

ORDINANCE No. 186851

*Approve findings, authorize an exemption to the competitive bidding requirements and authorize the alternative contracting method of Construction Manager/General Contractor pursuant to ORS 279C and City Code 5.34, and authorize payment for construction of the Gateway Park Project (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Portland Parks and Recreation 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. The City of Portland Bureau of Parks and Recreation (“PP&R”) established a set of guiding principles in its 2020 Vision Plan to deliver high quality parks and recreation services to all Portlanders.
2. The Gateway Urban Plaza and Neighborhood Park master plan was accepted by City Council on March 2, 2011 (Resolution No. 36849). The project is a result of an ongoing, City-led effort to transform the Gateway district into a Regional Center as described in the 2040 Framework Plan, the Outer Southeast Community Plan, the Opportunity Gateway Concept Plan, and the Gateway Regional Center Urban Renewal Plan.
3. In partnering with PDC, PP&R’s goal for the Gateway Park Project (“Project”) is to provide a new neighborhood park and an increased level of service and equity to three park-deficient East Portland neighborhoods: Hazelwood, Mill Park, and Woodland Park that will build community while acting as a catalyst for economic development.
4. The 4.2 acre site was acquired by PP&R and the Portland Development Commission (PDC) in 2009 for the purpose of providing an urban plaza, park and redevelopment opportunity.
5. Funding has become available through the System Development Charges (“SDC”) in order to move forward with design and construction.
6. The Project will require specialized skills and experience in construction methodology, sequencing, scheduling, and cost estimating for the main park design elements. Technical and specialized expertise will be needed to deliver those unique features. The construction of Gateway Park presents significant technical complexities which may best be addressed by a collaborative effort between the City, design professionals and the Contractor. The Project will require the input of a highly specialized and qualified contractor during construction in order to meet the project schedule.
7. An alternative contracting method utilizing a Construction Manager/General Contractor

(CM/GC) will allow the Parks Bureau to maintain a higher level of control of system operations. Accordingly, based on the Factual Findings for Proposed Exemptions from Competitive Bidding (Exhibit A), the Project needs to be exempted from the competitive low bid requirements of ORS Chapter 279C and as the alternative contracting method for the selection of a Construction Manager/General Contractor (“Contractor”) for the Project.

8. In accordance with PCC 5.33.89, City Council as the Local Contract Review Board may exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279C based on the published findings.
9. Findings addressing competitive favoritism, operational, budget, financial data, public benefits, value engineering, specialized expertise, public safety, market conditions, technical complexity and funding sources recommended by PP&R, were made available and a notice of the public hearing of this Ordinance was published fourteen (14) days in advance of this public hearing.
10. The City will invite prospective contractors to submit competitive proposals in response to the City’s solicitation requirements. The selection committee will select the CM/GC based upon an evaluation of the proposals as required by the solicitation documents. The selection process will be completed under the guidance and direction of Procurement Services.
11. 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 request for proposals (“RFP”) process; and (ii) likely to result in substantial cost savings to the City as the CM/GC will be integrated into the design team for value engineering, constructability review, and assistance in developing a construction phasing plan. Such early integration will greatly reduce the chances of redesign and change orders.
12. The current estimate for construction of the Project is \$5.1 million with a Low Confidence Level Rating. SDC Funding of the Project is approved and available as early as the PP&R FY 2014-15 Budget.

NOW, THEREFORE, the Council directs:

- a. Council hereby adopts the Factual Findings for Proposed Exemptions from Competitive Bidding as attached as Exhibit A to the original of this Ordinance and on that basis exempts the Project from the competitive bidding requirements of ORS 279C.
- b. The Chief Procurement Officer is authorized to use a competitive solicitation process to select a CM/GC for the Project, and upon selection of a CM/GC, is authorized to execute a contract for CM/GC pre-construction services for the Project.

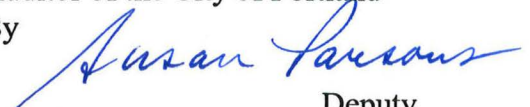
- c. Upon Council's acceptance of the Chief Procurement Officer's report for recommending the acceptance of the Guaranteed Maximum Price for the Project, the Chief Procurement Officer is authorized to execute a contract for construction of the Project.
- d. The Commissioner of Public Utilities is authorized to draw and issue checks chargeable to the PP&R Capital Improvement Fund when demand is presented and approved by the proper authorities.
- e. 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 within 30 days of the date the City accepts the Project.

Section 2. The Council declares that an emergency exists because design activities have begun and the CM/GC's participation in value engineering, constructability reviews and construction planning should occur as soon as possible in order to positively impact design and construction issues and meet the mandated timeline for Project completion; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: **OCT 15 2014**

Mayor Charlie Hales
Prepared by: Christine Moody/kbm
Date Prepared: September 29, 2014

LaVonne Griffin-Valade
Auditor of the City of Portland
By


Deputy

Agenda No. **186851**
ORDINANCE NO.
 Title

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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>OCT 09 2014</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>[Signature]</i></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;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: OMF/BIBS/Procurement Services Bureau Head: Christine Moody <i>CM</i></p> <p>Prepared by: K. Brenes-Morua Date Prepared: September 29, 2014</p> <p>Financial Impact & Public Involvement 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</p> <p>Council Meeting Date October 15, 2014</p>	
<p>ACTION TAKEN:</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>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"/></p> <p>Total amount of time needed: 5 minutes (for presentation, testimony and discussion)</p>

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