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191368

Ordinance

Authorize the Bull Run Filtration Facility Project construction in two phases with two guaranteed maximum prices and update estimated total cost of construction to \$1,069,000,000

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Portland Water Bureau is a water utility that provides high-quality drinking water to nearly 1 million people. The Water Bureau strives to provide excellent water every minute of every day to enhance public health and safety and contribute to the economic viability and livability of the Portland metropolitan region.
2. In 2006, the U.S. Environmental Protection Agency (EPA) issued a federal drinking water rule called the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) that requires water utilities to treat for the pathogen *Cryptosporidium*.
3. In 2012, the Water Bureau obtained a 10-year variance from Oregon Health Authority (OHA) subject to a set of conditions that included maintaining an exceptionally low concentration of *Cryptosporidium* in ongoing raw water sampling.
4. In May 2017, the Water Bureau was informed by OHA that the variance was being revoked as a result of the low-level detections of *Cryptosporidium* in January through March of 2017.
5. In August 2017, Portland City Council voted to build a water filtration treatment facility to meet the treatment requirements for *Cryptosporidium*. On December 18, 2017, the Water Bureau entered into a Bilateral Compliance Agreement with OHA.
6. The goal of the Bull Run Filtration Facility Project (Filtration Facility) is to design and construct a water filtration facility on a schedule as outlined in the Bilateral Compliance Agreement.
7. To build the Filtration Facility, the Water Bureau determined it is in the City's best interest to use an alternative contracting method to minimize costs and construction impacts.
8. Ordinance 189146, passed by the City Council on August 29, 2018, authorized the City Procurement Office to use an alternative

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Water](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

July 12, 2023

competitive solicitation process to select a Construction Manager/General Contractor (CM/GC) for the Filtration Facility in accordance with Chapter 279C of the Oregon Revised Statutes (ORS) and Chapter 5.34 of City Code, and to enter into a construction contract upon agreement on a guaranteed maximum price (GMP) upon Council's acceptance of the Chief Procurement Officer's report recommending acceptance of a GMP.

9. On March 3, 2021, the Chief Procurement Officer executed a contract for CM/GC pre-construction services during the design of the Project with MWH-Kiewit Joint Venture (JV).
10. To meet the OHA compliance deadline, the Water Bureau determined it is in the City's best interest to implement the Filtration Facility in two phases through two GMPs at an estimated total construction cost (GMP1 and GMP2) of \$1,069,000,000.

NOW, THEREFORE, the Council directs:

- A. The Water Bureau is authorized to implement the Filtration Facility in two phases using two GMPs.
- B. Upon Council's acceptance of the Chief Procurement Officer's report recommending the acceptance of GMP1 from the CM/GC for the Filtration Facility, the Chief Procurement Officer is authorized to execute a contract for construction of the first phase of the Filtration Facility, provided that the contract has been approved as to form by the City Attorney.
- C. Upon Council's acceptance of the Chief Procurement Officer's report recommending the acceptance of GMP2 from the CM/GC for the Filtration Facility, the Chief Procurement Officer is authorized to amend the contract for construction of the second and final phase of work, provided that the amendment has been approved as to form by the City Attorney.
- D. The estimated total cost for construction for the Filtration Facility is updated to \$1,069,000,000.
- E. The Mayor and City Auditor are hereby authorized to draw and deliver checks chargeable to the Water Fund when demand is presented and approved by the proper authorities.
- F. As required by ORS 279C.355 and PCC 5.34.820B, the Water Bureau will prepare a post-project evaluation to the Chief Procurement Officer on behalf of City Council within 30 days of the date the City accepts the Filtration Facility Project.

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
July 12, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

The proposed legislation is in support of the Bull Run Filtration Projects (Filtration). The Council action will provide for the following:

- Authorize Portland Water Bureau to implement the Filtration Facility in two phases using two guaranteed maximum prices (GMPs).
- Authorize the Chief Procurement Officer to execute a contract for construction of the first phase of the Filtration Facility upon Council's acceptance of the Chief Procurement Officer's report recommending the acceptance of GMP1 from the CM/GC for the Filtration Facility.
- Authorize the Chief Procurement Officer to amend the contract for construction of the second and final phase of work of the Filtration Facility upon Council's acceptance of the Chief Procurement Officer's report recommending acceptance of GMP2 from the CM/GC for the Filtration Facility.
- Update the estimated total cost of construction to \$1,069,000,000.

The Water Bureau is responsible for delivering Filtration, which will protect public health and bring the City of Portland into compliance with federal safe drinking water regulations. The Water Bureau entered into a Bilateral Compliance Agreement with the Oregon Health Authority (OHA) to begin delivering filtered water to customers by September 30, 2027, which requires constructing both the planned water filtration facility and related pipelines.

Ordinance 189146, passed by the City Council on August 29, 2018, authorized the City Procurement Office to use an alternative competitive solicitation process to select a Construction Manager/General Contractor (CM/GC) for the Filtration Facility in accordance with Chapter 279C of the Oregon Revised Statutes (ORS) and to enter into a construction contract upon agreement on a guaranteed maximum price (GMP) upon Council's acceptance of the Chief Procurement Officer's report recommending acceptance of a GMP. On March 3, 2021, the Chief Procurement Officer executed a contract for CM/GC pre-construction services during the design of the Project with MWH-Kiewit Joint Venture (JV).

To meet the OHA compliance deadline, the Water Bureau determined it is in the City's best interest to implement the Filtration Facility in two phases through two GMPs at an estimated total construction cost (GMP1 and GMP2) of \$1,069,000,000. The project estimate confidence level rating is high.

This legislation does not change any City policy.

No revenues will be impacted by this legislation.

Financial and Budgetary Impacts

The estimated total for the Filtration Facility CM/GC contract (GMP1 and GMP2) is approximately \$1,069,000,000 and has a high confidence level as the Filtration Facility design is complete. The total project cost for the Filtration Facility (W02229) is estimated to be \$1,239,000,000.

The Filtration Facility is in the Water Bureau's 5-Year Capital Improvement Plan and is part of the treatment program with approximately \$91,000,000 requested for FY 2023–24. Approximately \$1,057,000,000 will be requested for FY 2024–25 to FY 2028–29. Funding for the Filtration Facility is from a combination of net proceeds from revenue bond sales, low-interest Environmental Protection Agency Water Infrastructure Finance and Innovation Act loan, water sales revenue, and other construction fund revenues such as system development charges and interest earnings.

The CM/GC will be awarded a contract with a five-year term. If necessary to complete the Filtration Facility, the Water Bureau will obtain an extension through an amendment to the contract.

Staffing impacts: No present or future positions will be created, eliminated, or re-classified as a result of this legislation.

Community Impacts and Community Involvement

The Filtration Facility and related Filtration Pipelines are anticipated to create 4,700 to 7,500 construction jobs, offering opportunities for local businesses and supporting career opportunities in the construction trades.

As part of the pre-construction services, the Water Bureau and MWH-Kiewit JV have been reaching out to dozens of groups in the local contracting community to raise awareness of upcoming work opportunities and encourage equity contractor participation. This includes outreach to LatinoBuilt, Oregon Association of Minority Engineers, Constructing Hope, Oregon Tradeswomen, Portland Youth Builders, Professional Business Development Group, and others.

Using the CM/GC method for the Filtration Facility allows the City to monitor utilization of equity contractors and participation of people of color and women in the workforce to help the City achieve Regional Workforce Equity Agreement (RWEA) and Construction Diversity and Inclusion Policy (CDIP) objectives. It also helps to set the City and local economy on a path where more local contractors have the ability to provide CM/GC services while meeting the requirements established by the RWEA.

The Filtration Facility is one of the City's first RWEA efforts. RWEA is a collaborative effort between public owners and unions to promote hiring

local vendors, suppliers, contractors, and subcontractors, as well as local area workforce, which will return long-term community benefits. RWEA centers workforce development and safe/anti-racist workspaces for women and people of color through the City's core values of equity, fiscal responsibility, transparency, communication, collaboration, and anti-racism.

MWH-Kiewit JV has committed to meeting the equity contractor participation goal of 25 percent of hard construction costs with 16 percent minority-owned contractor participation and 8 percent women-owned contractor participation. This is in addition to workforce diversity commitments that set goals for work hours performed by apprentice-level and journey-level people of color and women in the construction trades. MWH-Kiewit JV has been instrumental in outreach efforts and developing respectful workplace training as part of pre-construction services.

No known persons or groups will be testifying; however, it is likely community members will sign up to testify given known interest in the Filtration Facility.

The Water Bureau will continue current outreach efforts regarding Filtration, including ongoing communications with customers and the neighboring community about construction milestones and safety.

100% Renewable Goal

This action does not affect the City's total energy use or renewable energy use.

Although the new Filtration Facility is anticipated to increase the City's total energy usage, the Filtration project team is working within several sustainability-oriented frameworks including the Green Building Policy, LEED, and Envision to reduce energy needs and use greener energy alternatives where possible. Both holistic sustainability opportunities and specific design and operational opportunities have been identified to support City energy-efficiency goals when possible, such as designing the filtration facility and filtration pipelines to continue gravity operations.

Budget Office Financial Impact Analysis

The bureau is looking to update the estimated total cost of construction for the Bull Run Filtration Facility Project to \$1,069,000,000, which has a high degree of confidence after the completion of the design phase. The project was initially estimated to cost \$350 million in February 2020, though that project estimate confidence level was low. Council will consider the first GMP during this agenda and will later need to consider and accept GMP2 when presented to Council at a future date. The bureau has anticipated the notable difference in cost estimates in its 5-year CIP and plans to fund it from a combination of net proceeds from revenue bond sales, a low-interest WIFIA loan from the EPA, water sales revenue, and other

construction fund revenues such as SDC and interest earnings. Funding this project will not affect rate increases above what has been already communicated.

Agenda Items

563 Time Certain in [June 28, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/6/28)
(<https://www.portland.gov/council/agenda/2023/6/28>)

Passed to second reading

Passed to second reading July 12, 2023 at 9:30 a.m.

585 Regular Agenda in [July 12-13, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/7/12)
(<https://www.portland.gov/council/agenda/2023/7/12>)

Passed

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Mayor Ted Wheeler Yea