

ORDINANCE NO. 188068

*Approve findings to authorize an exemption to the competitive bidding requirements and authorize procurement using the alternative contracting method of Construction Manager/General Contractor; and authorize payment for construction related to the Portland Open Space Sequence Restoration Project (Ordinance; C-10054).

The City of Portland ordains:

Section 1. The Council finds:

1. Portland Parks & Recreation (“PP&R”) is the steward of over 10,000 acres of land at more than 250 locations throughout the city of Portland. It offers thousands of recreational and enrichment opportunities for people of all ages and abilities giving life and beauty to the city. PP&R established a set of guiding principles in its 2020 Vision Plan to deliver and maintain high quality parks and recreation services to all Portlanders.
2. Over 50 years ago, the Portland Development Commission (“PDC”) took the bold step of redeveloping a 55-block swath of the city as its first urban renewal project. And in what would become a tradition of making public space an intrinsic part of modern Portland’s urban fabric, the PDC set aside three full blocks and a series of adjoining streets for parks and garden-lined pedestrian walks. And to design the ensemble, the PDC hired one of the most visionary landscape architecture firms of the 20th century: Lawrence Halprin and Associates.
3. The Source Fountain, Lovejoy Fountain, Pettygrove Park, Forecourt Fountain (later named Ira Keller Fountain), and the adjacent pedestrian malls—collectively dubbed by Halprin as the Portland Open Space Sequence (the “Sequence”)—changed the history of American urban space, pioneering a path from passive parks and squares to more dynamic, participatory merging of parks and art.
4. Formed in 2001, the Halprin Landscape Conservancy (“the Conservancy”) is a non-profit organization under Sections 501 (c)(3) of the Internal Revenue Code. The Conservancy’s mission is to honor and preserve the Sequence by increasing awareness of the Sequence as an important city and national cultural resource; improving the Sequence according to the original vision of Lawrence Halprin; and assuring the Sequence’s upkeep at the level of a residential garden. Since its formation, the Conservancy has worked with the City, surrounding stakeholders, and donors to carry out several aspects of that mission.
5. The Conservancy submitted a nomination to the National Parks Service, and the Sequence was designated as a National Historic Registry District on the National Register of Historic Places in March 2013. The Conservancy is pursuing a National Historic Landmark designation at the National Park Service for the Sequence which will recognize the international significance of the Sequence and its architects.
6. The City’s Parks, Maintenance, Transportation, and Water Bureaus all have had responsibility for the operation and maintenance of various elements of the Sequence through a 1979 Ordinance No 147584, titled: An Ordinance accepting the transfer of

certain parcels of land for use as pedestrian malls located in the South Auditorium Urban Renewal Project to the City in accordance with Urban Renewal Plan from the Portland Development Commission, and declaring an emergency.

7. Over time, simple aging, along with deferred maintenance due to City budgeting challenges, have left the plazas and fountains in dire need of care and restoration. The City recognized the international significance of the Sequence and wanted to seek additional support through charitable contributions and participation by the community. The City recognized the contributions of the Conservancy in support of these goals and entered into Agreement No. 30002273 in 2011 to formalize its relationship with the Conservancy. The agreement was amended most recently in May 2015 to clarify each party's responsibilities in the development of the upcoming restoration project.
8. The goal of the Portland Open Space Sequence Restoration Project is to restore some of the key elements of the four Halprin parks to their original design intent, and make other critical repairs to infrastructure and facilities in order to protect and ensure the public's safety, continued accessibility and enjoyment of the Sequence.
9. The Conservancy and the City are proposing an ordinance to form a \$2,150,000 voluntary Local Improvement District ("LID") as a funding mechanism to renovate the four parks. In the FY 16-17 Budget Notes, City Council directed PP&R to bring forward a decision package in the FY 16-17 Fall BMP to request one-time funding of up to \$1,500,000 for restoration of the Halprin Fountains. Funding for the fountains is contingent upon approval of a LID. City Council provided \$200,000 with FY 14-15 Fall BMP to initiate the investigatory and design process. And, the Conservancy's plans include additional private donations outside of the LID process to fund additional improvements.
10. In order to meet expectations of the voluntary LID contributors, the project needs to ensure construction service delivery in a manner that restores and preserves the design integrity of this historic Sequence to the maximum extent possible. Due to the historic nature of the restoration, the skill level of the Contractor needs to be extraordinary, and the end product needs to be excellent quality construction. Efficient, expedited construction is a high priority for PP&R in its efforts to perform in a timely fashion and cause the least disruption to the public.
11. For this project, Procurement Services and PP&R recommend that the CM/GC alternative contracting method be used in lieu of the traditional low bid competitive bidding process. In order to complete this complex and unique historic restoration Project's construction in a timely manner, the successful contractor will provide the highly specialized skills and experience in construction methodology, sequencing, scheduling, and cost estimating for the repair and restoration elements by using the alternative contracting method of CM/GC to:
 - Provide input during the design process;
 - Provide investigatory services to reveal hidden causes of infrastructure failures, so they can be fully addressed during design;
 - Provide the most collaborative and creative solutions;
 - Provide value engineering;

- Provide constructability review that will assist in developing a construction sequencing plan;
 - Provide feedback on the land use review and permitting process document preparation;
 - Minimize costs and construction impacts; and
 - Ensure the delivery of a high quality Project.
12. Technical and specialized expertise will be needed to deliver restoration of the Sequence's unique elements in a fashion that will be of the highest quality and durability. The complicated repair requirements in this highly urbanized environment, along with the transportation issues associated with street and pedestrian mall corridors bordering all four of the parks, requires a contractor with expert abilities to work in this complex environment.
 13. Additionally, the Project is on an expedited project schedule and requires that the contractor be able to meet that schedule and provide the necessary sequencing and staging to accommodate the travelling public and the adjacent residential, institutional and commercial properties.
 14. A CM/GC contracting method will allow PP&R to select a contractor with the experience and qualifications necessary to perform the work while maintaining a higher level of technical and safety expertise, greater cooperation between design and construction tasks, and enhanced sensitivities to the adjacent residential, commercial and institutional property owners and the travelling public. Construction of a 15-story apartment building at SW 4th and SW Harrison over a 28-month period beginning Fall 2016, is very nearby the Sequence project site. The apartment building project will already be impacting sidewalk and pedestrian mall closures in the area, as well as adding construction traffic to the streets. A CM/GC contractor on the Sequence project will be much more adept at working through traffic control issues with another contractor.
 15. The use of this alternative contracting method will allow for coordination of the contractor's and subcontractors' work and will provide the City opportunities to monitor the outreach and utilization of D/M/W/ESB subcontractors to achieve equity goals with the project during construction.
 16. The Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279C and Portland City Code 5.34.
 17. The City will invite prospective contractors to submit proposals in response to the City's Request for Proposals. The Selection Committee will select the CM/GC Contractor based on an evaluation of the proposals. The selection committee will include staff from PP&R, and others from the community, including minority evaluator(s) as required per Resolution 36757. The RFP process will be completed under the guidance and direction of Procurement Services and in accordance with Portland City Code 5.34.
 18. Draft findings addressing favoritism, competition, substantial cost savings, operations, budget and financial data, public benefits, value engineering, specialized expertise

required, public safety, market conditions, technical complexity, and funding sources recommended by the City, substantially in the form attached hereto as Exhibit A (collectively, the "Findings"), were made available and a notice of the public hearing of this Ordinance was published fourteen (14) days in advance of this public hearing.

19. Based on the Findings, the exemption of the Project from the competitive bidding requirements of ORS 279C is: (i) unlikely to encourage favoritism or to diminish competition for public contracts because the contract will be awarded using a competitive solicitation process; and (ii) likely to result in substantial cost savings to the City because the CM/GC contractor will be integrated into the design team for value engineering, investigatory services to reveal hidden causes of infrastructure failures, constructability review, and assistance in developing a construction sequencing plan. Such early integration greatly reduces the chances of redesign and change orders.
20. The current estimate for construction costs is approximately \$2.4 million with a Low Confidence Level Rating. The overall Project Budget including design services, insurance, bonding, escalation, permit fees, project management/staff costs and contingencies is \$3.85 million. The funding sources are \$2,150,000 voluntary LID, \$200,000 2014 Fall BMP General Fund, and \$1,500,000 proposed 2016 Fall BMP.

NOW, THEREFORE, the Council directs:

- a. Council hereby approves the Findings and on that basis exempts the Portland Open Space Sequence Restoration Project from the competitive bidding requirements of ORS 279C.
- b. The Chief Procurement Officer is authorized to use an alternate competitive solicitation process to select a CM/GC contractor and, upon selection of a CM/GC, is authorized to execute a contract for CM/GC pre-construction services during design phase of the project.
- c. Upon Council's acceptance of the Chief Procurement Officer's report for recommending the acceptance of the Guaranteed Maximum Price from the CM/GC, the Chief Procurement Officer is authorized to execute a contract for construction of the Project.
- d. The Mayor and the Auditor are hereby authorized to draw and deliver checks, chargeable to the FYs 17-18 and 18-19 Budgets of the Bureau of Parks & Recreation, when demand is presented and approved by the proper authorities.
- e. As required by ORS 279C.355 and PCC 5.34.820B, PP&R will prepare and deliver a post project evaluation to the Council on behalf of the Chief Procurement Officer, within 30 days of the date the City accepts the project as complete.

Section 2. The Council declares that an emergency exists because of the necessity to have the Contractor's participation in value engineering, investigatory services to reveal hidden causes of infrastructure failures, constructability reviews and construction design and planning as soon as possible in order to positively impact design and construction issues and meet the mandated

timeline for completion; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council:

NOV 02 2016

Mayor Charlie Hales

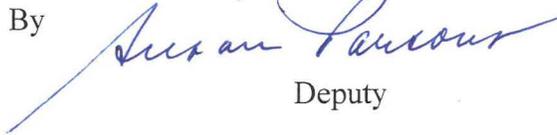
Prepared by: Christine Moody: mss

Date Prepared: 10/06/16

Mary Hull Caballero

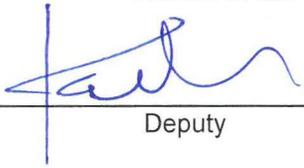
Auditor of the City of Portland

By



Deputy

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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>OCT 25 2016</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By:  Deputy</p> <p>ACTION TAKEN:</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: OMF/BRFS/Procurement Services Bureau Head: Christine Moody <i>CM</i></p>	
<p>Prepared by: Mahn Saechao Date Prepared: October 6, 2016</p>	
<p>Impact Statement</p> <p>Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document.</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter</p>	
<p>Council Meeting Date: November 2, 2016</p>	

AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/></p> <p>Start time: 9:45 a.m. (1 of 2)</p> <p>Total amount of time needed: 30 minutes (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz 2	1. Fritz	✓	
2. Fish 4	2. Fish	✓	
3. Saltzman 5	3. Saltzman	✓	
4. Novick 1	4. Novick	✓	
Hales 3	Hales	✓	