

ORDINANCE NO. 074-2023(COTW),  
*Second Reading*

By Mayor Seren

An Ordinance authorizing the Mayor to enter into an agreement with Tempest Inc. for the Recreation Center – North Ice Rink Reconstruction Project, and declaring the necessity that this Ordinance take effect immediately as an emergency measure.

WHEREAS, the City of Cleveland Heights has determined that the North Ice Rink at the City's Recreation Center must be reconstructed in order to serve its intended purpose and to satisfy the recreational needs of the City; and

WHEREAS, on February 7, 2023, the City advertised a Request for Qualifications for Construction Manager at Risk services in connection with the City's Cleveland Heights Recreation Center North Ice Rink Reconstruction Project; and

WHEREAS, pursuant to Sections 171.02(d) and 171.06-171.09 of the Codified Ordinances and the Ohio Revised Code, the City evaluated the Statements of Qualifications that were submitted in response to the RFQ and held discussions with individual construction managers regarding their qualifications, the scope and nature of the services they would provide and the various technical approaches they may take regarding the Project: and

WHEREAS, the City selected and ranked no fewer than three construction managers considered to be the most qualified to provide the required construction management services; and

WHEREAS, the City negotiated an agreement with the construction manager ranked most qualified to perform the required services, that being Tempest, Inc., with a principal place of business of 12750 Berea Road, Cleveland, Ohio 44111.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO, THAT:

SECTION 1. The estimated cost of the ice rink reconstruction Project ("Project") is in excess of Seventy-Five Thousand Dollars.

SECTION 2. This Council hereby determines that it is in the best interests of the City and shall, in the opinion of this Council, be cost-effective to select a Construction Manager at Risk to manage the Project, who will enter into a contract to provide all labor and materials for all phases of the improvement project, directly or through the use of subcontractors, including necessary design services, subject to a guaranteed maximum price to be paid by the City.

SECTION 3. This Council hereby determines that the selection of a Construction Manager at Risk to manage the ice rink reconstruction project is in the best interests of the City and shall, in the opinion of this Council, expedite the selection and coordination

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of other qualified contractors or subcontractors as well as the overall performance of work and completion of the Project.

SECTION 4. On the basis of its response to the City's Request for Qualifications and its proposal, Tempest, Inc. of Cleveland, Ohio is determined to be the highest ranked and most qualified responder, and its proposal to be the best value for the required Construction Manager at Risk services for the Project.

SECTION 5. The Mayor is authorized to enter into an agreement with Tempest, Inc. for Construction Manager at Risk services with regard to the Project, substantially in accordance with the document on file in the office of the Director of Finance, subject to the final approval of the Director of Law as to legal form and correctness, and to execute other documents necessary for the commencement and completion of the Project.

SECTION 6. Notwithstanding any language in Section 171.06(b) of the Codified Ordinances to the contrary, each contract to be awarded by Tempest on the Project in an amount which exceeds Twenty-Five Thousand Dollars (\$25,000.00) shall be subject to the City's approval which shall be in the form of a writing signed by the Mayor or an administrative official or employee of the City designated by the Mayor as authorized to approve such contract, following Tempest's demonstrated satisfaction of the requirements for bidding, notice and description of work and materials of the contract work.

SECTION 7. It is found and determined that all formal actions of the Council relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 8. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 9. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to commence work on the reconstruction of the North Ice Rink at the Recreation Center at the earliest possible time, so that the Project can be completed before Fall 2023 hockey programs require its availability. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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MELODY JOY HART  
President of the Council



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ADDIE BALESTER  
Clerk of Council

PASSED: 04/24/2023

Presented to Mayor: 04/25/2023

Approved: 04/30/2023



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KAHLIL SEREN  
Mayor