

## IMPACT STATEMENT

**Legislation title:** Accept the South Waterfront Greenway Central District Improvements, Project No. P00193 constructed by James W. Fowler Co. as complete and authorize Final Payment in the amount of \$1,000.80 (Ordinance; Contract No. 30002713)

### also

**Legislation title:** Evaluation of alternative contracting method for the South Waterfront Greenway – Central District Improvements, Contract No. 30002713 (Report)

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**Presenter name:** Allison K. Rouse

### **Purpose of proposed legislation:**

This Impact Statement summarizes impacts for both the Ordinance and the Report referenced above, both of which pertain to the construction contract No. 30002713 for the South Waterfront Greenway Central District Improvements:

- The Ordinance accepts the improvements and authorizes the final payment to the Contractor, James W. Fowler (“Fowler”), for construction of the South Waterfront Greenway Central District Improvements (“Project”), under Contract No. 30002713.
- The Report will evaluate the alternative contracting method used to select James W. Fowler as the contractor for the Project. It satisfies reporting requirements of the Oregon Revised Statutes, ORS 279.C.355, and Portland City Code 5.34.820 that govern procurements that were exempted from the Low Bid requirement.

### **Background information:**

The South Waterfront Greenway Central District Improvements (“Project”) consists of a major riverbank reconstruction with habitat restoration, and an upland park located along the west bank of the Willamette River between SW Gibbs and SW Lane Streets. It is the central segment of three in the South Waterfront neighborhood that, when complete, will connect downtown with the Sellwood Bridge via a regional trail system.

The entire site, contaminated from previous industrial activity, is enrolled in a State of Oregon Department of Environmental Quality Voluntary Cleanup Program. The riverbank reconstruction involved a massive excavation of contaminated soil from approximately elevation 25 down to elevation 3.22 (City of Portland datum). However, work during any given year on the bank below elevation 18 was permitted only within a short period between July 1 and October 31 called the “In Water Work Window”. In order to ensure that contractors experienced with the proper mix of skills were procured for the project, PP&R and Procurement Services determined that an alternative procurement, the Construction Manager / General Contractor method, would be appropriate.

In January 2011, Portland Parks & Recreation (PP&R) and the City of Portland Bureau of Revenue and Financial Services, by and through, Procurement Services (“City”) sought and received an exemption from the otherwise mandated competitive low bid method of procurement for selection of a General Contractor. James W. Fowler, Co. was selected in a competitive process (RFP 112508) as the Construction Manager / General Contractor (“CM/GC”) and entered into a Professional, Technical and Engineering contract with the City to provide preconstruction design and constructability advice.

When the Project design was complete, the estimated cost to construct the riverbank and park improvements exceeded PP&R’s available funding, so the project was divided into Phase 1, the riverbank reconstruction, and Phase 2, the upland park. In May 2012, Council accepted Fowler’s proposed Guaranteed Maximum Price (Report No. 616-2012) of \$4,035,843.62 for Phase 1.

The contract established a robust commitment of 18% of subcontracted work to be allocated to Disadvantaged/Minority/Women/Emerging Small Business Enterprises (“DMWESB”), divided into 6% in Phase 1 and 12% in the future Phase 2.

Construction of Phase 1 began in June 2012 and concluded in spring of 2014. During that period, the project experienced severe unexpected site and regulatory conditions, and the Contract No. 30002713 for Phase 1 was amended twice by City Council:

Ordinance 185797 on December 12, 2012

Maximum contract value increased to \$5,308,759, 132% of the original value, to compensate Fowler for extra construction services required to: adjust the design and construction plan for unusually high river levels; handle and dispose of unexpected volumes of contaminated soil and debris; adjust the design related to soft soils; and increase the construction duration by twelve months due to permit restrictions on working outside the In Water Work Window.

Ordinance 186136 on July 3, 2013

Maximum contract value increased to \$7,205,217, 176% of the original Phase 1 value, to compensate Fowler for extra construction services required to: adjust the construction methods for new regulatory restrictions on working within the flowing river; increase the volume of soil disposal resulting from a mid-Project regulatory changes; and increase the project duration out to spring of 2014 to complete Phase 1B.

In December of 2013, near the end of the Phase 1 work, Portland Parks & Recreation provided System Development Charge funding to add Phase 2, the Upland Park and Trails, back into the project:

Ordinance 186451 on February 5, 2014

Maximum contract value increased to \$11,005,217, 273% of its original Phase 1 value, to compensate Fowler for further construction services necessary to add Phase 2, the Upland Park and Trails, back to the project. PP&R investigated rebidding the Phase 2 work, but in cooperation with the Office of Procurement Services, staff determined that the current contractor would provide the best value for the City, given its strong performance to date,

the already-established field office and staging areas and the high DBE utilization requirement built into the existing contract.

Fowler finished installing all improvements and received a Certificate of Completion from the City on February 28, 2015.

**Financial and budgetary impacts:**

Neither the Ordinance nor the Report impact the budget, current or future expenses nor revenues, nor do they change current or future staffing levels. Project costs were funded entirely through tax increment funding from PDC's North Macadam Urban Renewal District, grants from TriMet and the City's Environmental Remediation Fund, and Parks System Development Charges (SDCs).

Completion of the work initiated on-going operations and maintenance costs. These have already been funded by Ordinance 186464, passed by the Council on February 19, 2014.

**Community impacts and community involvement:**

For the project as a whole, an extensive public participation effort began in 2003 with the master planning process for the entire South Waterfront Greenway and continued with an Advisory Group process in 2007 through 2008 focused on the Central District design. Subsequently, implementation of the public information plan has kept the large group of stakeholders informed about progress via website updates, e-mail notifications (averaging one per month during construction) and community meetings. PP&R's capital projects team visited the South Waterfront neighborhood four times in 2012, twice in 2013, twice again in 2014 and twice this year.

Stakeholders included in the efforts described above include, but are not limited to:

- South Portland Neighborhood Association;
- South Waterfront Community Association, an association of all of the Homeowners Associations in the neighborhood;
- E-mail contact lists developed during public meetings;
- The Bureau of Development Services Design Commission;
- Parks Disabled Advisory Committee;
- The Audubon Society; and
- The Native American Community Advisory Council for PP&R.

**Ordinance**

The purpose of this Ordinance is to accept the completed work and fulfill an existing contract obligation, making final payment, of a project that has already had extensive public involvement. As such, this particular action is likely to have little impact on anyone except Fowler.

**Report**

The Report fulfills a requirement within State statute and Portland City Code to evaluate whether the use of the alternative procurement for Contract 30002713 benefited the City or not. This particular action is likely to have little impact on the public, or even the contracting community since the Contract was executed several years ago. However, the Report will benefit the City and

other Owners who may be considering the CMGC method of procurement by discussing the successes, challenges, and final recommendations from this Project.

**Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?**

There has been no general public participation specific to this Ordinance (final payment to a contractor) or to the Report on the contracting method. However, as stated above, the design, development and construction of the South Waterfront Greenway benefited from extensive public participation.

The contracting community, however, was involved, initially when the Office of Procurement Services advertised the Project for bids in February 2011, again when the subcontracts were bid out for Phase 1, and again when the subcontracts were bid out for Phase 2. PP&R attended a meeting of the Oregon Association of Minority Entrepreneurs in advance of the Phase 2 subcontract bidding in order to let attendees know that the general contractor, JW Fowler, would have more subcontracted work coming.

The Project achieved a robust level of participation by underutilized groups within the construction contracting community. 18% of the subcontracted work went to DMWESB contractors. In addition, the Contractor strove to meet Workforce Training and Hiring goals: 21% of total contract hours went to trade apprentices; 29% to minorities; and 9% to females.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

- YES: Please complete the information below.
- NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount



Jeff Shaffer, Finance Manager  
Portland Parks & Recreation

5/14/15

Date