

RESOLUTION NO. 5482-20

A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF A SPECIAL PROCUREMENT AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A DIRECT NEGOTIATION CONTRACT WITH BARNEY & WORTH, INC. FOR SERVICES FOR THE TUALATIN MOVING FORWARD BOND PROGRAM

WHEREAS, the Tualatin Moving Forward Bond Program will deliver high priority transportation projects to address congestion relief, neighborhood safety, and safe access to schools citywide;

WHEREAS, Barney & Worth was selected from the City's Qualified Pool List (QPL) to provide project management and engineering services in order to prepare for the Tualatin Moving Forward bond vote and to assist the City with early transportation projects and project specific communications;

WHEREAS, the City may select a firm from the QPL for fees up to \$150,000 without the need for an additional competitive process;

WHEREAS, the initial contract with Barney & Worth was not expected to cost more than \$150,000, but additional work is needed and will exceed that amount;

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 Barney & Worth, Inc. for strategic communication services.

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

A. The Nature of the Contract. This contract scope includes: strategic communication services, production of communication materials, news media coordination, client consultation, and website maintenance.

B. Estimated Cost of the Contract. The estimated cost of the Contract is an additional \$155,000, bringing the total contract to approximately \$260,000.

C. The Special Procurement Will Substantially Promote the Public Interest in a Manner that Could not Practicably Be Realized by Complying with the Competitive Contracting Requirements, and Provides a Public Benefit.

(1) Barney & Worth, Inc. has already worked with the Tualatin Moving Forward Bond Program, starting before the bond was approved by the voters, and is now mid-way through the process of work on the program. A new RFQ process would take approximately two-months, which would result in a significant lapse in program-wide communication and transparency with the public. In addition, a new consultant would need to become familiar with the projects, program, community, and technology used to communicate in order to perform similar work likely requiring further delays and continued insufficient dispersal of information. Continuing with Barney & Worth's knowledge and experience will ensure there is no disruption in communication to the public.

(2) Not amending Barney & Worth's contract could adversely impact:

- Communications with the traditional news media;
- Updates to the Tualatin Moving Forward website;
- Updates to the program's "Report Card" or up-to-date project-specific status information; and
- Communication materials available for distribution to the public. Allowing a direct negotiation contract by special procurement for this contract will produce substantial cost savings.

(3) The City already has a qualified pool list for the type of work involved. Going through an RFP process would likely result in a similarly qualified list of consultants. Therefore, the time and expense in developing an RFP is not needed and would result in additional time and costs.

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 selection from a consultant on the City's qualified pool list. Contractors on the qualified pool list already went through a qualifications based selection process. The direct negotiation process allows consideration of multiple factors, including experience, knowledge of the Project, schedule, and cost.

(2) The City has already proceeded with a qualifications based selection process through use of the qualified pool. All consultants with the type of experience necessary to complete this type of works are on the City's qualified pool list.

(3) If the City were to provide the qualified pool list with the opportunity to provide proposal to be submitted in response a request for proposal process, it is very likely that Barney & Worth would be the selected consultant. This is because Barney & Worth is most familiar with the

bond program, having performed work on the program that is directly related to continuing the bond program.

(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. This is a modification to an existing contract.

Section 3. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED by the City Council this 27th day of January, 2020.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

BY _____
City Attorney

ATTEST:

BY _____
City Recorder