

**LGC DATE: February 21, 2024**

**Posting Language**

Approve a resolution finding the use of the Construction Manager-at-Risk method of contracting, as authorized by F, Chapter 2269 of the Texas Government Code, is the project delivery method that provides the best value to the City of Austin for the Sir Swante Palm Neighborhood Park project for renovations and restoration of historic facilities.

[Note: MBE/WBE goals will be established prior to issuance of this solicitation].

**Lead Department**

Financial Services Department

**Managing Department**

Financial Services Department

**Amount and Source of Funding**

After the selection process is complete, staff will return to the Waller Creek Local Government Corporation (LGC) to request authority to negotiate and execute a construction contract .

**Purchasing Language:**

This request is for the LGC to approve a resolution finding that the use of the Construction Manager-at-Risk method provides best value; therefore, no solicitation has yet been initiated.

**Prior LGC Action:**

N/A

**For More Information:**

Direct questions regarding this Recommendation for LGC Action to the Financial Services Department – Central Procurement at: [FSDCentralProcurementRCAs@austintexas.gov](mailto:FSDCentralProcurementRCAs@austintexas.gov) or 512-974-2500.

**Council Committee, Boards and Commission Action:**

N/A

**Additional Backup Information:**

For the Sir Swante Palm Neighborhood Park project (Project), the City will be in the “Supporting Party” role and the Conservancy will be in the “Managing Party” role, as those terms are defined in the Joint Development Agreement. Therefore, as the Managing Party, the Conservancy will be the party that solicits and contracts directly with the construction contractor. In doing so, the Conservancy acts as the City’s agent. The law thus requires that the Conservancy follow the laws that the City must follow to procure and contract with a construction contractor.

State law governs construction procurement for Texas municipalities. The standard method of contracting used for construction services is competitive bidding where the contract is awarded to the lowest responsible bidder. Texas Government Code Chapter 2269 allows for methodologies alternate to low bidding method which may provide the best value to the municipality. These alternate project delivery, procurement and contracting methodologies include: Competitive Sealed Proposals, Construction Manager-at-Risk, Design-Build, and Job Order Contracting. State law allows the City to adopt and use an alternative delivery method such as Construction Manager-at-Risk (CMR) under Chapter 2269 of the Texas Government Code if using one of the alternative methods is determined by the governing body or designee to be able to provide a better

or best value to the City for a given project.

Prior to entering into the Construction Phase for the Project, the Waterloo Greenway Conservancy (Conservancy) will establish Minority-Owned and Women-Owned Business Enterprise goals for construction. The Construction Manager at Risk firm will submit a Compliance Plan meeting the construction goals or documentation detailing their good faith effort(s) to meet the established goals. Additional subcontracting opportunities will also arise during the Construction Phase of this Project; however, the specific scopes and magnitude of the construction work cannot be determined until design has been sufficiently completed.

The Construction Manager at Risk method is a project delivery method where the project owner, or in this case, the Conservancy acting on its behalf, will contract with an architect/engineer to perform design services and separately contract with a Construction Manager at Risk firm to perform preconstruction and construction phase services. The role of the Construction Manager at Risk firm goes beyond performing general contractor services. The Construction Manager at Risk firm is under contract early in the design process to perform key preconstruction phase services such as collaborating with the Conservancy and the design team on scope and constructability to optimize the design and control costs. After design and before the Construction Manager at Risk firm begins construction, the Conservancy will negotiate and execute a Guaranteed Maximum Price for the remainder of the work, including actual construction.

The Construction Manager at Risk firm will be recommended by a Conservancy evaluation panel after that panel has evaluated and scored qualifications and proposals based on published evaluation criteria to determine the highest ranked firm. As set forth in Government Code Chapter 2269, the Conservancy will select a Construction Manager at Risk firm that will provide the “best value” to the City for preconstruction and construction services for the Project.

This Project provides for the addition of park facilities and restoration of the historic shelter house. Park facilities include both nature play and traditional play elements, including custom play structures, a water feature, native landscape plantings, shade structures, seatings and lighting. The Project will also be pursuing certification through the Sustainable Sites Initiative (SITES) rating system, per the City’s 2021 Green Building Policy update which requires SITES certification for park projects over \$2M.

Given the high-level of design coordination, custom play features, and historic restoration elements of the Project, the CMR method is recommended, as this methodology allows for experienced design and construction teams specialized in the design and construction of park facilities and historic structures. The CMR project delivery is the best delivery method supporting the City’s and *Conservancy’s* need to guide the design of new facilities based on public input, optimizing the project schedule, addressing key milestones for design and construction to achieve timely park completion.

The estimated construction budget for this work is \$8,000,000, and it is anticipated that construction will begin Spring of 2026.

This item is time sensitive and a delay in approving this resolution would mean a delay to the issuance of the solicitation. A delay in the solicitation will affect the ability to perform these improvements during the planned construction timeline for the Waller Creek District/Waterloo Greenway Program, which is a major City initiative and stimulus to our local economy.

The Construction Manager-at-Risk solicitation and evaluation process takes approximately two (2) months.