ORDINANCE No.

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:
Commissioner Carmen Rubio

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

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy
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)

<table>
<thead>
<tr>
<th>INTRODUCED BY</th>
<th>CLERK USE: DATE FILED April 6, 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner/Auditor: Carmen Rubio</td>
<td>Mary Hull Caballero</td>
</tr>
<tr>
<td></td>
<td>Auditor of the City of Portland</td>
</tr>
<tr>
<td></td>
<td>Keelan McClymont</td>
</tr>
<tr>
<td></td>
<td>Deputy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMMISSIONER APPROVAL</th>
<th>BUREAU APPROVAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor—Finance &amp; Administration - Wheeler</td>
<td>Bureau: Portland Parks &amp; Recreation</td>
</tr>
<tr>
<td>Position 1/Utilities - Rubio</td>
<td>Bureau Head: Adena Long</td>
</tr>
<tr>
<td>Position 2/Works - Ryan</td>
<td></td>
</tr>
<tr>
<td>Position 3/Affairs - Hardesty</td>
<td></td>
</tr>
<tr>
<td>Position 4/Safety - Mapps</td>
<td></td>
</tr>
</tbody>
</table>

| By: | |
| Keelan McClymont | |

| ACTION TAKEN: |
| April 14, 2021 Passed to Second Reading April 21, 2021 at 9:30 am |

<table>
<thead>
<tr>
<th>IMPACT STATEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed [ ]</td>
</tr>
<tr>
<td>Amends Budget [ ]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CITY AUDITOR OFFICE APPROVAL:</th>
</tr>
</thead>
<tbody>
<tr>
<td>required for Code Ordinances</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CITY ATTORNEY APPROVAL:</th>
</tr>
</thead>
<tbody>
<tr>
<td>required for contract, code, easement, law, franchise, comp plan, charter</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COUNCIL MEETING DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 14, 2021</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGENDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIME CERTAIN [ ]</td>
</tr>
<tr>
<td>Start time: ____</td>
</tr>
<tr>
<td>Total amount of time needed: ____</td>
</tr>
<tr>
<td>(for presentation, testimony and discussion)</td>
</tr>
</tbody>
</table>

| CONSENT [ ] |
| REGULAR ✔ |
| Total amount of time needed: 10 |
| (for presentation, testimony and discussion) |

<table>
<thead>
<tr>
<th>FOUR-FIFTHS AGENDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMMISSIONERS VOTED AS FOLLOWS:</td>
</tr>
<tr>
<td>YEAS</td>
</tr>
<tr>
<td>1. Rubio</td>
</tr>
<tr>
<td>2. Ryan</td>
</tr>
<tr>
<td>3. Hardesty</td>
</tr>
<tr>
<td>Wheeler</td>
</tr>
</tbody>
</table>
EXHIBIT A

MILL PARK CONSTRUCTION

FACTUAL FINDINGS FOR
PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

The Portland Bureau of Parks and Recreation ("PP&R") and the City of Portland Procurement Services ("Procurement Services") recommend that the Portland City Council ("Council") approve the following factual findings, including the Additional Findings (as hereinafter defined) (collectively, the "Findings") to exempt the Mill Park Construction Project (the “Project”) from the competitive bidding requirements of ORS Chapter 279C and PCC 5.34 and to approve the Construction Manager/General Contractor ("CM/GC") as the alternative contracting method for the selection of a Construction Manager/General Contractor ("Contractor") for the Project. Capitalized terms used herein have the meaning ascribed to them in the Ordinance.

I. BACKGROUND

PP&R is in the position to greatly improve its service delivery in the East side of the City through the use of System Development Charge (SDC) funds. The development and construction of the Project is a very important step in the direction of equity for all Portlanders. The Project property covers a 5.66 acres of existing neighborhood park surrounded by single family residences, multi-family housing and Mill Park Elementary School in the Mill Park neighborhood (the “Property”). Street access to the site is limited to the south end of the park and north end of the park.

The area has a highly diverse community with a large number of children that are economically disadvantaged. The Project will be a significant, new neighborhood park in this area that is generally described as park deficient. The Property was acquired from Multnomah County in 1986 in a Transfer Agreement. The Property has been undeveloped since 1986. An existing walking loop trail and open lawn areas dotted with existing mature trees are currently used by adjacent community members and children at Mill Park Elementary School. A Master Plan for the Property was adopted by Council in November 2017. One of the main community goals identified during the process was to develop a park that reflects community pride and is safe, clean, and accessible for all ages, cultures, and abilities.

The completed Project will be the central element in this underserved community that will provide many important community functions including a space for cultural activities, picnic sites for family and group gathering, play and active
recreation areas for school use, two U12 soccer fields, areas for free play, and a large community garden. The Project may also include water play.

The Project has the potential to fill a big void. To meet the community expectations, to ensure equity in service delivery, and to avoid high future maintenance costs, Contractor collaboration and input in the Project design efforts is critical to successfully delivering the Project. Timely construction is a high priority for PP&R in its efforts to create equity in service delivery across the City as well as minimize neighborhood impact due to temporary closure of the existing 5.66-acre park as well as impacts to adjacent schools. Design is anticipated to occur in 2021 and 2022 with construction of the Project to commence in Spring of 2023. Completion is anticipated for Spring of 2024.

Based on the Findings, using a CM/GC contracting method will support successful completion of the Project in the most efficient and cost-effective manner to achieve community and PP&R goals. Ordinarily, the City is required to use competitive sealed bidding as the process to award a contract for the proposed Project. Accordingly, the Project needs to be exempted from the competitive bidding requirements of ORS 279C.300 and PCC 5.34.830. Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS 279C and PCC 5.34 based on the Findings. With the present action, Council will exempt the Project from the competitive bidding requirements of ORS 279C and PCC 5.34 and will authorize the CM/GC contracting method. State and City law permits the City to exempt certain contracts if Council is able to approve certain findings justifying an alternative approach. The factual bases to support the Findings in connection with the Project, including the Additional Findings (as hereinafter defined) are set forth below.

II. NO FAVORITISM OR DIMINISHED COMPETITION

ORS 279C.335 (2) and PCC 5.34.830 require that Council make certain findings as a part of exempting public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (a) requires Council to make a finding that, “[i]t is unlikely that such an exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts” while PCC 5.34.830.A.1 requires “[i]t is unlikely that the exemption will encourage favoritism in Awarding of Public Improvement Contracts or substantially diminish competition for Public Improvement Contracts as further described in Subsection 5.34.830.F.” This finding is appropriate for the Project and is supported by the following facts.

The Contractor will be selected through a competitive Request for Proposals (“RFP”) process. The RFP will be advertised in Portland’s Daily Journal of Commerce and on the City’s online procurement portal three to four weeks in advance of the deadline set for submitting responses to the RFP. The proposals will be evaluated by a selection committee based on criteria such as experience,
technical expertise, key personnel and staffing, diversity program, safety record, and percentage profit and overhead markup. The selection committee will review and rank the written proposals; hold interviews if necessary; and recommend a Contractor for the CM/GC contract award. As a result of the competitive RFP process, the use of an alternative contracting method for the Project is unlikely to encourage favoritism in the awarding of public contracts.

The alternative process can result in even broader participation and greater competition than the traditional bidding process. All qualified General Contractors and Construction Management firms will have an opportunity to compete. These firms include some that might not be willing to face the uncertainties and potential financial risks associated with bidding and contracting for construction under a traditional design-bid-build competitive (“DBB”) bid process. Structuring the Project under a CM/GC contract that includes the Contractor in the design phase allows the selected firm to improve constructability, develop phasing and staging plans to efficiently perform the work, and determine effective construction methods. This may make the Project more attractive to qualified firms because of the opportunity to better understand the Project prior to providing the City with a price for the Project and to reduce their risk in undertaking the Project. Therefore, competition will not be diminished, and may even be enhanced by procuring the Project construction services through a CM/GC process.

III. SUBSTANTIAL COST SAVINGS

ORS 279C.335 (2) and PCC 5.34.830 require that Council make certain findings as part of exempting public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (b) requires Council to find that “[t]he awarding of public improvement contracts under the exemption will result in substantial cost savings to the public contracting agency” while PCC 5.34.830.A.2 requires Council to find that “[t]he exemption will likely result in substantial costs savings and other substantial benefit to the City in accordance with ORS 279C.335(2)(b)” or for “the operation, maintenance or construction of highways, bridges and other transportation facilities, that the exemption will result in substantial cost savings to the City or to the public.” This finding is appropriate for the Project and is supported by the following facts.

The CM/GC contracting process affords the opportunity for the Contractor to participate during the design phases of the Project, lending its expertise, knowledge, and experience to provide feedback as to whether the Project’s proposed design is feasible within the Project parameters. Similarly, this allows the Contractor to make value engineering suggestions, that is, suggestions that propose alternative and less expensive ways of achieving the same result. This can result in more practical, constructible, and economic design solutions while maintaining the design’s integrity. Participation in the design process also enables the Contractor to become more familiar with the Project features and requirements before it prepares its price for the work. This familiarity means that the Contractor may not include cost contingencies that other contractors
frequently include in their bids to take account of uncertainties that are not resolvable during the brief bidding period under a traditional DBB competitive bid process. This is especially true for the Project, which has a number of unique design features as well as environmental challenges. The CM/GC contracting method allows the Contractor to understand and incorporate value-engineering ideas during the design phase to reduce the overall cost of the Project and to avoid costly change orders or disputes that impact PP&R’s budget for the Project.

IV. THE FACTUAL BASES TO SUPPORT THE ADDITIONAL FINDINGS

In order to declare the exemption, Council must approve additional findings in the areas set forth below (the “Additional Findings”).

A. How Many Persons are Available to Bid

The CM/GC contracting method will result in broader participation and greater competition than the traditional bidding process. All qualified General Contractors and Construction Management firms will have an opportunity to compete. These firms include some that might not be willing to face the uncertainties and potential financial risks associated with bidding and contracting for construction under a traditional DBB competitive bid process.

The CM/GC contracting method has the added benefit of allowing the selected Contractor to solicit competitive bids for various aspects of work as the work is ready to be bid. The Contractor will be able to prepare materials and equipment submittals early and issue bid packages to suppliers and vendors during design for timely delivery.

Additionally, this method provides increased opportunity to identify and outreach to Service-Disabled Veterans Business Enterprises, Disadvantaged, Minority, Women, and Emerging Small Business minority-owned businesses (SDV/D/M/W/ESB) that may otherwise not have an opportunity to participate in the Project. The RFP will include equity in contracting and workforce outreach and utilization requirements to maximize diverse participation on the Project.

B. The Construction Budget and the Projected Operating Costs for the Project

The Project will be funded by SDCs. The anticipated construction cost is estimated at $7.5 million with a total budget of $12 million. The budget for the new park was set based on the goals outlined through the community supported master planning process. The CM/GC contract method will provide the opportunity for careful consideration of means and methods of construction as well as cost saving measures through construction sequencing and timing which will make the delivery of the full design program more likely.
The anticipated Operating Costs (Operations and Maintenance) are in the range of $470,000, which will add a substantial commitment to the PP&R operating budget. Using the CM/GC contracting method will allow the construction of the Project to meet the highest possible construction standards and support a high level of expertise to successfully complete the specialized aspects of the Project. This will ensure the delivery of a high-quality project which will be cost effective to maintain thus keeping the anticipated operating costs for the park at a manageable level while providing a high level of service to the East Portland community.

C. Public Benefits That May Result from Granting the Exemption

There are multiple public benefits in connection with exempting the Project.

During construction, the CM/GC contracting method allows coordination of the subcontractors and development of back-up plans in consideration of the schedule constraints thereby minimizing disruption to the neighborhood as a result of construction staging, parking, and access due to the limited access points and the limited street frontage. The alternative contracting method also allows the City greater opportunities to monitor the Contractor’s outreach and utilization of SDV/D/M/W/ESB subcontractors and diverse workforce to achieve equity goals with the Project during pre-construction and construction.

The completed Project will be the central element in this underserved community that will provide many important community functions including a space for cultural activities, picnic sites for family and group gathering, water play, play and active recreation areas, a multipurpose fields for team sports, areas for free play, and a large community garden.

D. Whether Value Engineering Techniques May Decrease the Cost of the Project

Value engineering is defined as a process by which multiple subject experts evaluate and propose the most cost-effective ways to deliver a project without reducing project quality and functionality. Value engineering will be enhanced on the Project as it is on other projects where the contractor can be selected before the design is completed. In that way, the contractor’s expertise and resulting revisions can be incorporated into the project at the design development stage, rather than have the proposals come after the design is already completed, which may limit the amount of change that can be accomplished to the Project and still meet schedule requirements as well as the design intent. During the competitive bid process, bidder questions and clarifications often lead to an extended bid process, which causes delays and increases costs. Changes after a project is competitively bid can result in increased costs for the City as well in a change order process. A traditional competitive bid process cannot take value engineering into account during the design stage because the design is usually complete before bids are received.
Having the Contractor review the design prior to the start of construction best leverages the value engineering ideas that are accepted and incorporated into the final design. It is less expensive to implement ideas during the design phase than to wait and provide a change order and potential redesign during construction.

E. The Cost and Availability of Specialized Expertise Required for the Project

Through the RFP process, the City will have an opportunity to evaluate and select the Contractor with the specialized expertise required for the Project. The cost for such specialized expertise is included in the overall Project budget. The Project involves several design components that require specialized expertise to implement a high-quality Project as well as to meet the Project schedule. Specifically, the Project likely will include water play, play, native landscaping as well as playing fields.

Another important design component is that the Project will likely include a sizable sustainable landscape component. Implementing natural landscapes certainly requires special expertise to avoid cost overruns and to ensure timely delivery and landscape establishment.

The CM/GC contracting method provides the best opportunity for the City to allocate additional weight in the selection process to contractors with a high degree of specialized expertise necessary for the particular requirements of the Project.

F. Likely Increases in Public Safety

The CM/GC contracting method allows a Contractor’s actual safety performance on similar projects to be considered as selection criteria. It also permits the City to work closely with the Contractor during the design phase of the Project to ensure that the construction process provides appropriate safety measures, that the Contractor understands the City’s safety concerns and that the Contractor will take appropriate steps to address them. Because the Property is directly adjacent to an Elementary School, in close proximity to a public high school, a private elementary school, and a residential neighborhood, and access to the Property is very limited, maintaining good safety practices will be foremost in the Contractor’s approach.

G. Whether Granting the Exemption May Reduce Risks to the City related to the Project

The CM/GC project delivery method fosters early coordination between designer, Contractor, and City staff which leads to a better outcome than with a traditional low-bid
procurement project; challenges and issues can be anticipated and resolved earlier in the process, allowing the Project to be completed on time.

It is necessary to carefully consider the means and methods of construction and construction sequencing during design to ensure a minimum of delays, construction costs, and impacts to public. Having the Contractor involved during the design phase will provide information on constructability issues and allow development of a logical sequence for construction.

The CM/GC project delivery method will facilitate a much greater Project understanding by the Contractor before construction starts, and involvement throughout the design phase in which to craft a thoughtful and comprehensive construction schedule that accommodates these challenges. It would be challenging for even an experienced contractor to produce a plan of this quality without the lead time and project team interaction the CM/GC project delivery method provides, because traditionally the design-bid build process allows no time or opportunity for interaction with the project team or designers before the construction Notice to Proceed is issued.

By maximizing team collaboration and incorporating cost savings ideas throughout the design phase, it is likely that the City’s Project management team can mitigate costly change orders and disputes. Utilization of the CM/GC project delivery method permits the Contractor not only to understand the designer's intent and assumptions, but to be a part of the design process. The design-bid-build project delivery method does not allow for input on the part of the Contractor during the design phase. This lack of involvement can lead to plans and specifications not as well suited to construction means and methods.

The Project will be constructed directly adjacent to Mill Park Elementary Schools and the Project is located on a main pedestrian route to the school from the east on a funded Safe Routes to School crossing of SE 122nd Avenue. The Davis Douglas School District Fir Ridge Campus (High School) is located 4 blocks to the northwest of the Project and the Portland Christian Grade School is located 1 block north of the Project. The neighborhood in general does not have sidewalks. To limit the time frame during which children are exposed to construction traffic or activity on their way to school or at school is a major scheduling goal. Using the CM/GC contracting method will allow the City to hire the Contractor during the design phase of the Project. This enables the Contractor to develop a comprehensive construction schedule before initiating the work with input from the Project team. The interaction between the Project team and the Contractor during the design process makes it far more likely that the final design will take into account any potential construction issues and allow early coordination of construction sequencing to minimize impacts to the neighborhood and to the adjacent elementary schools and high school.

A competitive selection of the Contractor through the RFP process allows the City to minimize disruptions to school children and neighbors during construction,
as well as ensuing that the Project is delivered expeditiously to serve the neighborhood.

The RFP process for selecting the Contractor allows PP&R an opportunity to question the respondents to discern their expertise on contracting methods and sequencing. This approach also offers the greatest flexibility, risk reduction, reliability, and ease of construction. The Project budget is likely to be more stable as a result of this approach and it is less likely that there will be cost overruns.

**H. Whether Granting the Exemption will Affect the Funding Sources for the Project**

The overall Project budget is $12 million and includes costs for Professional, Technical and Expert (PTE) services, pre-construction services, construction services, all project soft costs as well as contingency. The Project will be funded using SDCs. The contingency is a percentage of the Project costs above the stated amount that the Project might be expected to exceed. As the design process progresses from preliminary to final design, the confidence rating regarding the Project cost increases and, correspondingly, the contingency percentage decreases. Maximum construction contract amounts within the fixed budget will be negotiated with the selected Contractor. Because the Guaranteed Maximum Price (GMP) is negotiated close to final design, the CM/GC contracting method creates more financial certainty for the City. While funding does not change based on use of the CM/GC contracting method, the Project budget is likely to be more stable as a result of the alternative contracting method and it is less likely that there will be Project cost overruns.

**I. Whether Granting the Exemption will Better Enable the City to Control the Impact That Market Conditions May Have on the Cost of and Time Necessary to Complete the Project**

The CM/GC contracting method for the Project will reach the same or greater market of construction contractors as the traditional low bid process. Considering the size and location of the Project and major components of work, the RFP will reach the regional marketplace. The RFP will require a response addressing the latest market innovations in sequencing and in construction means and methods. Selection of the Contractor will be made by a committee, that will evaluate qualifications, expertise and ability to deliver on the City’s policy and social equity goals and community expectations, among other things, in addition to cost to ensure the best combination to achieve the Project objectives.

The construction industry is a volatile industry with prices fluctuating almost constantly. By designing to a GMP, having open books among the entire Project team, and establishing a high degree of trust and collaboration among the Project team, market fluctuation can be accommodated for and folded into the design of the Project. By bringing together a creative set of minds that have a deep and thorough understanding of the Project's intricacies, the design can be more nimble and the approach can be
more efficient. Additionally, the means and methods can be thoroughly integrated into the design.

J. Whether Granting the Exemption Will Better Enable the City to Address the Size and Technical Complexity of the Project

Special technical complexities of the Project include the layout and construction of the water play area, the playground, sports fields, as well as the natural landscapes. The CM/GC contracting method will allow the Contractor to proactively be involved in the design phase to help develop construction approaches and methods to maximize the quality and constructability of these areas. This early involvement during the design phase will allow the Project team and the Contractor to actively work together to find solutions to complete the Project in the most efficient manner possible. The CM/GC process allows for early procurement of plant material and import soil, which often causes delays and scheduling issues on traditional low bid projects.

K. Whether the Project Involves New Construction or Renovates an Existing Structure.

The Project is for new construction of a public park.

L. Whether the Project Will be Occupied or Unoccupied During Construction

The Project is a public park and it will be unoccupied during construction.

M. Whether the Project Will Require a Single Phase or Multiple Phases of Construction Work to Address Specific Project Conditions.

To rectify inequity in the distribution and development of parkland throughout Portland an important goal of the Project is to complete the construction in an expeditious manner. To avoid extra costs and neighborhood impacts, construction needs to be completed expeditiously. This limitation requires a carefully sequenced construction process in order to meet a narrow construction window. Incorporating cost saving ideas in the design phase and avoiding hurried plans or adaptations during the construction phase allows PP&R to avoid costly change orders or disputes that impact the schedule or budget. It is necessary to carefully consider the means and methods of construction and possible phasing options during the design phase of the Project to ensure a minimum of delays and costs during construction.

N. Whether the City Has or Will Retain Personnel, Consultants and Legal Counsel that Have Necessary Expertise and Substantial Experience in Alternative Contracting Methods to Assist in
Developing the Alternative Contracting Method and to Help Negotiate, Administer and Enforce the Terms of the Project Contract

City personnel have the expertise and experience necessary to effectively implement the CM/GC contracting method and to negotiate, administer and enforce the terms of the resultant construction contract for the Project. These will include the principal PP&R project team, OMF Procurement staff, one or more attorneys for the City, and external consultants.
IMPACT STATEMENT

Legislation title: 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)

Contact name: Robin Johnson Craig, Capital Project Manager

Contact phone: 971-940-5711

Presenter name: Robin Johnson Craig, Capital Project Manager
Kathleen Brenes-Morua, Chief Procurement Officer (Interim)

Purpose of proposed legislation and background information:
The purpose of this legislation is to authorize the City to use a Construction Manager/General Contractor (CM/GC) contracting method that would support successful completion of the project in the most efficient and cost-effective manner to achieve Portland Parks & Recreation (PP&R) goals. This ordinance allows the City to pursue an alternative contracting method. Once approval is granted, a separate Request for Proposal (RFP) process will occur to select the most qualified contractor to engage in the design phase of the project as well as to construct the improvements identified. One Guaranteed Maximum Price (GMP) will be developed to cover the complete construction costs of the project and brought to the City Council for approval prior to construction activities starting.

The Mill Park Construction Project (“Project”) covers 5.7 acres surrounded by single family residences, multi-family housing and the Mill Park Elementary School in the Mill Park neighborhood. 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. The completed Project will be a vital park in this underserved community that will provide many important community functions including a space for cultural activities, picnic sites for family and group gathering, play and a large community garden.

The use of the CM/GC contracting method allows collaboration between the contractor and the design team during the design phase. Besides the obvious benefits of a better design package, especially for the technical aspects, other benefits include better coordination with stakeholders and better sequencing of construction activities to minimize impacts to the neighborhood and the adjacent school.

Financial and budgetary impacts:
Project construction is estimated to cost approximately $7,500,000. The proposed budget is a project estimate based on similar projects. Design work has not started and the level of confidence for the cost estimate is “Low”.

This project is currently 100% funded by the Parks System Development Charge funds. The estimated Operations and Maintenance (O&M) costs for this project are $473,000 and will be requested in the budget process for FY2023/2024. This is a low confidence O&M estimate, which will be refined as the project design is developed.

This legislation will neither generate nor reduce current or future revenue. No current positions will be affected, and no positions will be created, eliminated, or reclassified as a result of this legislation.

Community impacts and community involvement:

The use of a CM/GC contracting method is critical to facilitating this complicated Project with the least amount of disruptions to the general public, business and property owners, and commerce in the project area. This method promotes schedule efficiencies through early Contractor involvement and the incorporation of schedule-saving approaches prior to the completion of the design. The CM/GC method gives the Contractor more time to engage the community to develop a park that reflects community pride and is safe, clean, and accessible for all ages, cultures, and abilities.

Utilizing the CM/GC method allows the City to monitor Contractor outreach and utilization of apprentices, Service-Disabled Veterans Business Enterprises, Disadvantaged, Minority, Women, and Emerging Small Business subcontractors and help the City achieve Subcontractor Equity Program objectives for this Project. Also, to set the City and local economy on a path where more local Contractors have the ability to provide CM/GC services while meeting the qualifications established by the Subcontractor Equity Program.

100% Renewable Goal:
Not applicable.

Budgetary Impact Worksheet

Does this action change appropriations?

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

<table>
<thead>
<tr>
<th>Fund</th>
<th>Fund Center</th>
<th>Commitment Item</th>
<th>Functional Area</th>
<th>Funded Program</th>
<th>Grant</th>
<th>Sponsored Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Claudio Campuzano 3/24/2021
Claudio Campuzano Date
Finance, Property & Technology Manage
Mill Park Development Project

April 14, 2021
Robin Johnson Craig, Capital Project Manager III
Kathleen Brenes-Morúa, Interim Chief Procurement Officer
Mill Park Project: Location Map
Mill Park Project Site Map
Mill Park Elementary

- 77.1% diversity in enrollment
- 74.3% Free and reduced Lunch program enrollment
- 49% ESL enrollment

Mill Park Development

• Central lawn with space for sports and leisure activities
• Community garden
• Playground and splash pad
• Circular pathway and soft surface trail
• Picnic shelter and tables
• Landscaping with trees and native plants
• Parking
Mill Park Development

Project Funding: $12 Million
Funding Source: Parks System Development Charges
Estimated O&M: $473k
What is the Construction Manager/General Contractor (CM/GC) Contracting Method?

- The CM/GC delivery method leverages the combined skills of an integrated multi-discipline team to control time, provide cost effective solutions and to ensure high project quality.
- Oregon law (ORS 279C.300) allows exemption from the low-bid procurement requirement if required findings provided in an exemption order are approved (ORS 279C.335).
- The CM/GC method still requires a competitive bid process but allows the City to include more consideration in the review of bid proposals than simply price.
How does Construction Manager/General Contractor Contracting Method provide more opportunities with DMWESB firms?

- Parks has had success using the CM/GC method as a meaningful and engaging approach to reach the DMWESB contracting community. Parks is committed to improving outcomes for DMWESB Contractors.
- Pioneer Courthouse Square Renovation CM/GC Project: Howard S. Wright partnered with Faison Construction as a Teaming Partner. Project provided 41% Subcontractor Equity Program participation.
Alternative contracting method of Construction Manager/General Contractor

• No favoritism, no diminished competition;
• Cost containment and best value accrued;
• Contractor can provide input during design, development and construction processes to the City and the design team;
• Opportunities for Service-Disabled Veterans Business Enterprises, Disadvantaged, Minority, Women, and Emerging Small Business minority-owned businesses in the contracting community.
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 in connection with the Mill Park Construction Project for an estimated amount of $7,500,000 (Ordinance)
Thank you!
Questions?