National Association of Surety Bond Producers
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BY ELECTRONIC TRANSMISSION (bsnell@gcpud.org)

August 13, 2015

Betty Snell, Procurement Officer
Public Utility District No. 2 of Grant County, Washington
P.O. Box D4
14352 Highway 243 S
Beverly, WA 99321

Re: Wanapum Dam Spillway Gate Painting and Trunnion Rehabilitation
Contract No.: 330-4018
Bid Opening: August 25, 2015

Dear Ms. Snell:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of agencies employing surety bond producers, including licensed resident and nonresident producers placing bonds in the State of Washington and in other jurisdictions, I am contacting you regarding the new requirement on the Wanapum Dam Spillway Gate Painting and Trunnion Rehabilitation project (Project) for a separate Indemnity Bond for Liquidated Damages in the amount of $500,000 for failure to provide performance and payment bonds on an awarded milestone work order. This new requirement has just come to our attention, prompting us to express our concerns to you.

It is our understanding that this new requirement was intended to mitigate the concerns about the prior requirement wherein the scope of the Project was 7 years and any failure to provide a subsequent milestone bond would be a default under the prior bond. The separate Indemnity Bond for Liquidated Damages (Indemnity Bond) does not really address the original issue, as any failure to provide a subsequent milestone bond would still be a default under the Indemnity Bond, which is not an attractive obligation for the surety.

This new Indemnity Bond requirement is not the industry standard and will likely have a stifling effect on contractor competition for the Project. There is still a substantial and unreasonable risk to contractors and sureties that might wish to bond them. A surety extends surety credit to those construction firms that the surety deems to possess the requisite experience, equipment, management capabilities, and financial wherewithal to perform the undertaken contract obligations successfully. As part of its assessment, the surety evaluates the risks presented in the contract obligations and ascertains if such risks are within the control and means of the construction firm. The Indemnity Bond presents unreasonable and excessive liquidated damages, and sureties will be reluctant to issue it, even to the largest construction firms.

NASBP respectfully recommends that the County eliminate the Indemnity Bond requirement, which will allow the County to receive more qualified bidders and a more competitive price.

I appreciate your consideration of NASBP's concerns, and I would be happy to answer any questions you may have.

Yours sincerely,

Martha L. Perkins

Martha L. Perkins
General Counsel

cc: Mark H. McCallum, CEO