

ORDINANCE No. 190371

Approve findings to authorize an exemption to the competitive bidding requirements and authorize the use of the alternative contracting method of Construction Manager/General Contractor for the Mill Park Construction Project for an estimated amount of \$7,500,000 (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Portland Parks and Recreation (PP&R) is developing a park in East Portland called Mill Park under the Mill Park Construction Project ("Project"). The Project is located within the block bounded by SE 117th, SE Mill Court, SE 122nd, and SE Lincoln Street in the Mill Park neighborhood, the area that is generally described as park deficient. The Project site is surrounded by single family residences, multi-family housing, and the Mill Park Elementary School within the David Douglas School District.
2. The area has a highly diverse community, with a large number of families with children that are economically disadvantaged. When fully developed, Mill Park will serve 1,440 households. Of those 1,440 Mill Park households, there are 881 unique households not served by other Portland parks' ½ mile service areas.
3. When the Project is completed, Mill Park will be the central element in this underserved community and will provide many important community functions, including a space for cultural activities, picnic sites for family and group gatherings, children's play area and a large community garden.
4. The Project will require specialized skills and experience in construction methodology, problem solving, sequencing, scheduling, and cost estimating to successfully complete the work in a timely manner.
5. Procurement Services and PP&R recommend using the alternative contracting method of Construction Manager/General Contractor (CM/GC) for the Project to allow PP&R to:
 - a. Select a contractor with the experience and qualifications necessary to coordinate and develop a 5.66-acre park, and with demonstrated expertise participating in a collaborative CM/GC design process;
 - b. Allow the contractor to provide input during the design process, including on the construction packaging and sequencing, to ensure equity in service delivery and to avoid high future maintenance costs;

- c. Allow the contractor to provide input into the development and construction of a park which reflects community pride and is safe, clean, and accessible for all ages, cultures, and abilities;
 - d. Allow the contractor to provide continuous value engineering to ensure cost containment and best value accrued to the community;
 - e. Provide opportunities for Service-Disabled Veterans Business Enterprises, Disadvantaged, Minority, Women, and Emerging Small Business minority-owned businesses in the contracting community.
6. 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.
 7. The City will invite prospective contractors to submit competitive proposals in response to the City's Request for Proposals ("RFP"). 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 a 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 Alternative Contracting Methods requirements set forth in ORS 279C and Portland City Code 5.34.
 8. 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"), have been made available, and a notice of the public hearing of this Ordinance was published fourteen (14) days in advance of this public hearing.
 9. Based on the Findings, the exemption of the Project from the competitive bidding requirements of ORS 279C and PCC 5.34 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, constructability review, and assistance in developing a construction phasing plan. Such early integration greatly reduces the chances of redesign, change orders and cost overruns.

10. The estimated Construction Contract cost is \$7,500,000. The estimated total Project cost is \$12,000,000, including construction, design consulting services, project management/staff costs, construction management and other direct costs and contingences. The Project Estimate Confidence Level Rating Index, per Binding City Policy BCP-ADM-1.13, is "Low".

NOW, THEREFORE, the Council directs:

- a. Council hereby approves the Findings, as presented in Exhibit A, and on that basis exempts the Project from the competitive bidding requirements of ORS 279C and City Code 5.34.
- b. The Chief Procurement Officer is authorized to use an alternative competitive solicitation process to select a CM/GC Contractor for the Project 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, provided the contract has been approved as to form by the City Attorney.
- c. The Mayor and Auditor are hereby authorized to pay for the contract from the System Development Charge funds budget when demand is presented and approved by the proper authority.
- d. As required by ORS 279C.355 and PCC 5.34.820C, PP&R will prepare and deliver a post-project evaluation to the Council on behalf of the Chief Procurement Officer, once the City accepts the Project as complete.

Passed by the Council: April 21, 2021
Commissioner Carmen Rubio

Prepared by: Robin Johnson Craig
Date prepared: 02/10/2021

Mary Hull Caballero
Auditor of the City of Portland

By *Christina Thomas*

Deputy

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Agenda No.
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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Carmen Rubio</p>	<p>CLERK USE: DATE FILED <u>April 6, 2021</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance & Administration - Wheeler</p> <p>Position 1/Utilities - Rubio <small>Carmen Rubio Digitally signed by Carmen Rubio Date: 2021.04.01 21:10:30 -07'00'</small></p> <p>Position 2/Works - Ryan</p> <p>Position 3/Affairs - Hardesty</p> <p>Position 4/Safety - Mapps</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u>Keelan McClymont</u> <small>Digitally signed by Keelan McClymont Date: 2021.04.02 00:56:14 -07'00'</small> Deputy</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Portland Parks & Recreation Bureau Head: <u>Adena Long</u> <small>Digitally signed by Adena Long Date: 2021.03.31 16:17:27 -07'00'</small></p> <p>Prepared by: <u>Robin J. Craig</u> Date Prepared: <u>2/19/2021</u></p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" 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 <small>Digitally signed by L. Law Date: 2021.03.17 17:32:40 -07'00'</small></p> <p>Council Meeting Date <u>April 14, 2021</u></p>	<p>ACTION TAKEN: April 14, 2021 Passed to Second Reading April 21, 2021 at 9:30 am</p>

<p style="text-align: center;">AGENDA</p> <p>TIME CERTAIN <input type="checkbox"/> Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p> <p>CONSENT <input type="checkbox"/></p> <p>REGULAR <input checked="" type="checkbox"/> Total amount of time needed: <u>10</u> (for presentation, testimony and discussion)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th style="width: 20%;">YEAS</th> <th style="width: 20%;">NAYS</th> </tr> <tr> <td>1. Rubio</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>2. Ryan</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>3. Hardesty</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>4. Mapps</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>Wheeler</td> <td style="text-align: center;">✓</td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Rubio	✓		2. Ryan	✓		3. Hardesty	✓		4. Mapps	✓		Wheeler	✓	
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