MEMO

TO: Board of Finance
   Burlington City Council

FROM: Nina Safavi, Parks Comprehensive Planner
      Kirsten Merriman Shapiro, Senior Policy and Project Specialist, CEDO
      Laura K. Wheelock P.E., Senior Public Works Engineer

RE: City Hall Park – Contract Approval for Construction Contract and

CC: Miro Weinberger, Mayor
    Cindi Wight, Director of Parks, Recreation and Waterfront
    Norm Baldwin, P.E. Asst. Director Public Works
    Chapin Spencer, Director of Public Works
    David E. White, AICP, Interim Director CEDO
    Doreen Kraft, Director, BCA
    Justin St. James, Asst. City Attorney

DATE: March 21, 2019

We are respectfully requesting the Board of Finance and City Council approve the award of a contract for construction of City Hall Park Renovation to SD Ireland Brothers Corporation (SDI); approve the award of a contract for resident engineering/construction inspection services to EIV Technical Services (EIV); and we also seek an amendment to the FY19 capital project budget that was approved on 5/24/18 and included the City Hall Park project.

Contractor Bid/Selection

This project went out for public bids in January 2019 for the general construction contract. The bid schedule for the project had many items separated out from the Base Bid to allow for identification of amenities that might be included in the final construction of the Park. Table 1 shows the Bids of the two qualified bidders.
Upon Council approval of the contract, DPW will give the contractor notice to proceed and the contractor will begin the process of ordering long lead time items and making preparations for site construction. The contractor is required to start major work on site by July 15, 2019. A significant amount of work will occur this season, however, there are items that have long lead/order times or are not seasonally appropriate to install in cooler temperatures of the fall 2019. The contractor anticipates finishing in July 2020. The working hours for the project are allowed Monday through Friday 7am -7pm and Saturdays 7am-5pm with the exception of major City Holidays where the contractor will not be allowed to work.

The City does want to acknowledge that the bids for this project were higher than previously estimated and through review with our design team, colleagues, and bidders we have identified the following challenges with our previous estimating efforts:

- **Contaminated Soils**: The costs to address the contamination of the soils in the park were not known in previous estimates, as stated at the time, were still being estimated in the last iteration of the project budget shared with the City Council in January 2019. The soil Corrective Action Plan (CAP) is currently being reviewed by the Department of Environmental Conservation and estimated costs for remediation items within the CAP are included in the Bid Price from both Bidders. The cost of this CAP is approximately $300,000. Please note that if the Council chooses not to move forward with the contract the DEC will still require the City to create a protective cap. Creating an effective cap with the existing park will require more and less efficient work and we estimate the total cost will be approximately $500,000.

- **Tree Management Plan**: Early in the bidding process contractors expressed concerns over the constraints created on the site by the existing trees that limited their ability to use traditional construction equipment as well as traditional means and methods. The number of trees, protection zones needed around the trees and canopy increased the amount of hand work, number of labor hours needed to complete construction, and number of times materials needed to be handled through both demolition and construction all impacted and increased the costs of the planned work and materials in the park. In addition, the liability the contractors needed to carry to cover possible damage to the trees within the park was difficult to estimate. Each of the trees within the park have been assessed for their monetary value, and given the number of trees scheduled to be retained the risk is significant and reflected with bid prices.

- **Public Controversy**: Throughout the bidding process both Bidders and Consultants who proposed on the Resident Engineering services expressed their concerns over the past and ongoing public controversy. Contractors and subcontractor recognize that the controversy creates a range of additional risks for them that are reflected in the pricing we received.

- **Spring Bid Price**
  - **February Bid Due Date**: The bid due date in February of 2019 came in just at the end of the ideal winter bidding which occurs from November-January. Bidding projects in this window of time generally will attract contractors with competitive pricing. With bids received in February contractors had already lined up projects for the 2019 season which makes pricing for this project higher. The project was originally targeting an end of November advertisement for bids, but the permitting process and subsequent Ad-Hoc committee process lengthened the design schedule by 2 months which moved the project outside of the ideal bid period window.
  - **Availability of Other Work**: There is significant availability of other work for construction contractors within Burlington, Chittenden County, and across Vermont through State, Municipal, and private development. This abundance of work has reduced the number of contractors that are interested in...
bidding projects, driving bidding prices higher, and resulting in fewer contractors bidding on a project.

- **Higher Material Costs Industry Wide:** Along with the higher than expected bid priced for the City Hall Park Project, other City Bids received this year have experienced higher than estimated pricing from contractors. In review of those bids, discussion with contractors, it was found that material prices have escalated since the beginning of last year.

- **Specialty Construction Estimating:** There are several specialty types of construction within this project which made it difficult to estimate for the Design Team, and difficult for City Staff to check. This added to the other factors listed above identifies the discrepancy between the anticipated project costs provided in January of 2019.

**City’s Response to Higher than Anticipated Costs**
The City team recognized that the first bid was problematic and has taken multiple steps to reduce and mitigate the impacts of the high bid including:

- **Rebidding**– after bids were received in February of 2019 the City engaged both bidders with a request to update their pricing based on revised materials and provisions in the contract to bring constructions costs closer to estimated costs and tentative budget developed for construction. Upon conclusion of this effort each bidder submitted for our consideration new pricing for construction of the park. The revised bid prices are the amounts listed in the table above. This exercises resulted in savings over the original bids, and in the case of SD Ireland and approximate savings of $300,000.

- Parks’ Tree and Planting Team will work alongside of the contractor to remove the existing trees in the park prior to the start of construction including limbing and pruning of branches to prepare for the work that is planned. This is work that the Parks team specializes in and to be able to use City expertise for this work is a win for the project. Our Parks team will also assist with planting the trees in the park next spring and planting of the landscaping beds throughout the park and in the raingardens. Aside from cost savings of using our own forces to complete the work and procure the materials, the Parks department will be responsible for maintaining these areas for at least the near future and possibly beyond. Having detailed familiarity with these areas will assist with the long term maintenance. The savings realized from this approach is approximately $120,000.

- Securing additional philanthropic resources – since the initial bid, the Mayor has secured an additional philanthropic donation for this project of $500,000 on top of the prior donations he has secured of over $1,000,000.

**Resident Engineering**
The City’s project management team issued a Request for Proposals (RFP) for resident engineering/construction inspection services on in January of 2019 for the City Hall Park Renovation and received four proposals from qualified consultants. Each proposal was reviewed and scored by City staff. From the proposals we are in the process of interviewing the two firms with highest rankings from the RFP process to determine which firm and associated staff will be the best fit for this project. The costs proposals from each of the two firms were similar and the allocation indicated within the project budget will be adequate to cover either contract. The budget being carried for this work will be $220,347 to cover the anticipated contract with contingency.

City staff will bring forward to the Board of Finance and City Council in April of 2019 a request to award the resident engineering work associated with this project.
Funding

The funding for this project through its design phase has already had numerous funding sources, with both City participating funds, donations, and a grant. The progression of this project into the construction phase utilized all of the previously mentioned types of funding and expands upon them.

The budget table below outlines the funding sources for this project and the expenses. A detailed budget for the project with anticipated fiscal year allocation of funds is included as an attachment to this memo.

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<th>FUNDING SOURCE</th>
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<th>CONTRACTOR/CONSULTANT</th>
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<td>Contingency (Construction + RE/QEP)</td>
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<tr>
<td><strong>Total Expenses</strong></td>
<td><strong>535,091</strong></td>
<td><strong>5,807,797</strong></td>
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City Hall Park Project Background

A master plan for the reconstruction of City Hall Park was first developed by the City through the *Imagine City Hall Park* process led by Burlington City Arts in 2012 and supported by a grant from the National Endowment for the Arts. Following a 6-month public outreach campaign that engaged an estimated 950 participants, the resulting master plan integrated what were identified as the highest priorities gathered from the community. The priorities were based on what they described they love about the park and what they would like to see in the park in the future. This plan also included strategies for addressing the functional and operational challenges in the park, including soil compaction, drainage and stormwater runoff, turf and tree maintenance, and fountain operations, as well as others. On February 10, 2014 City Council approved a resolution supporting the progress made on the plan, and encouraging BCA and the Parks Department to proceed with Phase 2 design and bid documents as funding became available. The project was included in the City’s 2016 10-Year Capital Plan, which was reviewed and approved by Council. From that time, the project budget included $1M+ in philanthropic donations to support the construction of the park.

In 2016, the City launched the Great Streets Initiative. The master plan for City Hall Park was incorporated into this Initiative to ensure design compatibility between the park and adjacent streets, and to adequately plan for the complex stormwater relationship between Main Street and City Hall Park. A revised plan for City Hall Park, modified through the Great Streets Initiative, was presented in 12 public meetings spanning November and December 2016, with over 400 public comments received. The multidisciplinary team leading the Great Streets Initiative worked for
9 months to further revise the plan in order to respond to public input; work with historic preservation professionals; and additionally explored project feasibility. This revised plan was presented August 14, 2017 as a neighborhood meeting to the public, and subsequently to the Parks, Arts and Culture Committee (PACC) and the Parks Commission. Both the PACC and Parks Commission recommended Council’s approval of the Phase 2b Contract Amendment to advance City Hall Park Plans to 100% design and construction documents. On September 18, 2017 the design team and City team brought forward to the City Council the request to approve the design and seek to advance the design forward to 100% plans where it was approved in an 11:1 vote.

Design of the 100% plans commenced in September of 2017; the first milestone for the design was completion of the Design Review Board approval and receipt of a zoning permit in March of 2018. The project through City Council action in response to public input, then underwent an Ad-Hoc committee process to review the design to date relative to the existing and proposed trees in the park. The process resulted in a June 25, 2018 resolution that provided direction to the design team to keep additional existing trees in the park, and add more new trees to the design. Following the Ad-Hoc process, design of the park proceeded quickly to recover time where the forward progress was put on hold. The hold for permitting and Ad-Hoc ultimately pushed the design schedule back two months which resulted in bidding the project later than expected.

The City Hall Park Renovation project was put out for bidding in January of 2019. During the bid process we required prospective bidders to attend a mandatory pre-bid meeting. At this meeting there were at least 4 Contractors in attendance that were considered qualified to be able to construct the project based on past performance on City projects. Of the possible 4 bidders who attended the meeting, the City only received bids from 2 of those contractors. When the City contacted the contractors who chose not to bid the project, the contractors expressed strong concerns with the risks of the provisions in the contract around tree protection, limited access to the site, public perception of the project and a pending petition that would have put the future of the project on the March ballot.

As with all infrastructure improvement projects, closures and detours are necessary to allow adequate space for construction to occur efficiently while providing a safe environment for both the public and workers. For the construction of the park the selected contractor will be allowed full closure of the park until it is ready to open to the public in July 2020. In addition the contractor will be allowed to close the sidewalk adjacent to the park on College Street and St. Paul Street; they will also be allowed to occupy the parallel parking spaces on College Street and diagonal parking spaces adjacent to the park on St. Paul Street while they are actively working on the park. It will be expected that the occupancy of the right-of-way will be condensed or removed if a winter shut down occurs. Closure details will be communicated clearly with the public.

Thank you in advance for your consideration of these requests.

Staff from Parks, Recreation and Waterfront, Public Works, and CEDO will be available to answer any questions at the meeting.

Incl.
1. Detailed Project Budget
2. Resolution
3. Check List