

# City of St. Helens

## CITY COUNCIL

Public Hearing Minutes

October 7, 2015

**Members Present:** Randy Peterson, Mayor  
Doug Morten, Council President  
Keith Locke, Councilor  
Susan Conn, Councilor  
Ginny Carlson, Councilor

**Staff Present:** John Walsh, City Administrator  
Jon Ellis, Finance Director  
Kathy Payne, City Recorder  
Sue Nelson, Public Works Engineering Director  
Cindy Phillips, Contract Attorney

**Others:** Amanda Frink



### **Public Hearing**

### **LOCAL CONTRACT REVIEW BOARD**

### **Approve Class Special Procurement**

At 6:45 p.m., Mayor Peterson opened the public hearing.

### **Staff Report**

Cindy Phillips, the City's contract attorney, was in attendance to present the Board with the request.

In a memo from Finance Director Ellis dated October 1, 2015...

The acquisition and development of the Boise Property (BP) project is on the move! However, the efforts to fulfill this outstanding opportunity for the City of St. Helens and the public involve a myriad of tasks which had not been contemplated in this detail in the recent past. Examples of this are the consultant contracts with such firms as Maul, Foster & Alongi, the Brownfields reparation tasks necessary to rehabilitate this property to meet its full potential, the ecological and environmental contracts with such firms as ECO Northwest, and mitigation assessment on the City's Secondary Wastewater Treatment lagoon, just to name a few. Contracts, such as these, are almost impossible to fit into the usual public contracting model as the model requires that the City have some sort of estimate to know which contracting process the City should follow to select a contractor, such as direct appointment, competitive quotations or a full blown RFQ for goods and/or services.

The default method under the public contracting laws is the full blown bidding process of Request for Proposals (RFP's). That would mean, however, that before any of the BP contracts could be let, the City would have to prepare the documents, including a detailed scope of work, publicize the procurement for at least one month, and compare and contrast the results, sometimes like comparing apples to oranges, to determine which bidder is the most responsible and responsive for that contract. The contract may then need to be negotiated but would

certainly have to be set for the next Council meeting to award the contract. By that time, two - three months have elapsed since the need for the contract was discovered.

However, state law and the local contracting rules provide a method by which the City can comply with public contracting laws without having to spend the time and money required to engage in competitive bidding for each and every contract. This mechanism is the Class Special Procurement, see ORS 279B.085, OAR 137-047-0285 and SHMC 2.04.011. Therefore, staff submits this request of this Board to authorize a class special procurement for all contracts needed to complete the BP project. Details are as follows:

The class of contracts would be all those contracts necessary to complete the BP project. The applicable procedure to enter into a contract for the BP project would be any manner which the City Administrator or his designee, deems appropriate to the city's needs, including by direct appointment or purchase, or by obtaining at least three competitive quotations for the goods and/or services. The City Administrator, or designee, shall make a record of the method of selecting the best contractor. The City Administrator, or his designee, shall also be authorized to award all BP projects for which the contract price does not exceed \$110,000. Contracts for which the contract price exceeds \$110,000 shall be awarded by City Council.

If this class special procurement exemption is approved, the expense and delay inherent in following the usual competitive procurement processes contained the local public contracting rules procedures would be avoided, saving the City time and money without violating public procurement laws.

In order for this Board to approve a class special procurement, the Board must first review this written request for such special procurement, hold a hearing and make certain findings. Specifically, the Board must find that:

1. The class special procurement is unlikely to encourage favoritism in the award of public contracts or to substantially diminish competition for public contracts, and
2. The class special procurement is
  - a. reasonably expected to result in substantial cost savings to the contracting agency or to the public; or
  - b. would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065 or 279B.070 or under any rules adopted thereunder.

Staff proposes that only the contracts necessary to effectuate the BP project be included in this class special procurement. The contracts needed for this project are fairly unique and require specialized expertise and coordination with other contractors on the project. Since the class is easily defined, there is little or no issue about encouraging favoritism or substantially diminishing competition for other city projects. And since the City Administrator will be in charge of the method of selection of the contractor – whether that would be by direct award or purchase or by comparing three competitive quotes - the issue of favoritism and/or substantially diminishing competition can be addressed in his report to Council on the methods of selection.

The potential for time and money savings by using this method of procurement instead of the usual bidding or RFP procedures are obvious. What may not be as obvious is the question, "What do the other contractors do on this project while they are waiting for the city to comply with its public contracting procedures?" Since a bid or an RFP can take from six weeks to two

or three months, it is likely that the other contractors would cease forward movement on the project and go on to other projects for other clients. Getting the contractors back together again is likely to have its own delay built in – mobilization and demobilization costs will have to be paid somehow. There is a cost savings by streamlining and simplifying the process.

Finally, while it is not necessary to show that both cost savings and promotion of the public interest would be the result of this designation, the fact is that the public interest in the BP Project is huge and anything that can be done to keep this project moving forward is definitely in the best interests of the public. For too long some of the best waterfront (river and channel) property in Columbia County has been under private ownership and not in the public domain. Designating a class special procurement so that contracts needed to bring this project to fruition can be awarded quickly would be of great benefit to the city and to the public.

**Public Comments**

No comments received.

**Close Public Hearing – 6:55 p.m.**

Deliberations will be held during the regular session following this hearing.



ATTEST:

  
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Kathy Payne, City Recorder

  
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Randy Peterson, Mayor