



Council Business Meeting

May 16, 2023

Agenda Item	Special Class Procurement Method Approval for City Bulk Fuel		
From	Michael Morrison	Operations Deputy Director	
Contact	michael.morrison@ashland.or.us 541-552-2325		
Item Type	Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Approval <input checked="" type="checkbox"/> Presentation <input type="checkbox"/>		

SUMMARY

Approval is being requested for a **Class-Special Procurement**.

This **Class-Special Procurement** (sourcing method) will allow the use of an alternative solicitation process to procure **City bulk fuel** (87 Reg E-10 Unleaded Fuel and ULSD#2 Renewable R99.9 Diesel) for City and Parks consumption. The alternative solicitation process will require a written solicitation to obtain written quotes **each time fuel is purchased** rather than using a formal Competitive Sealed Bid (Invitation to Bid) to award a **long-term contract to a single supplier**. Obtaining written price quotes for each fuel purchase allows the City to consistently award public contracts for fuel to the lowest bidder, more flexibility when purchasing fuel, preferably when prices are decreasing, and the ability to compare bid prices to reasonably ensure the City is receiving and paying the most current and accurate price for fuel (today's lower fuel price, not yesterday's higher price).

POLICIES, PLANS & GOALS SUPPORTED

ULSD#2 Renewable R99.9 Diesel is required to satisfy the City's mandatory climate and energy action plan goals.

BACKGROUND AND ADDITIONAL INFORMATION

A Special Procurement (sourcing method) is used for the purpose of seeking an exemption from the competitive bid process, custom designing a contracting approach, or the direct selection or award of a public contract or for a series of contracts. The attached Form #9 Special Procurement Request for Approval (written findings) is attached for your review and consideration.

The Class-Special Procurement previously approved by Council on June 7, 2016, is due to expire on June 30, 2023.

FISCAL IMPACTS

The amount budgeted for City bulk fuel in FY 2024 is \$380,000.00.

DISCUSSION QUESTIONS

SUGGESTED NEXT STEPS

Staff recommends the **Class-Special Procurement** be approved for the reasons provided in the attached written findings.





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REFERENCES & ATTACHMENTS

1. Form #9 Special Procurement Request for Approval (Written Findings)

**SPECIAL PROCUREMENT
REQUEST FOR APPROVAL**

To: City Council, Local Contract Review Board
From: Wes Hoadley, Fleet Safety Supervisor
Date: May 16, 2023
Subject: REQUEST FOR APPROVAL OF A SPECIAL PROCUREMENT

In accordance with ORS279B.085, this request for approval of a Special Procurement is being presented to the City Council for approval. This written request for approval describes the proposed contracting procedure and the goods or services or the class of goods or services to be acquired through the special procurement and the circumstances that justify the use of a special procurement under the standards set forth ORS 279B.085(4).

- 1. **Requesting Department Name:** Public Works
- 2. **Department Contact Name:** Mike Morrison
- 3. **Type of Request:** Class Special Procurement Contract-specific Special Procurement
- 4. **Time Period Requested:** From July 1, 2023 to June 30, 2028
- 5. **Total Estimated Cost:** FY 2022 - \$332,590.69 (Actual)
FY 2023 as of 04/26/2023 - \$282,210.00 (Actual)
FY 2024 - \$380,000.00 (Budgeted for FY24)
- 6. **Short title of the Procurement:** City bulk fuel purchases (87 Reg E-10 Unleaded Fuel and ULSD#2 Renewable R99.9 Diesel)

Supplies and/or Services or class of Supplies and/or Services to be acquired:

Unleaded & R99 Diesel fuel is purchased for City/Parks consumption, specifically bulk truck & trailer deliveries of fuel are delivered to fuel tanks located at the City of Ashland, Service Center, 90 N. Mountain Avenue, Ashland, Or 97520

7. Background and Proposed Contracting Procedure: Provide a description of what has been done in the past and the proposed procedure. The Agency may, but is not required to, also include the following types of documents: Notice/Advertising, Solicitation(s), Bid/Proposal Forms(s), Contract Form(s), and any other documents or forms to be used in the proposed contracting procedure. Attach additional sheets as needed.

Background: For many years, written quotes have been requested from multiple resellers - WECO/Carson, Hays Oil and Tyree. The previous Class-Special Procurement was approved by the

Proposed procedure:

This **Class-Special Procurement** is a request to use an **alternative solicitation process**, other than a formal Competitive Sealed Bid (Invitation to Bid), to procure fuel. Due to the cost of fuel exceeding \$100,000.00, a formal Competitive Sealed Bid (Invitation to Bid) resulting in a 12+ month term contract with a single supplier would be required. The alternative solicitation process will require a written solicitation to obtain written quotes from each of the known fuel suppliers, willing to deliver bulk fuel each time fuel is purchased.

8. **Justification for use of Special Procurement:** Describe the circumstances that justify the use of a Special Procurement. Attach relevant documentation.

It would be difficult for the City to monitor fuel pricing under a long-term contract with a single supplier. This is due to the prices fluctuating on a daily basis (or more than once per day) and having to check the Eugene OPIS (Oil Price Index Service) at a specific time of the day (same time supplier calculates fuel prices) for the current prices (today's prices) and then having to calculate the actual cost of the fuel by adding the markup amount and applicable taxes. Requesting the suppliers calculate an appropriate markup for a long-term contract could be difficult to do due to the fluctuating fuel prices and actual cost of delivering the fuel, which could result in the City paying more for fuel – not less, because the supplier would have to adjust the markup to cover any potential increases in cost for fuel and delivery.

Obtaining written price quotes for each fuel purchase allows the City to consistently award public contracts for fuel to the lowest bidder, more flexibility when purchasing fuel, preferably when prices are decreasing, and the ability to compare prices to reasonably ensure the City is receiving and paying the most current and accurate price for fuel (today's lower fuel price, not yesterday's higher price).

9. **Findings to Satisfy the Required Standards:** This proposed special procurement:

 (a) will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because:

The proposed process will not diminish competition because quotes will be requested from each of the suppliers willing to provide truck and trailer deliveries of the specified fuel to the City and if/when we become aware of any additional suppliers, they too will also be given an equal opportunity to provide price quotes for fuel purchases.

(Please provide specific information that demonstrates how the proposed Special Procurement meets this requirement.); and

 (b)(i) will result in substantial cost savings to the contracting agency or to the public because:

The City will have the flexibility to purchase fuel, preferably when the prices are decreasing, compare the prices submitted by each of the suppliers, and to award the public contract to the lowest bidder each time fuel is ordered.

(Please provide the total estimate cost savings to be gained and the rationale for determining the cost savings); or

 (b)(ii) will otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the requirements of ORS 279B.055, 279B.060, 279B.065, or 279B.070, or any rules adopted thereunder because:

Encouraging and allowing competition is in the City's best interest. Obtaining quotes for each fuel purchase will allow the City more flexibility when purchasing fuel and to reasonably ensure the City is receiving and paying the most current and accurate price for fuel (today's lower fuel price, not yesterday's higher price).

(Please provide specific information that demonstrates how the proposed Special Procurement meets this requirement.)

Public Notice:

Pursuant to ORS 279B.085(5) and OAR 137-047-0285(2), a Contracting Agency shall give public notice of the Contract Review Authority's approval of a Special Procurement in the same manner as a public notice of competitive sealed Bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement and shall give such public notice of the approval of a Special Procurement at least seven (7) Days before Award of the Contract.

After the Special Procurement has been approved by the City Council, the following public notice will be posted on the City's website to allow for the seven (7) day protest period.

Date Public Notice first appeared on www.ashland.or.us - *[if approved, May 17, 2023]*

PUBLIC NOTICE
Approval of a Special Procurement

First date of publication: *[if approved, May 17, 2023]*

A request for approval of a Special Procurement was presented to and approved by the City Council, acting as the Local Contract Review Board, on *[if approved, May 16, 2023]*

This **Class Special Procurement (sourcing method)** will allow a written solicitation to be used to obtain written quotes each time **bulk fuel** is purchased. This is an alternative solicitation process to a Competitive Sealed Bid (Invitation to Bid) resulting in a long-term contract with a single supplier. Obtaining written price quotes for each fuel purchase will allow the City to consistently award public contracts for fuel to the lowest bidder, allow more flexibility when purchasing fuel preferably when prices are decreasing, and the ability to compare prices to reasonably ensure the City is receiving and paying the most current and accurate prices for fuel.

It has been determined based on written findings that the Special Procurement will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts, and result in substantial cost savings or substantially promote the public interest in a manner that could not be realized by complying with the requirements that are applicable in ORS 279B.055, 279B.060, 279B.065, or 279B.070.

An affected person may protest the request for approval of a Special Procurement in accordance with ORS 279B.400 and OAR 137-047-0300. A written protest shall be delivered to the following address: City of Ashland, Purchasing Office, Kari Olson, 90 N. Mountain Avenue, Ashland, OR 97520. The seven (7) protest period will expire at 5:00 PM on *[if approved and published May 17, 2023, will expire May 24, 2023]*

This public notice is being published on the City's Internet World Wide Web site at least seven days prior to the award of a public contract resulting from this request for approval of a Special Procurement.