

RESOLUTION NO. 5508-20

A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF SPECIAL PROCUREMENT AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A DIRECT NEGOTIATION CONTRACT WITH WALLIS ENGINEERING, PLLC FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES FOR THE GARDEN CORNER CURVES PROJECT.

WHEREAS, Wallis Engineering was selected through a competitive Request for Proposals process to provide design engineering services for the Garden Corner Curves project;

WHEREAS, the City intends to add an additional scope of work and contract price for Wallis Engineering to perform construction engineering and construction inspection services;

WHEREAS, the City adopted its public contracting rules pursuant to Oregon Revised Statutes (ORS) 279A.065;

WHEREAS, the City Council is designated as the Local Contract Review Board for the City of Tualatin, pursuant to ORS 279A.060 and Tualatin Municipal Code (TMC) Chapter 1-21;

WHEREAS, ORS 279B.085 and TMC 1-21-090 authorizes the City Council to authorize a special procurement contract upon the adoption of certain written findings; and

WHEREAS, the City published notice of the public hearing in the Tigard-Tualatin Times a minimum of seven days prior to the hearing date to consider a request for proposal process for the Project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The Council authorizes the City Manager to enter into a special procurement through a direct negotiation contract with Wallis Engineering, PLLC for construction engineering and inspection services for the Garden Corner Curves project in the amount of \$223,781.93.

**Section 2.** The special procurement is based on the following findings:

**A. The Nature of the Contract.** This contract scope includes construction engineering and construction inspection services.

**B. Estimated Cost of the Contract.** The estimated cost of the Contract is approximately \$223,781.93.

**C. The Special Procurement Will Result in Substantial Cost Savings.** Allowing a direct negotiation contract by special procurement for this contract will produce substantial cost savings.

(1) The traditional process for this type of contract is a Request for Proposal (RFP) process. The timeframe in using this formal process is estimated to take at least two months. The City would lose at least two months of time before construction could begin, which increases the risk of a delayed project delivery. This special procurement will provide substantial cost savings and public benefits to the City by reducing schedule delays that would result from a new competitive process.

(2) Proceeding through another RFP process poses several disadvantages on this project and would subject the City to additional costs and risks, given the unique qualities of the project and the need for design and construction coordination.

(3) The City already conducted a RFP process for the design and engineering services for this project. The original RFP indicated the City might pursue adding this new scope. Going through a new RFP process would likely result in a similarly list of consultants and design professionals. Therefore, the time and expense in developing a new RFP is not needed and would result in additional time and costs.

(4) Proceeding through an RFP process will also likely not provide a different result in the selection of the consultant. Wallis Engineering has already worked with the City on the concept study and the design of this Garden Corner Curves project. A new consultant would need to become familiar with the projects, the permitting agencies involved and the Tualatin community in order to perform similar work. Continuing to contract with Wallis Engineering allows the City to utilize Wallis Engineering's unique knowledge and experience on the project, which will result in cost and time savings to the City.

(5) Directly negotiating with Wallis Engineering will provide the following substantial cost benefits, including: (a) coordinated design and construction management; (b) understanding of existing conditions, design requirements, and utilities; (c) knowledge and coordination of limited staging areas; (d) phasing of improvements to maximize timing and efficiency; (e) better communication and continuity; and (f) a recognition of the window of time to complete construction.

(6) The traditional procurement process does not allow the City to select the appropriate consultant to take into consideration the unique circumstances of the Project and location of the site. Authorizing a direct negotiation contract allows the City to select a consultant that can ensure the coordination of construction timing and requirements of continued mobility near the site. This results in cost and operational efficiencies for both the City and public at large. It also allows the City to select the best consultant to manage the integration of the project, while taking into account the needs of each individual part of the project. Such integration reduces costs and enhances coordination throughout the multiple stages of the improvements at the location.

(7) The selected consultant needs to be familiar with and coordinate with the all phases of the construction project. Wallis Engineering is intimately familiar with the design and requirements of the project, as Walling Engineering designed the project itself. As a result, Wallis Engineering will be able to provide value engineering and construction management to coordinate the Garden Corner Curves design with contractors performing the construction services. This will result in substantial cost savings to the City.

(8) The biggest risks to the project are complexities regarding communications, continuity, and schedule. The special procurement allows the City to coordinate in order to make the construction process as smooth as possible for the public. The special procurement process will provide the City and consultant with an opportunity to work cooperatively to resolve construction and management issues in an efficient manner and early in the process. The special procurement will provide both time and cost savings that are vital given the location of the project. The special procurement will allow the City expedite decision-making and reduce project delays.

(9) The project involves several complicated components, including floodplain impact and mitigation, relocation of utilities, minimizing disturbances, and design and safety. The special procurement process will provide the City and consultant with an opportunity to work cooperatively to resolve these issues and coordinate with contractors on site as it relates to these issues.

(10) The completed Project will result in safer transportation for vehicles, bicycles, and pedestrians by providing a needed redesign of the Garden Corner Curves Project. Granting the special procurement will ensure these safety enhancements are made efficiently and constructed with the best-designed features.

#### **D. The Exemption Is Not Likely To Encourage Favoritism Or Substantially Diminish Competition.**

(1) Favoritism is defined as “selection based on friendship or factors other than merit.” “Encourage” is defined as “promoting the growth and development.” Granting a contract-specific special procurement for the contract will be unlikely to encourage favoritism because this is a single contract that will be procured through a previously conducted RFP process. This contract adds an additional scope of work to a prior design contract. The original RFP process was conducted through a competitive selection process. Granting the special procurement and directly negotiating does not encourage favoritism or substantially diminish competition.

(2) The City selected this consultant through a RFP process specifically for the Garden Corner Curves project. All consultants with the type of experience likely already submitted proposals for the original RFP. The City selected Wallis Engineering under the original RFP based on a competitive process taking into consideration all proposals. Adding an additional scope of work for engineering and construction inspection services does not result in favoritism or substantially diminish competition.

(3) If the City were to conduct another RFP process, it is very likely that Wallis Engineering would be the selected consultant. This is because Wallis Engineering is most familiar with the Garden Corner Curves project, having performed work on the project that is directly related to continuing with construction engineering and inspection.

(4) The terms and conditions of the contract will be the result of “arms-length” contract negotiations and the contract will be reviewed and approved by the City Manager and City Attorney. The selected consultant will be required to comply with all City requirements and public contracting code requirements. These requirements are the same as if the project was competitively procured, and thus, the City will not be engaging in favoritism in the execution

of the contract documents.

**E. The Proposed Contracting Method.** The proposed contracting method is a direct negotiation contract.

**F. The Estimated Contract Let Date.** The estimated let date for this contract is July 31, 2020.

**Section 3.** This resolution is effective upon adoption.

INTRODUCED AND ADOPTED by the City Council this 27<sup>th</sup> day of July, 2020.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder