

RESOLUTION NO. 5622-22

A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF AN EXEMPTION FROM COMPETITIVE BIDDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DESIGN-BUILD CONTRACT FOR THE TUALATIN CITY SERVICES BUILDING PARKING LOT EXPANSION AND REPAIR AND ENTER INTO AN AGREEMENT WITH PGE FOR THE FLEET PARTNER PROGRAM.

WHEREAS, the Council is designated as the Local Contract Review Board, (the Board) under ORS 279A.060 and City Public Contracting Rules in TMC 1-21;

WHEREAS, ORS 279C.335 and TMC 1-21-090 authorizes the exemption of certain public contracts from the requirements of competitive bidding upon the making of certain findings;

WHEREAS, the City has needs to procure services to design-build the City Services Building parking lot expansion and repair project;

WHEREAS, the most cost-effective and efficient way to procure such services is through the direct award of a Design-Build Contract, which requires exemption from the normal competitive bidding process;

WHEREAS, the City intends to combine the parking lot expansion and repair project with the PGE Fleet Partner infrastructure project using the same contractor PGE selected through a RFP process;

WHEREAS, the contractor selected by PGE is the same contractor the City selected through their RFP process for the completed Tualatin City Services Building project;

WHEREAS, the Council finds that exempting this contract from competitive bidding and authorizing the City Manager to directly award a Design Build Contract is the most advantageous, expeditious, and cost-effective method for construction of the City Services Building parking lot expansion and repair project and PGE Fleet Partner Program;

WHEREAS, the City published notice of the public hearing in the *Daily Journal of Commerce* a minimum of fourteen days prior to the hearing date;

WHEREAS, the City Council held a public hearing on June 13, 2022 and offered any opportunity for any interested party to appear and present comment; and

WHEREAS, based on the information presented by staff as well as any public testimony received during the public hearing, the Council makes the findings below to support the creation of a special award procedure for the Design Build Contract for the City Services Building parking lot expansion project.

BE IT RESOLVED BY THE CITY COUNCIL, SITTING AS THE LOCAL CONTRACT REVIEW BOARD, OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The Council exempts from competitive bidding and permits the direct award of the Design-Build Contract to Bremik Construction for the Tualatin City Services Building Parking Lot Expansion and PGE Partner Program and authorizes the City Manager to award and execute said contract on behalf of the City.

**Section 2.** The contract exemption authorized by Section 1 is based on the following findings:

**A. The Nature of the Contract.** The nature of the contract is a Design-Build Contract for the Tualatin City Services Building Parking Lot Expansion and Repair Project (the "Project"). The Project will be combined with the PGE Fleet Partner Infrastructure Program, which will provide electric charging stations for the City's electric car fleet. This proposed contract will combine the two projects into one design build process.

**B. Estimated Cost of the Contract.** The estimated cost of the Project is approximately \$400,000.00

**C. Exemption will result in substantial cost savings to the City.** The Project is unique as it combines Tualatin City Services Building parking lot expansion and storm water repairs with the PGE Fleet Partner electric vehicle charging infrastructure program. By combining these two projects under one contract PGE and the City agree the Design-Build contracting method provides opportunities for cost saving in a variety of ways. Having the same contractor both design and build both projects at the same time allows for value engineering, increased efficiency and coordination of the sub-contractors ensuring the final product will not only function as appropriately designed but also lower overhead costs for staging, coordination and repetitive work, among other potential cost savings tasks.

**a. Time Savings.** The Design-Build delivery approach enhances the opportunities to minimize the project time, while enhancing coordination. Under Design-Build Contract, design and construction can be coordinated. By coordinating design and construction, the duration of the Project construction is reduced. Also, the design collaboration between the designer, the City, and the construction portion of the Project will provide efficiency coordination of work. Furthermore by combining the Project with the PGE Project, substantial time will be saved by using the same entities to perform work on both projects simultaneously. This will lessen coordination needs as well as any potential design and construction scheduling and staging disputes.

**b. Cost Savings.** The Design-Build process provides coordination of the design and construction activities to provide opportunities for cost savings. System options and real-time cost estimates provided by the Design-Build throughout the constructability reviews will aid the Project and allows the City to make informed cost-benefit decisions. As noted above, by combining the two projects, the City will experience cost savings on multiple fronts, including, but not limited to overhead and staging costs as well as paying for duplicative work that would be required if two separate contractors were working on both projects at the same time.

**c. Technical Complexity and Market Conditions.** The Design-Build Contract approach is the best method to address the complexities of the project and coordinate the technical input and construction through a "team approach." Using the same contractor as

PGE will further enhance the “team approach” and greatly decrease if not in fact eliminate the potential for conflicts between the projects.

**e. Funding.** The funding allocated for this project, including repairs is \$400,000. The funds for this Project come from savings realized from the Tualatin City Services Building project and relative fund projects.

**D. The Exemption Is Not Likely to Encourage Favoritism or Substantially Diminish Competition.** “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 exemption for the contract will be unlikely to encourage favoritism because Bremik Construction went through a request for proposal process “RFP” with PGE and was already awarded the contract for the PGE portion of the Project. Furthermore, Bremik Construction also went through the City’s RFP process and was awarded the contract for the City Services Building Project. Based on the knowledge of the Project area, it is likely that Bremik would have submitted a highly competitive bid should the City follow its normal bidding procedures.

The terms and conditions of the construction contract will be the result of "arms-length" contract negotiations, which will require that subcontractors be obtained under a competitive process, and the contract must be reviewed and approved by the City Manager and City Attorney prior to execution.

As a result, the exemption from the requirement of competitive bidding is unlikely to encourage favoritism in the awarding of the improvement contracts or substantially diminish competition for public improvement contracts.

**E. Public Interest.** The public interest in adopting this alternative contract award method is served in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under the City’s regulations because without a direct award there is no guarantee that the City could use the same contractor as PGE for both Projects. The public interest in achieving cost savings, project efficiencies, and increased project quality through coordination cannot be achieved unless the City and PGE use the same contractor for both projects.

**F. The Proposed Contracting Method.** The proposed contracting method is a result of previous Request for Proposal process used by PGE to select a Design-Build Contractor. The City will directly award its contract for the Project to the same contractor awarded the PGE contract so that both projects can be completed simultaneously.

**G. The Estimated Contract Let Date.** The estimated contract let date is July, 1, 2022

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

INTRODUCED AND ADOPTED this 13 day of June, 2022.

CITY OF TUALATIN, OREGON

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

ATTEST:

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