

RESOLUTION NO. 1671

RESOLUTION OF THE CITY OF WILSONVILLE CITY COUNCIL ACTING IN ITS CAPACITY AS ITS LOCAL CONTRACT REVIEW BOARD, DECLARING THAT AN EMERGENCY EXISTS, EXEMPTING CERTAIN PORTIONS OF THE DOMESTIC WATER, WASTE WATER AND STORM WATER IMPROVEMENTS ASSOCIATED WITH THE COFFEE CREEK CORRECTIONAL FACILITY FROM THE COMPETITIVE REQUIREMENTS OF ORS 279.005 ET SEQ. AND THE WILSONVILLE CODE, DECLARING THAT AN EMERGENCY EXISTS, AND APPROVING AND AUTHORIZING THE CITY ENGINEER TO SOLICIT REQUESTS FOR PROPOSALS FROM EXPERIENCED AND QUALIFIED CONTRACTORS, AND MAKE A RECOMMENDATION TO AWARD THE CONSTRUCTION CONTRACT TO THE CITY COUNCIL ACTING AS THE LOCAL CONTRACT REVIEW BOARD NO LATER THAN AUGUST 21, 2000.

WHEREAS, on September 17, 1999, Governor Kitzhaber signed the executive order siting the Women's Prison and Intake Facility ("Facility") at the Day Road site; and

WHEREAS, in adopting Resolution No. 1584, the City of Wilsonville ("City") pledged its cooperation and willingness to expedite the construction of public improvements required to serve the prison; and

WHEREAS, the City adopted Resolution No. 1595, which authorized the City Manager to sign a cooperative agreement ("Agreement") for the provision of the public services necessary for the construction and operation of the (Coffee Creek Correctional) Facility: and

WHEREAS, on behalf of the City, the City Manager signed the agreement entitled "COOPERATIVE AGREEMENT FOR THE PROVISION OF PUBLIC SERVICES NECESSARY FOR THE CONSTRUCTION AND OPERATION OF THE WOMEN'S PRISON AND INTAKE CENTER, DAY ROAD PROPERTY AT WILSONVILLE, OREGON" ("Agreement") on November 30, 1999; and

WHEREAS, under the terms and conditions of the Agreement, the City agreed to complete certain domestic water, waste water and storm water improvements ("Infrastructure") according to a specific and timely schedule to allow the opening of the Facility in accordance with inmate population growth projections; and

WHEREAS, the Oregon Department of Corrections ("DOC") is now building the Facility based on having service that the City has agreed to provide available at the agreed times; and

WHEREAS, the schedule set by the state for the completion of the Infrastructure is as follows: Fire protection water by June 15, 2000 (this project is complete), all other water improvements and waste water improvements prior to October 15, 2001, and storm water improvements by October 15, 2000; and

WHEREAS, the adopted FY 2000-01 City budget includes both the authority and the resources to facilitate the engineering and construction of prison-related, off-site infrastructure improvements; and

WHEREAS, the City adopted Resolution No. 1600, authorizing the City Engineer to sign a professional services agreement with MacKay and Sposito, Inc. to provide engineering services necessary for the Infrastructure serving the Facility; and

WHEREAS, the City, DOC, the Oregon Department of Transportation, Washington County and MacKay and Sposito, Inc. have been dutifully performing the work necessary to provide the Infrastructure serving the Facility according to the agreed upon schedule; and

WHEREAS, due to circumstances beyond the control of the parties in the preceding paragraph, the completion of the Infrastructure for the Facility has fallen seriously behind schedule and the City is in danger of violating the Infrastructure completion schedule as outlined in the Agreement; and

WHEREAS, under the Agreement, the City must use its best efforts to ensure all improvements constructed by the City will be completed in a manner which is timely and minimizes interference with the construction process.

WHEREAS, failure to complete storm drainage improvements by October 15, 2000 would potentially allow runoff from fall rains to damage the Facility and delay completion of the Facility; and

WHEREAS, failure to complete domestic water and sanitary sewer lines to the Facility will prevent the Facility from opening under the agreed upon schedule; and

WHEREAS, under the terms and conditions of the Agreement, the City will incur significant penalties and additional costs should it fail to meet the Infrastructure completion schedule as outlined in the Agreement; and

WHEREAS, despite a complete waste water system re-alignment to significantly reduce the number of easements, the time required to secure the appropriate easements and/or rights-of-entry has been much longer than anticipated; and

WHEREAS, in the effort to reduce possible duplication of engineering work already completed for the DOC by Westech Engineering Inc. ("Westech"), the City entered into a professional services agreement with Westech to complete the preparation of the off-site storm water plans and specifications required services for the Facility;

WHEREAS, due to the complexity and extended timeline of the Washington County land use process, and the subsequent appeals of Washington County approvals for the Facility, Westech has been unable to supply the storm water plans and specifications for the Facility according to the timelines originally anticipated; and

WHEREAS, the DOC has recently requested that the City move the timelines forward for the completion of the Infrastructure for the Facility; and

WHEREAS, the seriousness of these delays, combined with the present late date in the current construction season, results in a formidable obstacle to the City in meeting the original timeline, let alone the recently received request to move the completion date forward; and

WHEREAS, in order to meet the terms and conditions of the Agreement, construction must begin by September 1, 2000, and staff now anticipates that the normal bidding procedure will result in the Infrastructure completion beyond the Agreement dates resulting in a substantial risk of loss, damage, interruption of services or threat to the public health or safety; and

WHEREAS, the City Council, acting as the local Contract Review Board, finds that it has authority to determine emergency conditions requiring prompt execution of contracts, as hereinafter set forth:

1.1 ORS 279.055 provides that a local jurisdiction may designate a Contract Review Board which shall have all the power granted to the State Public Contract Review Board; and

1.2 Wilsonville Code (WC) 2.312 designates the City Council as the local Contract Review Board and relative to contract concerns of the City states that the Contract Review Board shall have all the power granted to the State Public Contract Review Board; and

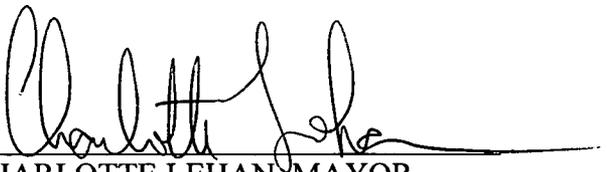
1.3 WC 2.314(3) states that a contract may be exempted from competitive bidding if the Board, by unanimous vote, determines that emergency conditions require prompt execution of the contract and it further states that a determination of such an emergency shall be entered into the record of the meeting at which the determination was made; and

WHEREAS, the City Council, acting as the local Contract Review Board, finds that ORS 279.011(4) defines emergency for public contracting purposes as circumstances that could not be reasonably foreseen and that create a substantial risk of loss, damage, interruption of services or threat to the public health or safety that require prompt execution of a contract to remedy the condition.

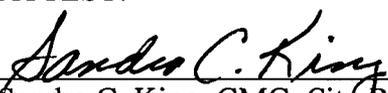
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City Council, acting as the Local Contract Review Board, exempts the contract for construction of certain portions of the domestic water, waste water and storm water improvements associated with the Facility from the competitive bidding process and determines that emergency conditions require prompt execution of the contract.
2. The City Engineer is hereby authorized to issue requests for proposals from no less than three experienced and qualified contractors, and to evaluate the proposals, including overall cost and the demonstrated ability to complete improvements in a timely manner;
3. The City Engineer is authorized to select an offer using both price and non-price related factors and may negotiate pursuant to OAR 137-030-0010 and 137-030-0090.
4. The City Engineer shall return to the City Council with a recommendation for the award of the construction contract no later than August 21, 2000.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 7th day of August, 2000, and filed with the Wilsonville City Recorder this date.


CHARLOTTE LEHAN, MAYOR

ATTEST:


Sandra C. King, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan Yes

Councilor Helser Yes

Councilor Barton Yes

Councilor Kirk Yes

Councilor Holt Yes