



TO: Board of Contracts and Awards
FROM: Kurtis D. Kingsolver, P.E., Public Works Director/City Engineer *KS*
Chris Storey, P.E., Project Manager, Public Works Engineering
COPY: City Council, City Manager, City Clerk, SBE Coordinator, LEAP Coordinator, and
Doreen Klaaskate, Finance/Purchasing
SUBJECT: Not Practicable to Bid - BNSF Railroad Inspection/Flagging Services for the
Puyallup River Bridge Project - January 15, 2019
DATE: December 26, 2018

RECOMMENDATION SUMMARY:

The Public Works Department requests a waiver of competitive procurement procedures and recommends that a contract be awarded to BNSF Railway Co, Seattle, WA, for railroad inspection/flagging services in support of the Puyallup River Bridge project, in the amount of \$696,213.00, plus any applicable taxes.

STRATEGIC POLICY PRIORITY:

- Strengthen and support a safe city with healthy residents.
- Assure outstanding stewardship of the natural and built environment.

The railroad inspection/flagging contract will support the current construction project replacing a portion of the Puyallup River Bridge. The new structure will provide four lanes of vehicle traffic, bike lanes and sidewalks.

BACKGROUND:

The Puyallup River Bridge was constructed in 1927, and has reached the end of its useful life. Following an inspection in 2009, the bridge was restricted to prohibit loaded tractor-trailers. Further deterioration was discovered in a 2014 inspection and the bridge is now weight restricted to 10 tons, prohibiting most emergency vehicles, tractor-trailers and buses.

An effort to fund replacement of the bridge started in 2006 and, by 2013, \$38.8 million in grant and local funds were amassed to replace approximately 200 feet of the 600-foot long structure. The bridge is made up of six bridge segments and the current project will replace two segments and part of a third. This complex project requires construction elements accommodating the Puyallup Tribe of Indians (Puyallup Tribe), Burlington Northern Santa Fe Railway (BNSF), Union Pacific Railroad and various utilities.

The project stalled for several years to resolve right-of-way issues with the Puyallup Tribe. An agreement was reached in 2015. Project delays jeopardized \$27 million in federal grant funds. Discussions with the Washington State Department of Transportation and Federal Highway Administration concluded that a Design-Build delivery method was needed to secure the federal funding package prior to the end of 2016.

The Puyallup River Bridge spans BNSF's railroad tracks and property. The Overpass Agreement with BNSF requires inspection/flagging services any time work occurs on or over their property to protect critical infrastructure and train movements through the project site.



ISSUE: The project is currently under construction and progressing towards completion in early summer 2019. This contract provides the required BNSF inspection/flagging services necessary to complete the project.

ALTERNATIVES: The project is constructing a bridge over BNSF railroad tracks and there is not a viable alternative to utilizing BNSF inspection/flagging services.

COMPETITIVE ANALYSIS:

Waiver of competitive bidding is requested due to these services being not practicable to bid. BNSF property is under their sole jurisdiction and the City does not have authorization to select other suppliers to complete the work. As part of the property rights acquired to access BNSF property to reconstruct the Puyallup River Bridge, BNSF requires the project to utilize their inspection/flagging services to control and protect train movements through the work zone. As all design options required the bridge to cross over the BNSF mainline, there was no ability to conduct a competitive award for the work.

CONTRACT HISTORY: New contract.

SUSTAINABILITY: The final bridge design selected for construction was evaluated on many factors including life cycle cost and maintenance issues. Other factors considered in the final selection included cost, aesthetic and length of road closure.

SBE/LEAP COMPLIANCE: Not applicable.

DISADVANTAGED BUSINESS ENTERPRISE: Not applicable.



FISCAL IMPACT:

EXPENDITURES:

FUND NUMBER & FUND NAME *	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
Transportation Capital Fund (1060)	PWK-00274-05-02	53310100	\$696,213.00
TOTAL			\$696,213.00

* General Fund: Include Department

REVENUES:

FUNDING SOURCE	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
FHWA STP Grant	PWK-00274-FS-AD-04	4333240	\$605,705.31
FMSIB Grant	PWK-00274-FS-AD-04	4332270	\$ 90,507.69
TOTAL			\$696,213.00

FISCAL IMPACT TO CURRENT BIENNIAL BUDGET: \$696,213.00

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? Yes

IF EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED. N/A



City of Tacoma

Date: November 28, 2018

To: Patsy Best, Procurement and Payables Division Manager

From: Chris Storey
Public Works Engineering

Subject: Waiver of Competitive Solicitation Request
 Sole Source Purchase – TMC 1.06.257.A
 Not Practicable to Bid – TMC 1.06.257.B
Agreement between BNSF and COT for inspection and flagging services for the Puyallup River Bridge Project

For your review and recommendation.

Public Works Engineering requests a waiver of the competitive solicitation process for railroad inspection and flagging services. The vendor is **BNSF Railway Co, Seattle, WA.**

“Follow-on” Contracts:

Is this purchase based on a previous competitive solicitation conducted by the City or other agency? If yes, provide the contract information, specification number, etc., and explain the relationship of this request to the previous contract.

N/A

Waiver Criteria:

1. Is there only one feasible supplier of the product or service in the marketplace? Yes
If “yes”, such certification should be from the manufacturer (not the authorized distributor) and attached. The certification should describe what the product or service is and the relationship between the manufacturer and authorized distributor.

If No , briefly explain.

While there are other suppliers able to perform inspection and flagging services, work on BNSF property is under their sole jurisdiction and City does not have authorization to select other suppliers to complete the work.

2. Support your contention that it would be futile to advertise and competitively bid the product/service.

BNSF requires the City to use their inspection and flagging services when working on or over their tracks. BNSF has sole jurisdiction.

3. Describe the screening efforts made to identify potential suppliers.

Potential suppliers have been identified from prior work and references that could complete the work. However, BNSF will not allow these suppliers to work on their property.

4. Describe any technical or unique product/service attributes that prevent drafting specifications for a competitive solicitation to which more than one supplier could successfully respond.

The project is rebuilding a bridge that goes over the BNSF tracks. More than one supplier could respond to a competitive solicitation. However, BNSF will not allow these suppliers to work on their property.

5. Reference the example line item in the Purchasing Policy that best fits this request.

XXI.C.1.d. Vendor selection is not controlled by the City, e.g., where a property association, of which the City is a member, has selected a specific contractor to perform a service.

6. Describe the efforts made to assure that the City is receiving the lowest or best price possible.

The City has worked with BNSF to ensure a fair and reasonable price is being paid for the requested services.

7. Is this a one-time purchase? Yes No Total amount: \$\$696,213.00, plus applicable sales tax.

If "no," estimated total dollar amount over contract term as allowed per waiver of competitive solicitation procedure: \$_____, plus applicable sales tax

8. Waiver includes freight and authorization for up to 10 percent contingency where a good faith estimate is provided. Any increase beyond the 10 percent contingency requires authorization.

The total amount authorized including contingency shall not exceed \$200,000 without approval by the Public Utility Board or City Council, as appropriate.

9. **Other supporting documentation attached?** Yes No

10. Funds for this purchase are available in the Transportation Capital Fund (1060).

11. **PROJECT COORDINATOR:** Chris Storey, 253-573-2484

Buyer Justification Notes: