQ funding, but we don't need it right now anyway.

DEQ-CWSRF will **not** accept a Progressive Design-Build model. They only like Design-Bid-Build OR a CM/GC model. Business Oregon's CDBG program ($2.5m you already have) won't accept the CM/GC model. CDBG also doesn't like the Progressive Design-Build model, but will accept procuring the package treatment plant separate from the PDB contract.

All three of DEQ-CWSRF, USDA, and Business Oregon will accept Design-Bid-Build model - that is very typical. Business Oregons says there are no limitations on starting Final Design work with their funding right now.

Value Engineering/Second Set of Eyes

I think everyone agreed that we don't just want one engineering firm looking at this from the beginning to the end. That's why some folks, myself included, liked the concept of the Owner's Rep Engineering. Ultimately, we wanted the Owner's Rep to review and analyze the design work done by the Progressive Design-Build team of the General Contractor + Design Engineer.

Another way to structure the "second set of eyes" is to have a Value Engineer on the project. That would typically happen at 60% Design and you would hire another firm to come through and look for missing information, gaps, or poor designs. DEQ-CWSRF mandates this step for treatment works projects over $10m, so this would be mandatory with their funding.

Pros and Cons

Progressive Design-Build

Pros:

- General Contractor on-board can order some long lead time materials far in advance of the actual construction, allowing faster construction times.
- Will theoretically keep costs down by introducing synergy early in the project.
- Will speed up the project - once the teams are all in place.

Cons:

- Need an Owner's Rep to be procured prior to procuring the PDB team. Flagline could fit the role of an Owner's Rep without procurement.
- Long lead time to get this time in place and approved by all funders. USDA said they will take 3-5 months to review the RFP document *once we submit it* because we would be writing the procurement rules from scratch.
- DEQ-CWSRF funding will not allow this method.
- Higher administrative burden and cost to get the model up and running. There will be a lot of legal and consultant work on the front-end before anyone is even designing the plant.

Design-Bid-Build:

Pros:

- Could start Final Design immediately after BLJ reviews the 2019 procurement and we negotiate a Scope of Work, which is supposedly drafted by Flagline already.
- It's a universally accepted method of designing and constructing a public works utility. All funders accept it and we can still procure the package plant separately at 30% design.
- More predictable process to hand over to the new City Manager.
- USDA doesn't have to take 4-5 months reviewing this document and creating a brand new process.
- Final Design can happen concurrently with the remaining environmental approvals, we could potentially start Design work prior to the Q1 2024 pending negotiations.

Cons:

- Will not have a General Contractor on-board from early on in the project. This means materials cannot be ordered, although there may be some flexibility as a part of the package plant procurement.
- The back-end of the project in construction will take longer than a Progressive Design-Build, but the front-end of the Design-Bid-Build will be faster.

My recommendation: If BLJ believes the 2019 procurement allows Flagline to begin with Final Design Engineering, immediately begin scoping and contracting that work with Flagline. Switch gears to Design-Bid-Build and engineering work can start potentially in December or January. That detour is worth up to $2,000,000 in grants from DEQ. I think even the time potentially gained by the PDB is not worth $2,000,000.

Everyone have a great holiday!
-Nick

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