

CLASSICAL CHINESE GARDEN
EXECUTIVE COMMITTEE

CLASSICAL CHINESE GARDEN PROJECT
CONSTRUCTION MANAGEMENT AND
GENERAL CONSTRUCTION

PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

DRAFT FINDINGS

February 24, 1998

The Classical Chinese Garden Executive Committee recommends, and the Bureau of General Services concurs with the recommendation of the Executive Committee, that the Portland City Council adopt the following findings and take other necessary action to exempt the selection of a Construction Manager/General Contractor (CMGC) from competitive bidding as provided in ORS Chapter 279.

The Classical Chinese Garden is a joint design and construction project between the City of Suzhou, China Garden Bureau Design Company and Construction Company ('Chinese side'), and the Classical Chinese Garden Executive Committee with representatives from the City of Portland, Classical Chinese Garden Society and Trust and other members of the community ('American side').

The Chinese Design Company is designing the Garden and preparing contract documents for the construction of all buildings, rockeries, bridges, gazebos and other above-grade structures. The Chinese Construction Company will be securing all materials for the buildings, rocks, and paving, and constructing the buildings in China, putting them into crates, shipping them to the U.S., and constructing the buildings on site. The Construction Company will be sending between 50-60 workers who will be in Portland for nearly 10 months building the 'Chinese side' work. There are 12 individual buildings connected by covered walkways connecting to bridges that cross a central lake with pavilions, as well as considerable areas of decorative paving, gates and other garden elements.

The American side has hired an architectural firm to prepare construction documents for all the utility work, foundations, masonry walls and landscaping. This work will be built by an American contractor prior to the Chinese construction company arriving in Portland. During the construction of the above grade work by the Chinese, the CMGC will provide coordination and support, as well as finishing utility connections.

Construction Management/General Contractor

- a. Operational, budget and financial data.

The Project involves the construction of foundations, utilities, and walls as well as coordination with the Chinese Garden Construction Company workers for the Classical Chinese Garden. The Project would include three phases of work: Phase 1 would include Construction Management services, assisting the local project architect and engineers in finalizing the construction documents for sub-bidding the American side work and preparing cost estimates for Value Engineering. Phase 2 would include soliciting sub-bids for the utilities, foundations and walls, and construction of those items. Phase 3 would include coordinating the construction of the Chinese side with their workers so that equipment and materials were supplied as needed to the Chinese construction effort.

The preliminary estimates for the American side Construction Manager/General Contractor (CMGC) are projected at \$1.62 million. However, since this estimate was done several years ago, and the Scope of Work had not been clearly defined, the final projected cost is uncertain at this time. A critical part of the CMGC Phase 1 work will be in refining and establishing budgets prior to bidding. This is the central reason the CMGC process is being requested. The budget for the Chinese side is estimated at \$2.43 million for a total preliminary construction cost of \$4.05 million. Since there is a large degree of uncertainty regarding the amount of time involved during the Phase 3 portion of the work, that cost will be developed as a maximum not to exceed, billed on a time and materials basis.

b. Public benefits.

The alternative construction process will result in the selection of the most qualified CMGC contractor for the uniquely specialized requirements of the Project construction and coordination with non-English speaking workers utilizing translators. It will also enable the CMGC to participate over an extended period in cost negotiations, construction review and value engineering. The CMGC will also be available to work directly with the architect and engineer, Executive Committee, adjacent property owner representatives and the City in fashioning the best construction phasing and coordination strategies working with the Chinese crews. The result will be a design with the potential issues and coordination of the work addressed. It will also result in the least overall cost for construction.

c. Value Engineering.

The alternate contracting process will afford the opportunity to engage the CMGC in value engineering and constructability reviews early in the design process, when value engineering has proven to be the most effective. Because of the participation of the CMGC in the design process, there will be a reduction in uncertainties and the likelihood of claims for design modification, delays, and varied conditions.

d. Specialized Expertise Required.

The Project has a series of unique construction requirements not normally encountered in public works projects. The Project involves the review of American side drawings and Chinese side drawings during the preparation of construction documents to ensure complete coordination of the various components. It requires building the foundations to metric measurements rather than normal feet and inches to coordinate with the Chinese buildings that are being constructed in the metric system. It requires the Project Manager and Superintendent who will be sensitive to the cultural differences in working closely for nearly ten months with 60 non-English speaking workers, and lastly it will require a CMGC in Phase 3 to work in a non-traditional role as support to the Chinese crews in supplying equipment and ordering materials as needed.

e. Public Safety.

This site is part of a four-block "Super Block" established in 1974 by NW Natural. It is the intent to "rededicate" the rights-of-way for public use at the end of the Project. Preliminary meetings with the Portland Department of Transportation has reviewed various alternates to rededicate, especially in light of the fact that the Garden design calls for a 190' x 210' site, which means that N.W. Flanders will result in a 50' right-of-way. The alternate contracting selection process will enable the CMGC to participate in a process of designing of the right-of-way improvements around the site and determine construction phasing; to assist in meeting the demanding access requirements of the Project; and to help in planning the accommodations that will be made during construction to ensure safety to the public circulating in and near the construction area.

f. Market Conditions.

The alternate contracting process will allow more time than the normal competitive bidding process for the CMGC to bid, negotiate, and gain firm commitments from subcontractors and suppliers. Numerous subcontractors and suppliers with unique expertise and capabilities will be required to build the specialized features of the Project. The alternate contracting process will provide the maximum assurance that qualified subcontractors and suppliers are available when needed to meet demanding Project schedule requirements and cost constraints.

g. Technical Complexity.

In addition to the special technical requirements working with the Chinese side workers and in working with the metric system, the Project includes coordinating the placement of non-standard building materials made in China on U.S.-built foundations, including wood components, numerous paving materials, extensive rockeries, etc. Additionally, the American side will need to run mechanical, plumbing and electrical utility lines in and through the various buildings, gazebos, roof coverings, etc.

Additional complexity will be added by the requirement to provide a large workshop adjacent to the site for uncrating buildings and materials, and staging the construction of rockeries, walls, etc., while also maintaining pedestrian access and vehicular access in the

area.

h. Funding Sources.

The preliminary construction cost is estimated at \$4.05 million and other costs related to the Project including housing the Chinese workers, providing per diem living allowances, medical insurance, and other non-construction related expenses are estimated at another approximate \$3.0 million. The Project will be funded by a combination of public and private funds. The public funds include tax increment financing of \$2.9 million. The private funds are being raised by financial donations, in kind donations, and a donation by NW Natural of the property.

ORDINANCE NO.

172059

*Adopt findings, approve an alternate contracting process, and create an exemption to the competitive bidding requirements of ORS Chapter 279 for Classical Chinese Garden Project Construction Manager/General Contractor Procurement. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On September 13, 1995 the City Council adopted Resolution No. 35441 as a joint resolution with the City of Suzhou for the design and preparation of construction documents for a Classical Chinese Garden in Portland.
2. On February 5, 1997 the City Council adopted Ordinance No. 170895 agreeing to cooperate in the development and construction of the Classical Chinese Garden with the Classical Garden Trust and Classical Garden Society.
3. On March 21, 1997 the City Council entered into Agreement No. 50860 with the Classical Garden Trust and Classical Garden Society to provide for the establishment in the City of Portland of a Classical Chinese Garden for the benefit and use of the general public.
4. On September 23, 1997 the Classical Chinese Garden Trust on behalf of the Classical Chinese Garden Executive Committee entered into an agreement with Robertson, Merryman, Barnes Architects, Inc. to provide design and construction drawings for the American side construction work connected with the Garden.
5. On November 26, 1997 the Classical Chinese Garden Trust on behalf of the Executive Committee signed an Agreement of an Entrustment for Purchasing Some Construction Materials with the Suzhou International Economic-Technical Cooperation Corp. for the initial purchase of construction materials by the Chinese side.
6. The City and the Classical Chinese Garden Society and Trust in their respective approvals of Agreement No. 50860 contemplated that an alternate contracting and purchasing process would be carried out in order to, among other things, enable a Construction Manager/General Contractor to be available during design for value engineering and constructability review and to assist in developing phasing and other conduct of construction planning to minimize costs and to provide a well coordinated project with the Chinese construction crews.
7. The City Council is a Local Contract Review Board pursuant to ORS 279.055 with the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279.

8. A public hearing was conducted by the City Council after having published notice of the hearing in the Daily Journal of Commerce, a trade newspaper of general statewide circulation, 14 days in advance of the hearing.
9. Draft Findings addressing operational, budget and financial data, public benefits, value engineering, specialized expertise required, public safety, market conditions, technical complexity and funding sources, recommended by the Bureau of General Services were available 14 days in advance of the public hearing and were presented at the hearing.
10. The exemption of the Classical Chinese Garden Project from the requirement of competitive bidding under ORS Chapter 279 is unlikely to encourage favoritism or substantially diminish competition because of the impartial public processes that will be carried out in making the selections; and the awarding of such contracts will result in substantial cost savings to the public, considering the type of work involved, its cost and amount and the number of qualified firms available to bid because the contractors and suppliers will be available to participate in value engineering and constructability reviews and will have more time and opportunity to negotiate costs than normally afforded during a competitive bidding process.

NOW, THEREFORE, the Council directs:

- a. Adoption of the Draft Findings attached as "Exhibit A" to the original of this Ordinance, and by reference made a part thereof.
- b. Exemption of the Classical Chinese Garden Project from the competitive bidding requirements of ORS Chapter 279 and the initiation of an alternative contracting and purchasing process; said process to be subject to all other adopted City contracting policies.

Section 2. The Council declares that an emergency exists because a delay in proceeding with these contracts could result in additional expense to the Project; therefore, this Ordinance shall be in full force and effect from and after its passage by Council.

Passed by the Council, **MAR 11 1998**
 Commissioner Jim Francesconi
 Dick Ragland:S.Kelly
 February 24, 1998

BARBARA CLARK
 Auditor of the City of Portland
 By *Britta Olson*
 Deputy

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Agenda No.

172059

ORDINANCE NO.

Title

*Adopt findings, approve an alternate contracting process and create an exemption to the competitive bidding requirements of ORS Chapter 279 for Classical Chinese Garden Project Construction Manager/General Contractor Procurement. (Ordinance)

INTRODUCED BY	Filed: FEB 26 1998
Commissioner Jim Francesconi	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs	
Finance and Administration	By: <u>Ray Kinschler</u> Deputy
Safety	For Meeting of: _____
Utilities <u>JF/KJG</u>	
Works	ACTION TAKEN:
BUREAU APPROVAL	
Bureau: GENERAL SERVICES	
Prepared by <u>(lew)</u> Date	
Dick Ragland 2/24/98	
Budget Impact Review: ____ Completed ____x Not Required	
Bureau Head: DAVID O. KISH <u>DOK</u>	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
				YEAS	NAYS
Consent X	Regular <input checked="" type="checkbox"/>	Francesconi	Francesconi	<input checked="" type="checkbox"/>	
NOTED BY		Hales	Hales	<input checked="" type="checkbox"/>	
City Attorney		Kafoury	Kafoury	<input checked="" type="checkbox"/>	
City Auditor		Sten	Sten	<input checked="" type="checkbox"/>	
City Engineer		Katz	Katz	<input checked="" type="checkbox"/>	