

The system upgrade is underway. Construction work on the first phase of the Bow Lake Recycling and Transfer Station has been completed, and the new station is open to the public for waste transfer services.

The Factoria Transfer Station has been identified by the Solid Waste Division as the next station for upgrade. A facility master plan for the project was completed and adopted by the Council in 2011. According to the Facility Master Plan, the rebuilt facility will include a new recycling collection area, more efficient household hazardous waste collection, an enclosed transfer building with adequate roof clearance that will minimize noise, dust and odors, a garbage compactor, reduced customer wait times, and sustainable building design features.

Next steps include contracting for detailed architectural design and facility construction and financing. The Executive has transmitted legislation seeking Council approval of an alternative procurement process, intended to provide the Solid Waste Division with greater flexibility in identifying and qualifying prospective contractors for the design and construction work.

“Negotiated Procurement” process

The Executive is seeking authorization for a process referred to as “Negotiated Procurement”, as authorized in state law¹. The transmittal letter notes that, compared to the standard “Design/Bid/Build” process, the Negotiated Procurement approach “allows the County to select the general contractor that provides the best value to the County. This process also allows coordination between the general contractor, designer and the division prior to award of the construction contract, providing more cost certainty and less schedule risk”. RCW 36.58.090, notably, provides a key role for the legislative authority in the contracting process. Key elements of that process are summarized below:

- Legislative Authority may contract with one or more vendors for one or more phase(s) of the design, construction or operation of “solid waste handling systems”.
- County publishes notice of requirements and criteria for selection of vendors, and requests submission of qualifications statements or proposals.
- Legislative authority may designate representative to evaluate vendors.
- Legislative authority or representative may request submission of qualifications statements, and may later request more detailed proposals from one or more vendors who have submitted qualifications statements, or representative may request detailed proposals.
 - Representative evaluates qualifications or proposals.
 - Discussions and interviews held; if two or more vendors submit qualifying proposals or qualifications, discussions to be held with at least two vendors.
 - Representative recommends vendor or vendors determined to be best qualified to legislative authority.

¹ RCW 36.58.090 Contracts with vendors for solid waste handling systems, plants, sites, or facilities — Requirements — Vendor selection procedures.

- Legislative authority selects one or more qualified vendors for design, construction and/or operation of facility.
- Legislative authority or representative seeks to negotiate contract with selected vendors.
- Before signing contract, legislative authority holds public hearing, makes written findings that it is in the public interest to enter into the contract, that the contract is financially sound, and that this contracting method is advantageous for the county.

Strengths/Weaknesses of Negotiated Procurement

The Negotiated Procurement model is recommended by the Executive for the greater flexibility it offers over the Design/Bid/Build process. The model appears to have a number of advantages over Design/Bid/Build;

- Potential contractors can participate in part of, or all of the design/build project, allowing the potential for greater coordination between the design process and the construction process;
- The process allows for “discussions” with prospective contractors before entering a contract, to establish a clear understanding of project expectations and parameters;
- The presence of a number of factors that increase the complexity of the project can be mitigated somewhat through early and full communications between the prospective contractors and the county;
- The selection of the vendor is based on the “best qualified” vendor, rather than solely on low bid;
- The Solid Waste Division has had experience with this process through the Bow Lake project, and reports a favorable experience.

Concerns about the Negotiated Procurement Process include the following:

- This appears to be a unique process in county government; other than the Bow Lake project, there is no history with the process, leaving limited ability to compare “negotiated procurement” with others that have a more extensive history;
- The process is authorized by state law specifically for solid waste projects, though it’s not clear that such projects are so unique in their features or design parameters that they cannot be appropriately procured through other alternative procurement models;
- The authorizing statutory language includes a section that raises the question as to whether the Legislature intended it to apply to transfer stations;
- The alternative selection process ... may not be used in the selection of a person or entity to construct a publicly owned facility for ... transfer of solid waste ... unless the facility is ... (b) an integral part of a solid waste processing facility located on the same site.

While there is no definition provided for the term “solid waste processing facility”, it is reasonable to assume that such a facility would provide a fuller, rather than a more limited, range of services. It is noted that the Executive has, as part of the 2012 budget process, recommended a more limited recycling services role for transfer stations, noting that such function duplicates the curbside recycling function, and that

include Council selection of a vendor or vendors, written findings by the Council that the contract is in the public interest, is sound, and the method is advantageous. The Council would also be required to find that the performance bond is sufficient.

ANALYSIS

The issue of the Council's role in the negotiated procurement process raises a point of potential concern. The statute, as described above, gives the Council a central function in the procurement process, which is essentially an executive function. Close involvement with the procurement function can impact the oversight function of the Council should there be issues with project performance.

Recent reviews by the County Auditor's office of capital projects generally, and of the solid waste capital plan particularly, emphasize the need for systematic review of alternative procurement options available to the Solid Waste Division in contracting for the design and construction of solid waste transfer facilities. Participation by the Facilities Management Division in that review, to provide the benefit of experience with the range of potential alternative procurement possibilities, should be a key element in the review process. Staff is seeking to clarify the extent and completeness of agency review of alternative procurement options.

REASONABLENESS

Staff is currently awaiting completion of legal review of this matter, and is seeking additional information related to the Executive's review of other alternatives, consistent with the recommendation of the Auditor. In that light, it is appropriate to provide background for committee consideration, but staff review has not been completed based on outstanding information requests.

It is not yet clear the extent of the review of alternative procurement methodologies that has been undertaken by the Executive. If the review is short of that recommended by the Auditor for full consideration of alternatives, Council may wish to consider providing direction to undertake a broader review, with particular attention to the following criteria:

- A procurement method which has a record of projects completed on time, or has a record of demonstrating early completion
- A procurement method which has a record of projects completed within projected costs, or has a record of cost savings

This item is not yet ready for Committee action.

ATTACHMENTS

1. Proposed Ordinance 2012-0247, with Attachments
 - a. Selection Criteria—Factoria Recycling and Transfer Station
2. Transmittal Letter
3. Fiscal Note



Signature Report

July 26, 2012

Ordinance

Proposed No. 2012-0247.1

Sponsors Hague

1 AN ORDINANCE authorizing the solid waste division of
2 the department of natural resources and parks, to use the
3 competitive negotiation procedures set forth in RCW
4 36.58.090 to procure vendors for construction of the new
5 Factoria Recycling and Transfer Station.

6 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

7 SECTION 1. Findings.

8 A. The King County council adopted the Final 2001 Comprehensive Solid Waste
9 Management Plan ("the plan") by Ordinance 14236 on April 16, 2001. The plan set forth
10 goals and policies intended to guide the county in providing solid waste transfer and
11 recycling programs and services in that portion of King County for which the county has
12 solid waste planning authority. One of the recommendations in the plan was for the
13 county to take necessary steps to upgrade and expand the county's existing transfer
14 station system to continue to meet regional demands for efficiency, capacity and service.

15 B. Consistent with the plan, the King County council approved the 2010 Facility
16 Master Plan for the Factoria Transfer and Recycling Station ("FMP") by Motion 13455
17 on April 11, 2011. The FMP provided a blueprint for replacing the existing Factoria
18 Transfer Station ("existing station") with a new station at the same location to provide
19 increased capacity and enhanced solid waste handling and processing services for the

20 residents of King County. The new station, to be called the Factoria Recycling and
21 Transfer Station ("new station"), will shift the focus of the station's operation from solid
22 waste transfer facility only to a facility that will process, recycle and transfer waste and
23 recyclable materials.

24 C. Construction of the new station and deconstruction of the existing station
25 require complex construction, scheduling and contractor/subcontractor coordination and
26 staging activities. The division's goal is to keep the existing station open during
27 construction of the new station. Minimal contractor interference with, or interruption of,
28 operation of the existing station is a required element of this project.

29 D. The solid waste division and its consultants evaluated traditional and
30 alternative construction procurement processes and have concluded that it is in the public
31 interest to procure construction services for the new station using the competitive
32 negotiation procedures in RCW 36.58.090. The evaluation determined that procuring a
33 contracting team offering the best combination of qualifications, performance, experience
34 and price, rather than awarding a contract based solely on the low bid or cost in selecting
35 sources of supplies and services, will minimize construction risks and associated impacts
36 and risk of delays. This competitive negotiation procedure fosters scheduling and —
37 coordination efficiencies by allowing opportunities for contractor input and discussion
38 with the county regarding design intent and constructability of the project before award
39 of a contract. These procedures, which have been used successfully in the past, will
40 allow the county to better achieve its goal of selecting a qualified team to construct the
41 new station on time and within budget. —

42 E. RCW 36.58.090(10) authorizes counties to use the competitive negotiation
43 procedures for construction of publicly owned and operated solid waste transfer facilities
44 only where they are "an integral part of a solid waste processing facility located on the
45 same site." The new station will be an integrated processing and transfer facility. It will
46 provide for the handling of source-separated wastes, separation of commingled wastes,
47 volume reduction by compaction, baling or both, and transfer of recyclable materials and
48 solid waste to other facilities.

49 F. The county advertised within the contractor/subcontractor community in
50 August 2011 to explain the project and to solicit comments on its plan to use the
51 competitive negotiation procedures to construct the new station. No comments were
52 received regarding the county's proposed use of the competitive negotiation procedures
53 for this project.

54 SECTION 2. The King County council determines that construction of the new
55 station may be procured utilizing the competitive negotiation procedures in RCW
56 36.58.090. The King County executive, through the solid waste division of the
57 department of natural resources and parks, is authorized to evaluate the vendors based on
58 approved evaluation criteria. Upon completion of this evaluation process, the King
59 County executive will make a recommendation of the most qualified vendor or vendors
60 to the King County council.

61 SECTION 3. The King County council approves use of the evaluation criteria
62

63 included in Attachment A to this ordinance to be used for review of competitive
64 proposals to construct the new station.

65

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Selection Criteria-Factoria Recycling & Transfer Station Construction Contract April 2012

SELECTION CRITERIA
Factoria Recycling & Transfer Station Construction Contract
April 2012

2012-247

- A. Specialized Experience and Technical Competence**
King County will evaluate the specialized experience of the proposer's project team members.
- B. Record of past performance**
King County will evaluate proposer's experience and record on projects of similar scope and complexity.
- C. Financial Resources**
King County will evaluate the proposer's financial abilities to perform the project.
- D. Current and Projected Work Load for Proposer's Key Personnel**
King County will evaluate the current and projected work load of the proposer's key personnel and its major subcontractor's key personnel, to demonstrate their ability to perform work on the project in a complete and timely manner.
- E. Safety Program**
King County will evaluate the proposer's ability to maintain a safe working environment for the project.
- F. Environmental Protection and Mitigation**
King County will evaluate the proposer's environmental protection and mitigation approach for the project.
- G. Staging**
The proposer must demonstrate how and where it will stage materials, equipment and employee parking for the project.
- H. Approach to Quality Assurance and Quality Control (QA/QC)**
King County will evaluate the proposer's approach to QA/QC with respect to the construction and post construction of the project.
- I. Proposer's Approach to Construction**
King County will evaluate the proposer's approach to construction and how the proposed approach meets requirements as described in the Request for Proposal (RFP).
- J. Project Schedule**
King County will evaluate the proposer's ability to construct and complete the project in a timely manner in accordance with the requirements set forth within the RFP documents.
- K. Coordination of Activities During On-going Facility Operations**
King County will evaluate the proposer's approach to coordination of construction activities with on-going transfer station operations.
- L. Contract Closeout and Warranty Administration**
King County will evaluate the proposer's approach to performing contract closeout and warranty administration.
- M. Small Contractors and Suppliers (SCS) and Outreach Plan**
Achievement of the SCS commitment revolves around the development and implementation of an effective subcontracting plan and community outreach/participation plan and a proactive approach to maximizing opportunities for certified SCS firms.



King County

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Attachment 2

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CLERK
KING COUNTY COUNCIL

2012-247

June 22, 2012

The Honorable Larry Gossett
Chair, King County Council
Room 1200
COURTHOUSE

Dear Councilmember Gossett:

This letter transmits an ordinance that will enable King County to maximize ratepayer value on the construction of the new Factoria Recycling and Transfer Station (“new station”) in Bellevue by authorizing an alternative contractor selection process.

The Solid Waste Division of the Department of Natural Resource and Parks (“the division”) is replacing the existing Factoria Transfer Station with a new station to be constructed on the existing site and adjacent property. RCW 36.58.090 authorizes use of an alternative vendor selection process that includes competitive negotiation with contractors for design, construction or operation of solid waste handling facilities.

The benefit of using of this contracting method for construction of the new station is that it allows the County to select the general contractor that provides the best value to the County. This process also allows coordination between the general contractor, designer and the division prior to award of the construction contract, providing more cost certainty and less schedule risk. Use of the alternative vendor selection process was approved by the King County Council for the Bow Lake Recycling and Transfer Station construction project by Ordinance 16247, and the new Bow Lake facility is on schedule and within budget.

Using the alternative vendor selection process for construction of the new station will meet King County’s Strategic Plan goal of financial stewardship through the exercise of sound financial management. Ultimately, construction of the new station will assist in meeting goals to deliver services responsive to community needs, protect public health, and safeguard King County’s natural resources and environment.

The existing Factoria Transfer Station, which was constructed in the mid-1960s, is at the end of its useful life. The new station will include construction of a 53,000-square-foot transfer and waste processing building, a household hazardous waste collection facility, administration offices, a trailer parking yard, concrete and asphalt paving and site utilities. The existing scale facility will be upgraded and other buildings on the property will be

The Honorable Larry Gossett
June 22, 2012
Page 2

deconstructed. The existing station will remain open to the public during construction of the new building.


A request for qualifications and proposals for this contract is scheduled to be advertised in September 2012. The construction cost for this project is estimated at \$45 million dollars. As with the recently constructed Shoreline Recycling and Transfer Station and the soon to be completed Bow Lake Recycling and Transfer Station, the division will seek Leadership in Energy and Environmental Design (LEED) certification for this new station.

Stakeholders, including the City of Bellevue, project neighbors, and commercial haulers have been involved in the planning and design stages of this project through periodic meetings, open houses and other community outreach efforts.

Thank you for your consideration of this ordinance. This important legislation will give King County the best opportunity to complete the project in a timely and cost-effective manner, and provide King County residents with the best value for the project.

If you have any questions, please feel free to contact Kevin Kiernan, Division Director of the Solid Waste Division of the Department of Natural Resources and Parks, at 206-296-4385.

Sincerely,



Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers
 ATTN: Michael Woywod, Chief of Staff
 Mark Melroy, Senior Principal Legislative Analyst, BFM Committee
 Anne Noris, Clerk of the Council
Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, King County
 Executive Office
Dwight Dively, Director, Office of Performance, Strategy and Budget
Christie True, Director, Department of Natural Resources and Parks (DNRP)
Kevin Kiernan, Division Director, Solid Waste Division, DNRP

Attachment 3

FISCAL NOTE

Ordinance/Motion No. 2012-XXXX
 Title: Factoria Recycling and Transfer Station Project: Alternative Vendor Selection Process
 Affected Agency and/or Agencies: Solid Waste Division, Department of Natural Resources and Parks
 Note Prepared By: Lisa Youngren, Business and Finance Officer III
 Note Reviewed By: Ann Berrysmith, Finance and Administration Manager

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue:

Fund/Agency	Fund Code	Revenue Source	2012	2013	2014	2015
SWD Construction (CIP)	3901		0	0	0	0
TOTAL			0	0	0	0

Expenditures:

Fund/Agency	Fund Code	Department Code	2012	2013	2014	2015
SWD Construction (CIP)	3901	C90101	81,599	163,198	0	0
TOTAL			81,599	163,198	0	0

Expenditures by Category

	2012	2013	2014	2015
Salaries & Benefits	81,599	163,198	0	0
Supplies and Services				
Capital Outlay				
Other				
TOTAL	81,599	163,198	0	0

Assumptions:

No additional budget authority is needed or requested. This proposal assumes the use of the alternative procurement process to select a contractor for the construction of the Factoria Recycling and Transfer Station. It assumes that the method outlined in RCW 30.58.090 will be utilized to procure the services of a construction contractor.

Revenues: No impact or change.

Expenditures: Estimates are based on hours required of three engineers.

