

ORDINANCE NO. 183913

Authorize an exemption to the competitive bidding process to Procurement Services pursuant to ORS 279C and PCC 5.34 and provide payment for construction of the Kelly Butte Reservoir Project (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland Water Bureau (PWB) requires the construction of a 25 million gallon (MG) water reservoir at Kelly Butte as part of the PWB's long range plan to provide adequate in-town terminal storage facilities and to replace uncovered finished water storage that will be disconnected at Mt. Tabor as a result of complying with the Environmental Protection Agency's (EPA) "Long Term 2 Enhanced Surface Water Treatment Rule" (LT2).
2. Work includes the construction and installation of a buried 25 MG reservoir. This reservoir will increase the storage capacity in the water system and allow the Water Bureau to continue providing quality potable water to its 800,000 customers.
3. The project will require specialized skills and experience in reservoir construction methodology, sequencing, scheduling, and cost estimating. The construction of Kelly Butte Reservoir will require a highly specialized and qualified contractor in order to meet the tight project schedule and technical site constraints. The work will require massive cuts into a hillside with steep slopes. A large portion of the project site lies within an environmental protection zone that will require minimal disturbance during construction activities. Due to the large excavations and the steep slopes, erosion control will be critical. An alternative contracting method utilizing a Construction Manager/General Contractor (CM/GC) will allow the Water Bureau to maintain a higher level of security, confidentiality, and system operations.
4. The Portland Water Bureau proposes to use an alternative contracting method in order to enable a CM/GC to provide input during the design process for value engineering, constructability review and to assist in developing a construction phasing plan. Use of an alternative contracting method is more likely to minimize costs and construction impacts and ensuring continuous delivery of high quality water.
5. The City Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279C.
6. Findings addressing competition, operational, budget and financial data, public benefits, value engineering, specialized expertise required, market conditions, technical complexity, public safety, and funding sources recommended by the Water Bureau were available 14 days in advance of the public hearing of this ordinance.

7. The City will invite prospective contractors to submit proposals in response to the City's Request for Proposals (RFP). This will be a one-step RFP process. The Selection Committee will select the CM/GC based on an evaluation of the proposals. The selection committee will include staff from the Water Bureau, and others from the community, including a minority evaluator(s) as required per Resolution 36757. The selection process will be completed under the guidance and direction of Procurement Services.
8. The exemption of the Kelly Butte Reservoir Project from the requirements of competitive bidding under ORS Chapter 279C is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because the contract will be awarded using a competitive RFP process. In addition, the award will result in cost savings to the public because the CM/GC will be integrated into the design team for value engineering, constructability review, and assistance in developing a construction phasing plan. The early integration will greatly reduce the chances of redesign and change orders. Developing a well-coordinated project schedule, and ensuring continuous delivery of potable water is a significant advantage to the CM/GC process. An extensive discussion of the CM/GC procurement method is noted in the Factual Findings, Exhibit A.
9. The Engineer's estimate for construction costs is \$70,000,000 with a Low Confidence Level Rating. Funding for a portion of this project has been requested in the Water Bureau proposed FY 2010-11 Budget and additional funding will be requested in the FY 2011-12, FY 2012-13, FY 2013-14, and FY 2014-15 Budgets.

NOW, THEREFORE, the Council directs:

- a. The Findings attached as Exhibit A to the original of this Ordinance, are hereby adopted.
- b. The Kelly Butte Reservoir Project is hereby exempt from the competitive low bidding requirements of ORS Chapter 279.
- c. The Chief Procurement Officer is authorized to use a competitive Request for Proposal process to select a CM/GC contractor for the Project and, upon selection of a CM/GC, authorized to execute a contract for CM/GC services during design of the Project.
- d. Upon Council's acceptance of the Chief Procurement Officer's report for recommending the acceptance of the Guaranteed Maximum Price from the CM/GC for the Project and the passage of an ordinance approving the award as provided in PCC 5.33.040(4), the Chief Procurement Officer is authorized to execute a contract for construction of the Project.
- e. The Mayor is authorized to draw and issue checks chargeable to Water Fund Account 602000, Project Number W01424, when demand is presented and approved by the proper authorities.

- f. As required by ORS 279C.355 and PCC 5.34.820C, the Portland Water Bureau will prepare and deliver a post project evaluation to the Chief Procurement Officer on behalf of City Council, within 30 days of the date the City accepts the project.

Passed by the Council, JUN 16 2010

Mayor Adams
Prepared by: Teresa Elliott/Michael Perrie
Date Prepared: May 20, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By

Susan Parsons
Deputy

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Agenda No.
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Title

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INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS <i>CC. Williamson on behalf of Mayor Adams</i>	CLERK USE: DATE FILED <u>JUN 04 2010</u>
COMMISSIONER APPROVAL	LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Adams	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	By: <i>[Signature]</i>
Position 3/Affairs - Saltzman	Deputy
Position 4/Safety - Leonard	
BUREAU APPROVAL	ACTION TAKEN:
Bureau: Procurement Services Bureau Head: Christine Moody <i>CM</i>	JUN 09 2010 PASSED TO SECOND READING JUN 16 2010 9:30 A.M.
Prepared by: Michael Perrie Date Prepared: May 20, 2010	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date June 9, 2010	
City Attorney Approval	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 10 minutes (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz ✓	
2. Fish	2. Fish ✓	
3. Saltzman	3. Saltzman _____	
4. Leonard	4. Leonard ✓	
Adams	Adams ✓	