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RESOLUTION NO. 1128

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR CONSULTING ENGINEERING SERVICES FOR FY 1994-95 STREET IMPROVEMENTS

WHEREAS, the City is in need of professional services from an engineer registered in the State of Oregon to perform design and construction management services for the street improvements authorized in the FY 1994-95 budget; and

WHEREAS, all twenty-one firms on our standing list for this type and size of work were invited to submit Statements of Interest and Qualification; and

WHEREAS, eight of those firms responded, and a selection panel shortlisted four firms, who were requested to respond to a Request for Proposal; and

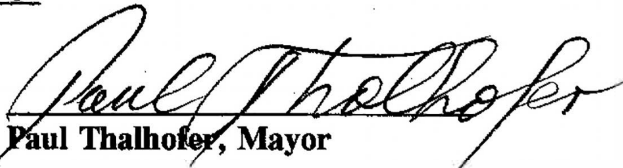
WHEREAS, a selection panel evaluated those proposals and recommended award of the consulting contract to Wallis Engineering of Vancouver, WA.

NOW THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:


The Mayor is authorized to enter into an agreement for consulting engineering services with Wallis Engineering for the design and construction management of the FY 1994-95 street improvements.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 11TH DAY OF OCTOBER, 1994.

YEAS: 6
NAYS: 0
ABSTAINED: 0


Paul Thalhofer, Mayor

DATED: OCTOBER 11, 1994

ATTEST:

George Martinez
City Recorder

AGREEMENT
for
CONSULTING ENGINEERING SERVICES

THIS AGREEMENT made and entered into on this 12th day of October, 1994, by and between the CITY OF TROUTDALE, a political subdivision of the State of Oregon (hereinafter referred to as the "City"), and WALLIS ENGINEERING, whose address is 119 East Eighth Street, Vancouver, Washington 98660 (hereinafter referred to as the "Consultant").

WHEREAS, the City desires to employ a consulting engineer to provide engineering services for "FY 1994-95 City Street Improvements" and,

WHEREAS, the City has not sufficient qualified staff to perform the necessary civil engineering within a reasonable time, and the City deems it advisable and desires to engage the services and assistance of a qualified professional engineering firm to prepare the engineering study for the project; and,

WHEREAS, the Consultant has represented, and by entering into this Agreement now represents, that all personnel to be assigned to the work required under this Agreement are fully qualified to perform the work to which they will be assigned in a competent and professional manner; and,

WHEREAS, the Consultant has indicated that he desires to do the work set forth in the Agreement upon the terms and conditions set forth below; now, therefore,

IN CONSIDERATION of the terms, conditions, covenants and performances contained herein below, the parties hereto agree as follows:

I RETENTION OF CONSULTANT

The City does hereby employ the Consultant to perform the civil engineering services upon the terms and conditions set forth herein. The Consultant shall conduct and complete the work in a competent and professional manner and shall furnish all labor, materials, equipment, supplies, and other incidentals to complete the work, except for those items to be furnished by the City to the Consultant as described in Section III hereof.

II OBJECTIVE AND SCOPE OF WORK

The objective of this Agreement is to provide civil engineering services, as required by the City Council for the preparation of construction contract documents for the Project as described in

Exhibit "A", which is hereby made a part of this Agreement. Exhibit "A" shall consist of both the Consultant's Proposal, dated August 26, 1994, and the Consultant's Proposal Addendum, dated September 9, 1994.

The Consultant shall provide the expense of all equipment, work, labor and materials of any sort whatsoever that may be required to complete the work provided for in this Agreement and every part thereof, except such as are mentioned in the specifications as to be furnished by the City.

III ITEMS TO BE FURNISHED BY THE CITY

The City will furnish the Consultant with services as specified in Exhibit "A".

IV DOCUMENTS TO BE FURNISHED BY THE CONSULTANT

The Consultant shall provide the City with all documents as specifically identified in Exhibit "A".

Upon completion of the work, all such documents shall become and remain the property of the City and may be used by it for any other purposes with no time limit.

The City or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant which are directly pertinent to this specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. All required records must be maintained by the Consultant for three years after the City makes final payments and all other pending matters are closed.

V TIME OF PERFORMANCE

Tasks under this contract shall commence upon signature of the contract and shall be completed during the calendar year 1995. The City may extend the term of this Agreement by providing the Consultant with written notice of such.

VI PAYMENT

The Consultant shall be paid by the City for completed work for services rendered under this Agreement as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work.

The City shall pay the Consultant on a time and material basis, based on the schedule of rates

shown in Exhibit "A". The Consultant shall include time and materials from subconsultants on each written invoice statement from the Consultant, and shall submit said written invoice statements to the City on a monthly basis. The City shall compensate the Consultant directly for all work completed under this contract.

The total compensation to the Consultant under this Agreement for the design phase of the project (as specified in the main proposal portion of Exhibit "A") shall not exceed a gross amount of THIRTY FOUR THOUSAND EIGHT HUNDRED SIXTY DOLLARS (\$34,860.00). The total compensation to the Consultant under this Agreement for the construction phase of the project (as specified in the addendum portion of Exhibit "A") shall not exceed a gross amount of EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$8,750.00) without the prior approval of the City. As specified in the addendum portion of Exhibit "A", the Consultant shall keep the City well informed of anticipated costs remaining in the contract relative to actual budget.

Any modifications to the scope of work as specified in Exhibit "A", whether lessening or broadening the extent of services and/or compensation, shall be as agreed to by the parties to this Agreement in writing at the time modification is authorized. Payment for Extra Work shall be in accordance with Section IX, Extra Work.

VII EMPLOYMENT

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant or subconsultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant or subconsultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of the contract. For breach or violation of the warranty, the City shall have the right to annul the Agreement without liability, or otherwise recover, the full amount of such fee, commissions, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the Consultant or subconsultant, while engaged in performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant or subconsultant only and not of the City, and any and all claims of said employees while so engaged, and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Consultant or subconsultant's employees while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Consultant or subconsultant.

The Consultant shall not engage on full, part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or who have been at any time during the period of this contract, in the employ of the City, except regularly retired employees, without the written consent of the public employer of such person.

VIII NONDISCRIMINATION

The Consultant agrees not to discriminate against any client, employee, or applicant for employment or for services because of race, creed, color, national origin, marital status, sex, age, or handicap except for a bona fide occupational qualification with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, layoff or terminations, rates of pay or other forms of compensation, selection for training, or rendition of services. The Consultant understands and agrees that if it violates this Nondiscrimination provision, this Agreement may be terminated by the City and further that the Consultant shall be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

IX EXTRA WORK

The City may desire to have the Consultant perform work or render services in connection with this Project in addition to or other than work provided for in the expressed intent of this Agreement. Such work will be considered as Extra Work and will be specified in a written supplement to this Agreement which will set forth the nature and scope thereof. Work under a supplemental agreement shall not proceed until authorized in writing by the City.

X TERMINATION OF AGREEMENT

(A) This Agreement may be terminated by mutual consent by both parties at anytime or by either party upon thirty (30) days written notice delivered by certified mail or in person in the event of the other party's failure to perform in accordance with the terms of this Agreement.

(B) In the event of the death of a member, partner, or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this Agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Consultant and the City, if the City so chooses.

(C) In the event the services of the Consultant are terminated by the City for fault on the part of the Consultant, the amount to be paid shall be determined by the City with consideration given to the actual costs incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or of a type which is usable to the City at the time of termination, the cost to the City of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the City of the work performed at the time of termination.

(D) In the event this Agreement is terminated prior to completion of the work, the original copies of all plans, prints, photos, drawings, test reports and field notes prepared by the Consultant prior to termination shall become the property of the City for its use without restriction.

(E) Payment for any part of the work by the City shall not constitute a waiver by the City of the remedies of any type it may have against the Consultant for any breach of this Agreement by the Consultant, or for failure of the Consultant to perform work required of it by the City.

XI DISPUTES

Any dispute concerning questions of facts in connection with work not disposed of by agreement between the Consultant and the City shall be referred for determination to the **City Council**, whose decision in the matter shall be final and conclusive on the parties to this Agreement.

XII LEGAL RELATIONS

The Consultant shall comply with all Federal Government, State and Local laws and ordinances applicable to the work to be done under this Agreement.

XIII EXHIBITS

Should any conflicts between any exhibit and text of this Agreement arise, the text shall prevail.

XIV RELATIONSHIP OF PARTIES

The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested in the results to be achieved, and the conduct and control of all services or work will lie solely with the Consultant. No agent, employee, servant or otherwise of the Consultant shall be or shall be deemed to be an employee, agent, servant or otherwise of the City for any purpose, and the employees of the Consultant are not entitled to any of the benefits that the City provides for City employees. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subconsultants or otherwise during the performance of this contract. In the performance of the services herein contemplated, the Consultant is an independent contractor with the authority to control and direct the performance and details of the work, the City being interested only in the results obtained; however, the work contemplated herein must meet the approval of the City pursuant to the provisions of the bid under which the services and work were let to the Consultant.

XV INTEGRATION


This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties. All parties have read and understand the above contract and now state that no representations, promises, or agreements not expressed by this Agreement have been made to induce the other to execute the same.

FOR CITY OF TROUTDALE:


City Mayor

10-12-94
Date

FOR WALLIS ENGINEERING:


Robert C. Wallis, P.E.

9/20/94
Date