



Legislation Text

File #: 2687-2020, **Version:** 1

1. BACKGROUND: This legislation authorizes the Director of Public Utilities to enter into a construction contract with Gracon, LLC for the O'Shaughnessy Hydro Turbine Facility Improvements Project, in an amount up to \$15,281,800.00; to encumber funds with the Department of Public Service for prevailing wage services in an amount up to \$2,000.00; for Capital Improvements Project No. 690444-100000, Division of Water Contract Number 972.

This project will rehabilitate the O'Shaughnessy Dam hydroelectric facility and its components to be returned to a fully working generation plant in accordance with the plans and specifications set forth in the Invitation For Bid.

The Community Planning Area is "99 - Citywide" since the O'Shaughnessy Dam serves several communities.

2. ECONOMIC IMPACT/ADVANTAGES; COMMUNITY OUTREACH; PROJECT DEVELOPMENT; ENVIRONMENTAL FACTORS/ADVANTAGES OF PROJECT: The refurbished power plant will produce electrical power supplied to everyone on the regional grid with zero carbon emissions.

3. CONSTRUCTION CONTRACT AWARD: The Director of Public Utilities publicly opened one (1) bid on July 29, 2020 from Gracon, LLC in the amount of \$14,463,800.00.

4. WAIVE COMPETITIVE BIDDING: Gracon's bid was deemed non-responsive for including terms and conditions in their bid. The Public Utilities Department, City Attorney's Office, and Gracon negotiated a contract with terms, conditions, and pricing acceptable to all. Therefore, it is in the best interest of the Department of Public Utilities that bids be waived for the O'Shaughnessy Hydro Turbine Facility Improvements Project in order that the Department can contract with Gracon, LLC under terms, conditions, and pricing agreed upon by all parties. See attached "ORD 2687-2020 Bid Waiver" for a more detailed explanation of the bidding and negotiation process.

Gracon's Contract Compliance Number is 47-1489569 (expires 3/24/22, Majority) and their DAX Vendor No. is 31810. Additional information regarding this bidder, description of work, contract time frame and detailed amount can be found on the attached Information form.

Searches in the Excluded Party List System (Federal) and the Findings for Recovery list (State) produced no findings against Gracon, LLC.

5. FISCAL IMPACT: The grand project total is \$15,283,800.00.

The 2020 Bond Sale request includes \$14,463,800.00 for this project. Until proceeds from the Bond Sale are received, a transfer from the Water System Reserve Fund - Fund No. 6003 to the Water G.O. Bond Fund - Fund No. 6006 will be needed so the project can proceed. This transaction is only a temporary measure.

The remaining \$820,000.00 needed will require a transfer within the Water G.O. Voted Funds Fund - Fund No. 6006, as well as an amendment to the 2020 Capital Improvements Budget.

To authorize the Director of Public Utilities to enter into a construction contract with Gracon, LLC for the O'Shaughnessy Hydro Turbine Facility Improvements Project in an amount up to \$15,281,800.00; to waive the competitive bidding

provisions of City Code; to authorize payment up to \$2,000.00 for prevailing wage services; to authorize the appropriation and transfer of \$14,463,800.00 from the Water System Reserve Fund to the Water General Obligations Bond Fund; to authorize a transfer of \$820,000.00 within the Water General Obligations Bond Fund; and to authorize the appropriation and expenditure up to \$15,283,800.00 from the Water General Obligations Bond Fund; and to authorize an amendment to the 2020 Capital Improvements Budget; (\$15,283,800.00)

WHEREAS, one (1) bid for the O'Shaughnessy Hydro Turbine Facility Improvements Project was received and publicly opened in the offices of the Director of Public Utilities on July 29, 2020; and

WHEREAS, the sole bid received from Gracon, LLC was deemed non-responsive for including terms and conditions; and

WHEREAS, the Public Utilities Department, City Attorney's Office, and Gracon negotiated a contract with terms, conditions, and pricing acceptable to all; and

WHEREAS, the Director of Public Utilities believes it is in the City's best interest to waive the provisions of Chapter 329 of the Columbus City Code, Competitive Bidding, in order to award the construction contract to Gracon, LLC under the negotiated terms, conditions, and pricing acceptable to all; and

WHEREAS, it is necessary to authorize the Director of the Department of Public Utilities to execute a construction contract and to encumber and expend funds for payment of prevailing wage services associated with the O'Shaughnessy Hydro Turbine Facility Improvements Project; and

WHEREAS, the City anticipates incurring certain Original Expenditures (as defined in Section 1.150-2(c) of the Treasury Regulations (the "Treasury Regulations") promulgated pursuant to the Internal Revenue Code of 1986, as amended) with respect to the construction of the Project described in this Ordinance (collectively, the "Project"); and

WHEREAS, it is necessary to authorize the appropriation and transfer of \$14,463,800.00 from the Water System Reserve Fund - Fund No. 6003 to the Water G.O. Voted Bonds Fund - Fund No. 6006 in order to temporarily fund this expenditure, until such time as the proceeds from the 2020 Bond Sale can be made available; and

WHEREAS, it is necessary to authorize a transfer of \$820,000.00 within the Water G.O. Voted Bonds Fund - Fund No. 6006; and

WHEREAS, it is necessary to authorize the appropriation and expenditure up to \$15,283,800.00 within the Water G.O. Voted Bonds Fund - Fund No. 6006; and

WHEREAS, it is necessary to authorize an amendment to the 2020 Capital Improvements Budget for the purpose of providing sufficient spending authority for the aforementioned project expenditures; and

WHEREAS, it has become necessary in the usual daily operation of the Division of Water, Department of Public Utilities, to authorize the Director of Public Utilities to enter into a construction contract with Gracon, LLC for the O'Shaughnessy Hydro Turbine Facility Improvements Project, for the preservation of the public health, peace, property and safety; **now, therefore**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Director of Public Utilities is hereby authorized to enter into a construction contract for the O'Shaughnessy Hydro Turbine Facility Improvements Project with Gracon, LLC (FID #47-1489569), 130 Miners Drive, Lafayette, CO 80026, in an amount up to \$15,281,800.00; in accordance with the terms and conditions of the contract on

file in the Office of the Division of Water; and to obtain the necessary prevailing wage services from the Design and Construction Division and to pay up to a maximum amount of \$2,000.00.

SECTION 2. That said construction company shall conduct the work to the satisfaction of the Director of Public Utilities and the Administrator of the Division of Water.

SECTION 3. That this Council finds it in the best interest of the City of Columbus to waive the competitive bidding provisions of Chapter 329 of the Columbus City Code in order to contract with Gracon, LLC for the O'Shaughnessy Hydro Turbine Facility Improvements Project, CIP No. 690444-100000, and such provisions are hereby waived.

SECTION 4. That the 2020 Capital Improvements Budget is hereby amended, in the Water G.O. Bonds Fund - Fund No. 6006, per the account codes in the attachment to this ordinance.

SECTION 5. That from the unappropriated monies and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2020, the sum of \$14,463,800.00 is appropriated in Fund 6003 - Water System Reserve Fund, in Object Class 10 - Transfer Out Expenditure, per the account codes in the attachment to this ordinance.

SECTION 6. That the transfer of \$14,463,800.00 or so much thereof as may be needed, is hereby authorized from Fund 6003 - Water System Reserve Fund to Fund 6006 - Water G.O. Bonds Fund, per the account codes in the attachment to this ordinance.

SECTION 7. That the transfer of \$820,000.00 or so much thereof as may be needed, is hereby authorized within Fund 6006 - Water G.O. Bonds Fund, per the account codes in the attachment to this ordinance.

SECTION 8. That the appropriation and expenditure of \$15,283,800.00, or so much thereof as may be needed, is hereby authorized in Fund 6006 - Water G.O. Bonds Fund, in Object Class 06 - Capital Outlay, per the accounting codes in the attachment to this ordinance.

SECTION 9. That upon obtaining other funds for the purpose of funding water system capital improvement work, the City Auditor is hereby authorized to repay the Water System Reserve Fund the amount transferred under Section 6 above, and said funds are hereby deemed appropriated for such purpose.

SECTION 10. That the City intends that this Ordinance constitute an "official intent" for purposes of Section 1.150-2(e) of the Treasury Regulations, and that the City reasonably expects to reimburse itself for certain Original Expenditures incurred with respect to the Project from the proceeds of obligations to be issued by the City in a principal amount currently estimated to be \$14,463,800.00 (the "Obligations").

The City intends to make a reimbursement allocation on its books for the Original Expenditures not later than eighteen months following the later to occur of the date of the Original Expenditure to be reimbursed or the date the Project for which such Original Expenditures were made is "placed in service" within the meaning of Treasury Regulations Section 1.150-2(c). Upon the issuance of the Obligations, the proceeds of such Obligations shall be used to reimburse the Water System Reserve Fund, Fund 6003, which is the fund from which the advance for costs of the Project will be made.

SECTION 11. That the funds necessary to carry out the purpose of this Ordinance are hereby deemed appropriated, and the City Auditor shall establish such accounting codes as necessary.

SECTION 12. That the City Auditor is hereby authorized and directed to transfer any unencumbered balance in the project account to the unallocated balance within the same fund upon receipt of certification by the Director of the Department administering said project that the project has been completed and the monies no longer required for said project; except that no transfer shall be made from a project account by monies from more than one source.

SECTION 13. That the City Auditor is authorized to establish proper project accounting numbers as appropriate.

SECTION 14. That the City Auditor is authorized to make any accounting changes to revise the funding source for all contracts or contract modifications associated with this Ordinance.

SECTION 15. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.