

## ORDINANCE No. 188630

Approve findings to authorize an exemption to the competitive bidding requirements and authorize the use of the alternative contracting method of Construction Manager/General Contractor in connection with the Columbia Boulevard Wastewater Treatment Plant Secondary Treatment Expansion Program for an estimated amount of \$89,000,000 (Ordinance)

The City of Portland ordains:

### Section 1. The Council finds:

1. The City of Portland Bureau of Environmental Services (“BES” or “Bureau”) owns and operates the Columbia Boulevard Wastewater Treatment Plant (“CBWTP”); which protects public health, safety, and the environment by treating sanitary sewage and stormwater from the City of Portland in accordance with a discharge permit issued by the Oregon State Department of Environmental Quality (DEQ).
2. The CBWTP was initially constructed in 1952 with secondary treatment facilities added in the early 1970’s.
3. BES entered into a Mutual Agreement and Order (MAO) with the DEQ on May 25, 2011, which required increased treatment of captured combined sewer overflows at the CBWTP and analysis to determine the need for additional treatment through the secondary treatment process. The Bureau has complied with all the stipulated conditions of the MAO to date.
4. In December 2016, BES submitted an updated Facilities Plan and No Feasible Alternative Analysis for approval of CSO-related Bypass, which evaluated costs and benefits of feasible alternatives to further expand secondary treatment facilities. The plan and analysis studies recommended the addition of secondary clarification facilities to increase the capacity and resiliency of secondary treatment, particularly during peak wet weather events.
5. The proposed plan to expand secondary treatment capacity saves \$25,000,000 to \$31,000,000 in capital costs compared to previous estimates, in addition to providing long term operational savings by maintaining treatment facilities on the main campus site.
6. The secondary treatment capacity expansion recommendations were approved by the DEQ in March 2017. The mandated completion date for secondary treatment expansion facilities is December 31, 2024.
7. The project scope of work includes the addition of two new secondary clarifiers adjacent to the existing secondary clarification facilities. Construction will require demolition of decommissioned facilities as well as replacement of aging facilities in the construction area.
8. To minimize constructability and scheduling risks, the Bureau is combining previously identified CIP projects that are either co-located or operationally impacted with the Secondary Treatment Expansion Project, identifying the suite of projects the CBWTP Secondary Treatment Expansion Program (“Project”).

9. The Project will require specialized skills and experience in construction methodology, sequencing, scheduling, and cost estimating to successfully integrate the new facilities with the existing CBWTP facilities.
10. Procurement Services and BES recommend to use the alternative contracting method of CM/GC for the Project to:
  - a. Allow BES to select a contractor with the experience and qualifications necessary to coordinate and perform complex wastewater treatment facility construction and with demonstrated expertise in participating in a collaborative design process.
  - b. Provide input during the design process, including on the construction packaging and construction sequencing which will minimize operational risks and scheduling delays in order to meet the mandated completion date;
  - c. Provide input on large equipment costs and procurement timelines which can inform design decisions and/or be incorporated into the overall project schedule;
  - d. Provide continuous value engineering to ensure cost containment;
  - e. Provide constructability reviews that will assist in developing a construction phasing plan that allows for continuous operation of existing facilities during construction;
  - f. Provide opportunities for disadvantaged, minority-owned, women-owned, emerging, or disadvantaged businesses in the contracting community.
  - g. Ensure the delivery of a high quality CBWTP improvements with better life cycle costs.
11. The Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279C and Portland City Code 5.34.
12. The City will invite prospective contractors to submit competitive proposals in response to the City's Request for Proposals ("RFP"), which will include a preliminary Request for Qualifications (RFQ) step. The Selection Committee will select the CM/GC Contractor based on an evaluation of the proposals. The selection committee will include staff from BES and others from the community, including minority evaluator(s) as required per Resolution 36757. The RFP process will be completed under the guidance and direction of Procurement Services and in accordance with Alternative Contracting Methods requirements set forth in Portland City Code 5.34.
13. Draft findings addressing favoritism, competition, substantial cost savings, operations, budget and financial data, public benefits, value engineering, specialized expertise required, public safety, market conditions, technical complexity, and funding sources recommended by the City, substantially in the form attached hereto as Exhibit A (collectively, the "Findings"), were made available and a notice of the public hearing of this Ordinance was published fourteen (14) days in advance of this public hearing.
14. Based on the Findings, the exemption of the Project from the competitive bidding requirements of ORS 279C is: (i) unlikely to encourage favoritism or to diminish competition for public contracts because the contract will be awarded using a competitive solicitation process; and (ii) likely to result in substantial cost savings to the City because the CM/GC contractor will be integrated into the design team for value engineering, constructability review, and assistance in developing a construction phasing plan. Such early integration greatly reduces the chances of redesign, change orders and cost overruns.
15. The estimated Construction Contract cost is \$89,000,000, following AACE Class 5 cost estimating methods, with estimated ranges between -50% to +100. The estimated total Project

cost is \$146,000,000, including construction, design services, bonding, project management/staff costs, construction management, and other direct costs and contingencies. The Project Estimate Confidence Level Rating Index, per Binding City Policy BCP-ADM-1.13, is Low.

NOW, THEREFORE, the Council directs:

- a. Council hereby approves the Findings, as attached as Exhibit A, and on that basis exempts the Columbia Boulevard Wastewater Treatment Plant Secondary Treatment Expansion Project from the competitive bidding requirements of ORS 279C.
- b. The Chief Procurement Officer is authorized to use an alternative competitive solicitation process to select a CM/GC contractor for the Project and, upon selection of a CM/GC, is authorized to execute a contract for CM/GC pre-construction services during design phase of the Project, provided the contract has been approved as to form by the City Attorney.
- c. Upon Council's acceptance of the Chief Procurement Officer's report for recommending the acceptance of one or more Guaranteed Maximum Price(s) from the CM/GC for the Project, the Chief Procurement Officer is authorized to execute one or more contracts for construction of the Project, provided each contract has been approved as to form by the City Attorney.
- d. The Commissioner in Charge of Public Works and Auditor are hereby authorized to draw and deliver checks chargeable to BES when demand is presented and approved by the proper authorities.
- e. As required by ORS 279C.355 and PCC 5.34.820C, BES will prepare and deliver a post project evaluation to the Council on behalf of the Chief Procurement Officer, once the City accepts the Project as complete.

Passed by the Council,  
Commissioner Nick Fish

OCT 04 2017

Prepared by: Larry Pelatt:mch  
Date Prepared: 8/29/17

**Mary Hull Caballero**  
Auditor of the City of Portland

By 


Deputy

~~1072~~ 1094  
Agenda No.  
**ORDINANCE NO.**

2140  
188630

Title

Approve findings to authorize an exemption to the competitive bidding requirements and authorize the use of the alternative contracting method of Construction Manager/General Contractor ("~~CM/GC~~"), all in connection with the Columbia Boulevard Wastewater Treatment Plant Secondary Treatment Expansion Program for an estimated amount of \$89,000,000 (Ordinance).

<p style="text-align: center;"><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Nick Fish</b></p> <hr/> <p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Wheeler <input checked="" type="checkbox"/></p> <p>Position 1/Utilities – Fritz</p> <p>Position 2/Works – Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Eudaly</p> <hr/> <p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: OMF/BRFS/Procurement Services</p> <p>Bureau Head: Larry Pelatt <input checked="" type="checkbox"/></p> <p>Prepared by: Matt Hausman</p> <p>Date Prepared: August 29, 2017</p> <p>Financial Impact &amp; Public Involvement Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><b>City Auditor Office Approval:</b> required for Code Ordinances</p> <p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter</p> <p>Council Meeting Date September 27, 2017</p>	<p>CLERK USE: DATE FILED <u>SEP 19 2017</u></p> <hr/> <p style="text-align: right;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p> <p><b>ACTION TAKEN:</b></p> <p style="text-align: center;">SEP 27 2017 PASSED TO SECOND READING OCT 04 2017 9:30 A.M.</p>
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<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/></p> <p>Start time: <del>2:45</del> p.m. <u>2:00</u></p> <p><b>Total amount of time needed: 30 minutes</b> (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/></p> <p><b>Total amount of time needed:</b> _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>	
Wheeler	Wheeler	<input checked="" type="checkbox"/>	