



191105

Ordinance

Approve findings to authorize an exemption to the competitive bidding requirements and approve use of the alternative contracting method of Construction Manager/General Contractor for the Dam No. 1 Spillway Gates Replacement Project for an estimated amount of \$2,650,000

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The Portland Water Bureau is a water utility that provides drinking water to nearly one million people. The Portland Water Bureau strives to provide the highest quality water to enhance public health and safety and contribute to the economic viability and livability of the Portland metropolitan region.
2. In 2017, the Federal Energy Regulatory Commission (FERC) and the Portland Water Bureau completed an inspection of Dam No. 1 in the Bull Run Watershed. The inspection identified maintenance and potential structural deficiencies with the existing three spillway gates and hoisting mechanisms.
3. Further Portland Water Bureau investigations of the existing three gates and hoisting mechanisms based on current seismic design standards have determined they do not meet all the loading conditions based on current design practices and need to be retrofitted or replaced with seismically upgraded gates.
4. An alternative analysis performed by the Portland Water Bureau indicates that it is more cost effective and reduced risk to water quality to remove and replace the gates as opposed to retrofitting them in place.
5. FERC requires the upgraded gates and hoisting equipment be installed and functional by March 2025.
6. Due to the sensitive and remote location of the gates, the Dam No. 1 Spillway Gates Replacement Project (Project) will require specialized equipment and skills to fabricate and install the large spillway gates.

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Water](#)

Contact

Jodie Inman
Chief Engineer

✉ jodie.inman@portlandoregon.gov

📞 [503-823-1289](tel:503-823-1289)

Requested Agenda Type

Consent

Date and Time Information

Requested Council Date
December 14, 2022

7. Dam No. 1 is a key element of the Portland Water Bureau's supply system. Work on this facility must be carefully monitored and controlled. This type of effort requires a highly qualified contractor to manage the project schedule, permit requirements and coordination with water supply operations.
8. An alternative contracting method using a Construction Manager/General Contractor (CM/GC) will allow the Portland Water Bureau to select the most qualified contractor with the necessary specialized skills and expertise for the Project.
9. The Portland Water Bureau proposes to use the CM/GC contracting method to provide contractor input during the design process (value engineering, constructability review, construction phasing plan, and permitting assistance). By incorporating contractor input during the design phase, the use of an alternative contracting method is more likely to minimize costs, change orders, and construction impacts with the ultimate goal of ensuring continuous delivery of high-quality water.
10. 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.
11. Findings addressing competition; operational; budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; funding sources and costs recommended by the Portland Water Bureau were available 14 days in advance of the public hearing of this ordinance.
12. The exemption of the 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 selected through a competitive Request for Proposals (RFP) process.
13. The RFP for the CM/GC procurement will be published in Portland's Daily Journal of Commerce. Once approved by City Council, the RFP will be advertised on the City of Portland Online Procurement Center.
14. The award will potentially 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 may reduce the chances of redesign and change orders. Developing a well-coordinated project schedule and ensuring continuous delivery of potable water are significant advantages of the CM/GC process. An extensive discussion of the CM/GC procurement method is noted in the Factual Findings attached as Exhibit A.
15. The estimated total for the CM/GC contract is approximately \$2,650,000.

NOW, THEREFORE, the Council directs:

- A. The Findings, attached as Exhibit A to this Ordinance, are hereby adopted.
- B. The Dam 1 Spillway Gates Replacement 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. Upon selection of the contractor, the Chief Procurement Officer is authorized to execute a contract for CM/GC pre-construction services during the design of the Project, provided that the contract has been approved as to form by the City Attorney.
- 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, the Chief Procurement Officer is authorized to execute a contract for construction of the Project, provided that the contract has been approved as to form by the City Attorney.
- 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, a post-project evaluation will be prepared and delivered to City Council on behalf of the City's Chief Procurement Officer within 30 days of the date the City accepts the Project.

Documents and Exhibits

 [Exhibit A](#) (150.5 Kb)

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
December 14, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

The proposed legislation is in support of the Dam 1 Spillway Gates Replacement Project (Project). The Council action will provide for the following:

- Approve the factual findings and exempt the Project from the competitive bidding requirements of ORS Chapter 279C and City Code 5.34.
- Authorize the alternative Construction Manager/General Contractor (CM/GC) contracting method for the Project.
- Authorize the Chief Procurement Officer to execute a contract for CM/GC pre-construction services during the design phase of the project upon selection of a CM/CG contractor.
- Authorize the Chief Procurement Officer to execute a contract for construction of the Project upon Council's acceptance of the Chief Procurement Officer's report recommending the acceptance of the Guaranteed Maximum Price from the CM/GC for the Project.

In 2017, the Federal Energy Regulatory Commission (FERC) along with the Portland Water Bureau completed an inspection of Dam No. 1 in the Bull Run Watershed. The inspection identified potential deficiencies with the existing spillway gates and hoisting mechanisms. The Portland Water Bureau conducted further investigations and specialized analysis of the gates and hoisting mechanisms based on current seismic design standards. The analysis of the gates determined they do not meet all the loading conditions based on current design practices and need to be modified or replaced with seismically upgraded gates. FERC is requiring the new gates and hoisting equipment be installed and functional by March 2025.

The remote location of the slide gates over the top of Dam No.1 makes this very challenging to reach and will require a specialized contractor to complete the work. Dam No. 1 is a critical element of the water supply system, and it is fundamental that work here does not impact water quality or delivery.

In an effort to bring the most qualified contractor to the project, the Portland Water Bureau proposes to use the CM/GC contracting method to fabricate and install the gates. The Portland Water Bureau believes an experienced CM/GC contractor can be selected that will have the necessary technical expertise and equipment to successfully complete the Project. Key to the CM/GC process is that the contractor provides input during the design process for value engineering, constructability review, construction phasing plan, and permitting assistance. This design assistance assures that the Portland Water Bureau operational constraints and concerns are vetted with the contractor and integrated into the Project design.

This early integration of design, operations, and construction methods makes the CM/GC contracting method more likely to minimize costs, reduce change orders, reduce risk, reduce construction impacts, and ensure continuous delivery of high-quality water.

Financial and Budgetary Impacts

The total for the CM/GC contract is approximately \$2,650,000 and has a low confidence level due to the early stage of design (currently less than 30% complete).

The Portland Water Bureau currently maintains the water system within the project limits. Installation of the new spillway gates and appurtenances will not change the long-term financial obligations of the City. The CM/GC contract cost includes pre-construction services and construction. Funding for the Project (W02719), with budgeted contingency, is available in the FY 2022-23 Budget and additional funding will be requested in future Fiscal Year Budgets. The total project cost is estimated at \$5,000,000.

The CM/GC will be awarded a contract with a term of three years. If required, the Portland Water Bureau will obtain an extension to complete the Project through an amendment to the contract.

Community Impacts and Community Involvement

The City shares the community's values regarding the need to balance the cost, public health, current and future regulatory compliance, and system resilience considerations in a responsible manner.

The Portland Water Bureau has several public engagement mechanisms and opportunities to provide information to, and gather information from, its customers. Portland Water Bureau resources will be supported by consultant services under a separate contract. The Portland Water Bureau will also use social media and other communication tools such as the Annual Water Quality Report, press releases, and outreach brochures.

100% Renewable Goal

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

Agenda Items

1013 Consent Agenda in December 7, 2022 Council Agenda

Passed to second reading

Passed to second reading December 14, 2022 at 9:30 a.m.

1046 Consent Agenda in December 14-15, 2022 Council Agenda

Passed

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea