

## **FINDINGS TO JUSTIFY THE DIRECT APPONTMENT OF WALLIS ENGINEERING, PLLC FOR THE 2016 OEGON CITY ROADWAY RECONSTRUCTION PROJECTS**

These findings have been prepared to justify the direct appointment of a contractor pursuant to the provisions of OCMC Chapter 2.40 and ORS 137-048-0200(1). These findings have been prepared to meet ORS 137-048-0200(1).

### **BACKGROUND**

On March 24, 2015, Oregon City Public Works contracted with Wallis Engineering, PLLC (Wallis) to conduct the 2015 Roadway Reconstruction Projects (RRP). The City had transitioned to Wallis after utilizing Murray Smith and Associates for the previous two contract years. Due to issues beyond the control of the engineer, several portions of the 2015 RRP were not able to be constructed despite being designed and contracted for. At that time Staff determined that the most expedient and cost effective route to assure that the designed work would be completed was to continue the work through a new contract with Wallis to continue the design through to the 2016 RRP term.

On July 1, 2013 the City adopted the first of its biannual budget adoptions that carried through to June 30, 2015. The biannual budget allows the City to transition unexpended but budgeted funds across the two year planning cycle. The Public Works Department utilizes this approach to address larger scale projects to assure that the project is completed with certain level of continuity. This was the approach that was anticipated with awarding both the 2015 and 2016 RRP contract year to Wallis, PLLC.

The Commission, sitting as the public contract review board, finds and concludes:

*ORS 137-048-0200 (1) (d) - Direct Appointment Procedure, states that Contracting Agencies may enter into a Contract directly with a Consultant without following the selection procedures set forth elsewhere in these rules if:*

*(d) Continuation of Project With Extensive Estimated Fee. For Contracting Agencies where a Project is being continued, as more particularly described below, and where the Estimated Fee is expected to exceed \$250,000, the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services to be performed under the Contract must meet the following requirements:*

The proposed work is an extension of work that was begun with the 2015 RRP for the City, specifically Wallis completed portions of the overall 2016 work the previous year that they serve as the Engineer of Record for. The contract extension for that reason as well as for the improvements in design element that they implemented in 2015 will suffice as justification as a contract extension.

*ORS 137-048-0200(1)(d)(B) The Contracting Agency used either the formal selection procedure under OAR 137-048-0220 (Formal Selection Procedure) or the formal selection procedure applicable to selection of the Consultant at the time of original selection to select the Consultant for the earlier Contract;*

The original contract was let under the City's then active Short List of Pre-Qualified Engineering Consulting Firms awarded on November 4, 2009, which was the applicable selection procedure at the time the contract was first awarded.

*(C) The Contracting Agency makes written findings that entering into a Contract with the Consultant, whether in the form of an amendment to an existing Contract or a separate Contract for the additional scope of services, will:*

Findings of compliance have been adopted to meet ORS 137-048-0200(1) and (C) above.

*(C)(i) Promote efficient use of public funds and resources and result in substantial cost savings to the Contracting Agency;*

The Commission finds that the award of this contract through an exemption will result in cost savings for three reasons. First, the City will not suffer a significant delay in contracting the work to another firm, as Wallis has both already completed the design portions for Trillium Park Drive, which was intended to be completed in the 2015 term. The Trillium Park Drive portion of the 2015 work was not completed last year due to contract delays of another party. Secondly, Wallis is already familiar with the new components of the design contract for the 2016 term and require little to no start up time. Finally, delaying the contract award would cost eventually cost the City additional construction cost by forcing the contract to be let for bid outside of the typical construction window.

*(C)(ii) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement by not encouraging favoritism or substantially diminishing competition in the award of the Contract.* The Commission notes the purposes of the public contract law are to provide a degree of uniformity of procedure and avoid favoritism, while still providing for the diverse needs of local governments in this state. The proposed contract does not show favoritism it merely seeks an efficient and cost effective method to continue the work that was begun in March of 2015. Allowing Wallis to continue on year two of the contract would also be consistent with prior practices.

The Commission finds the standard to avoid favoritism is met because the City in good faith has been rotating the RRP contract work across its pool of prequalified engineering firms on a consistent biannual basis, but because of the unanticipated incompleteness of the 2015 RRP, it made sense to continue with the project engineer who was already familiar with the work. The City will continue to comply with the public contracting rules for most every other procurement and existing public contract rules have been designed to ensure competition.

For the above reasons, the Commission concludes that awarding a contract to Wallis Engineering, PLLC, will result in substantial cost savings to the City.

The Commission concludes that each of these considerations has been addressed and therefore concludes that the direct appointment requirements of ORS 137-048-0200 and OCMC Chapter 2.40 described above have been met.