

# Ordinance No. 808-16

Council Members KJ. Johnson, Brancatelli  
and Kelley (by departmental request)

## **AN EMERGENCY ORDINANCE**

Determining the method of making the public improvement of constructing, rehabilitating, renovating, replacing or otherwise improving the Marion Motley Park to implement a motorcross sports and mountain bike program, including but not limited to site improvements and appurtenances; authorizing the Director of Public Works or Capital Projects, as appropriate, to enter into one or more contracts to make the improvement and authorizing standard and requirement contracts; authorizing one or more management agreements for the maintenance, operation, and management services of the program, for a period of five years with five one-year options to renew, exercisable by the Director of Public Works.

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WHEREAS, the unique design, time, budgetary, or other material elements of this project can benefit from the special care, coordination, and expeditiousness possible by performance of both the professional design services and the construction under a design-build approach contract with a single entity; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of constructing, rehabilitating, renovating, replacing or otherwise improving the Marion Motley Park, including but not limited to site improvements and appurtenances to implement a motorcross sports and mountain bike program (the "Improvement"), for the Department of Public Works, by one or more design-build or engineer-procure-construct contracts duly let to the person, firm, or corporation or combination of them submitting the best proposal, taking into consideration the engineering and design, the construction method, the proposed design and construction costs, the total life-cycle costs, the qualifications of the proposed design professional and construction firm, and the other objectives of the Improvement.

The selection of the person, firm, or corporation to design and construct the Improvement shall be made by the Board of Control on the nomination of the Director

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of Public Works or Capital Projects, as appropriate from a list of qualified and available persons, firms, or corporations, as may be determined by the Director of Public Works or Capital Projects, as appropriate, after making a full and complete canvass for the purpose of compiling the list. The Board of Control shall fix the total compensation to be paid for all design and construction and procurement necessary for the Improvement. The contract or contracts shall be prepared by the Director of Law, approved by the Director of Public Works or Capital Projects, as appropriate, and certified by the Director of Finance.

Section 1a. That the Director of Public Works or Capital Projects, as appropriate, is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to provide environmental, engineering, geotechnical services, construction inspection services, and other related professional consulting services needed for the Improvement.

The selection of the consultant or consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Works or Capital Projects, as appropriate, from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Works or Capital Projects, as appropriate, for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Works or Capital Projects, as appropriate, and certified by the Director of Finance.

Section 2b. That the Clerk of Council is authorized to enter into an agreement with a consultant to provide professional services necessary to monitor and report to the Council on the status of the Marion Motley Park project as described in this ordinance. The selection of the consultant shall be made by Cleveland City Council and the agreement shall not exceed \$50,000, payable from funds approved by the Director of Finance.

Section 2. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of Codified Ordinances of the City of Cleveland, the Director of Public Works or Capital Projects, as appropriate, is authorized to execute all documents and pay all fees necessary to acquire any real estate interests needed for the Improvement.

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Section 3. That the Director of Public Works or Capital Projects, as appropriate, is authorized to apply and pay for permits, licenses, or other authorizations required by any regulatory agency or public authority to permit performance of the work authorized by this ordinance.

Section 4. That the Director of Public Works or Capital Projects, as appropriate is authorized to make one or more written standard purchase contracts and written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, the period of requirements to be determined by the director, for the necessary items of materials, equipment, supplies, and services necessary to construct the Improvement, including labor and materials if necessary, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Works or Capital Projects, as appropriate. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines.

Section 5. That the Director of Public Works or Capital Projects, as appropriate, is authorized to apply for and accept any gifts or grants for this purpose from any public or private entity; and that the Director is authorized to file all papers and execute all documents necessary to receive any gift or grant funds; and that the funds are appropriated for the purposes described in this ordinance.

Section 6. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative arrangements with other governmental agencies. The Director of Public Works or Capital Projects, as appropriate may sign all documents that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

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Section 7. That, notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Public Works is authorized to enter into one or more management agreements, or other such agreements as are appropriate for use with bond-funded property, on the basis of competitive proposals for the purpose of operating and managing a motorcross sport and mountain bike program and maintaining the park, for a period of five years with five one-year options to renew, exercisable by the Director of Public Works. The selection of the contractor shall be made by the Board of Control upon the nomination of the Director of Public Works. The agreements shall be prepared by the Director of Law and shall contain additional terms and conditions as the Director deems necessary to protect and benefit the public interest.

Section 8. That the costs of the requirement contract or contracts shall be paid from Fund Nos. 20 SF 516, 20 SF 523, 20 SF 535, 20 SF 538, 20 SF 544, 20 SF 552, 20 SF 558, 20 SF 561, 20 SF 565, 20 SF 572 and from the fund or funds to which are credited the proceeds from the sale future bonds, if issued for this purpose, and shall also be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of any purchase under the contract, each of which purchases shall be made on order of the Commissioner of Purchases and Supplies by a delivery order issued against the contract or contracts and certified by the Director of Finance.

Section 9 That the cost of this ordinance shall be paid from Fund Nos. 20 SF 516, 20 SF 523, 20 SF 535, 20 SF 538, 20 SF 544, 20 SF 552, 20 SF 558, 20 SF 561, 20 SF 565, 20 SF 572, the fund or funds to which are credited the proceeds from the sale of future bonds, if issued for this purpose, from the fund or funds to which are credited

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any gift or grant received for this project and any other funds approved by the Director of Finance, RQS 0103, RL 2016-72.

Section 10. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

RC:nl  
7-13-16

FOR: Director Spronz and Cox

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**REPORT**  
**after second Reading**

**Mr.**  
**An Emergency Ordinance** determining the method of making the public improvement of constructing, rehabilitating, renovating, replacing or otherwise improving the Marion Motley Park to implement a motorcross sports and mountain bike program, including but not limited to site improvements and appurtenances; authorizing the Director of Public Works or Capital Projects, as appropriate, to enter into one or more contracts to make the improvement and authorizing standard and requirement contracts; authorizing one or more management agreements for the maintenance, operation, and management services of the program, for a period of five years with five one-year options to renew, exercisable by the Director of Public Works.

**READ FIRST TIME**  
and referred to \_\_\_\_\_

**REPORTS**

by the council \_\_\_\_\_

**CITY CLERK**

**READ SECOND TIME**  
by the council \_\_\_\_\_

**CITY CLERK**

**READ THIRD TIME**  
by the council \_\_\_\_\_

**PRESIDENT**

**CITY CLERK**

**APPROVED**

**MAYOR**

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