

RESOLUTION NO. 5137-13

A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF AN EXEMPTION FROM COMPETITIVE BIDDING AND AUTHORIZING A COMPETITIVE REQUEST FOR PROPOSAL PROCESS FOR THE SW MARTINAZZI AVENUE PROJECT

WHEREAS, the Martinazzi Avenue project is listed on the City's capital improvement project list;

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

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 279C.335 and TMC 1-21-090 authorizes the City Council to exempt a public improvement contract from the competitive bidding requirements upon the adoption of certain written findings, and

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; to consider a request for proposal process for the Martinazzi Avenue project; and

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

Section 1. The Martinazzi Avenue Project is exempt from competitive bidding procedures in order to use a competitive request for proposal process.

Section 2. The exemption of the Martinazzi Avenue Project from competitive bidding is based on the following findings.

A. The Nature of the Contract. This contract is for the Martinazzi Avenue Project, which scope includes replacing the existing water and sewer lines, boring under the Tualatin River, rebuilding roadways, and rebuilding the intersection of SW Nyberg Street/SW Martinazzi Avenue. The work requires experience in working with the existing utilities, along with highly specialized work involving the water line boring and signal installation. The work will require closure of SW Martinazzi Avenue between SW Boones Ferry Road and SW Nyberg Street for approximately four weeks.

B. Estimated Cost of the Project. The estimated cost of the Martinazzi Avenue Project is \$1,600,000.

C. Use of the Competitive Request for Proposal Process Will Result Substantial Cost Savings. Allowing the use of a competitive request for proposal process by exempting this project from the "low bid" process will produce substantial cost savings.

(1) A use of a traditional city-managed "low bid" contracting method poses several disadvantages on this project and would subject the City to additional costs and risks, given the unique qualities of the project, including: (a) vehicular and pedestrian traffic flow; (b) existing utilities and conditions; (c) limited staging areas; (d) phasing of improvements; (e) limited window of time to complete construction; and (f) boring under the Tualatin River. Using the traditional "low bid" method would subject the City to risk of increased cost and time. Exempting the project from competitive bidding and allowing the competitive request for proposal process allows the City to select the best contractor based upon the skills and experience needed to complete the project efficiently and effectively. This will provide substantial cost savings and public benefits to the City.

(2) The traditional "low bid" contracting method does not allow the City to select the appropriate contractor to take into consideration the unique circumstances of the location of the site. The site is located in the downtown core and requires continued access to businesses and public facilities in the area. Using a request for proposal selection method allows the City to select a contractor 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 contractor to manage the integration of the project and continued mobility, while taking into account the needs of each individual part of the project. Such integration reduces costs and eliminates the need to coordinate multiple stages of the improvements at the location.

(3) The biggest risks to the project are complexities regarding communications, continuity, and schedule. The exemption allows the City to coordinate in order to make the construction process as smooth as possible for the public. The exemption process will provide the City and contractor with an opportunity to work cooperatively to resolve construction and access management issues in an efficient manner and early in the process. The exemption will provide both time and cost savings that are vital given the location of the project. The exemption will also allow all of the improvements in the area to be constructed with better communication and continuity. This will expedite decision making and reduce project delays.

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 an exemption for the construction of the improvements will be unlikely to encourage favoritism because this is a single contract exemption that will be procured through a competitive process. The City will use a request for proposal process that takes into consideration multiple factors, including experience, proposed project schedule, use of limited staging areas and cost.

(2) The City will competitively select through a request for proposal. Granting the exemption will not substantially diminish competition in the awarding of public contracts.

(3) 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 Engineer, the City Attorney, and the City Manager. During construction, the selected contractor will be required to comply with all City specifications, bonding, and insurance requirements, including payment of prevailing wages. These requirements are the same as if the project was competitively procured through a "low bid" process, 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 competitive request for proposal process.

F. The Estimated Contract Let Date. The estimated contract let date is May 13, 2013.

Section 3. The City Manager is authorized to use a competitive request for proposal process to select the contractor for the Martinazzi Avenue Project and enter into an agreement with the selected contractor to perform the work.

Section 4. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 22nd day of April, 2013.

CITY OF TUALATIN, OREGON

By _____

Mayor

ATTEST:

By _____

City Recorder

APPROVED AS TO FORM

By _____

City Attorney