

PROPOSED FINDINGS OF FACT FOR AMENDING AN EXPIRED CONTRACT FOR PROFESSIONAL DESIGN SERVICES

In February 2018, Lane Transit District ("LTD") retained Pivot Architecture ("Consultant") for design services related to construction of the McVay Station. The bids that were received for construction of the McVay Stations were higher than the funding available to LTD at that time. Thus, the project was held for further rebidding.

In 2019, LTD intends to re-solicit for construction services for construction of the McVay Station. In order to re-solicit for construction services, the design documents need to be amended.

The current contract with Consultant (the "Contract") was awarded in February 2018 for the original amount of \$95,870. The Contract includes design services for the development of construction documents, bid document support, and construction administration. The Contract will expire on February 22, 2019.

In advance of Contract expiration, LTD desires to amend the Contract with Consultant to extend the Contract expiration date, revise the description of the Architectural Services required under the Contract, and revise the applicable performance schedule. The revised scope of Work results in an increase of \$15,625.41 to the Contract price, for a revised total Contract value of \$111,495.41.

Oregon Administrative Rule 137-048-0310 permits LTD to amend an expired contract if:

- (1) The Contract has expired as a result of delay caused by LTD or an occurrence outside the reasonable control of LTD or the Consultant;
- (2) If no more than one year has passed since Contract expiration; and
- (3) If the Local Contract Review Board adopts the required "findings." The following are those "findings."

Amending the existing Contract with the Consultant will:

1. **Finding:** Promote efficient use of public funds and resources and result in substantial cost savings to LTD.
 - a. In the event LTD did not amend the Contract with Consultant to include the revised Work, LTD would need to procure new design services, which would result in duplication of work and LTD would incur significant additional cost for that work. Amending the existing Contract with Consultant is the most efficient use of public funds.
2. **Finding:** Protect the integrity of the Public Contracting process and the competitive nature of the Procurement process by not encouraging favoritism or substantially diminishing competition in the award of Contracts.
 - a. Pursuant to Oregon Public Contracting Rules, LTD can enter into a direct contract (without competition) for professional services when the estimated fee to be paid under the contract does not exceed \$100,000.
 - b. If LTD does not amend the existing Contract with Consultant, LTD may enter into a new contract (without competition) for the revised scope of Work. Therefore, competition is not diminished by extending the Contract with Consultant. Further,

the original Contract with Consultant was awarded in compliance with the Oregon Public Contracting Code and Oregon Administrative Rules and, therefore, this process has not encouraged favoritism.

3. **Finding:** Result in a Contract that is still within the scope of the final form of the original Procurement document.
 - a. The additional Work includes design changes, bid support, and contract administration, all of which are within the scope of the original Contract with Consultant.

CONCLUSIONS OF LAW

The above "Findings" show that amending the existing Contract with the Consultant for design services complies with the requirements of Oregon law for amending an expired contract.

RESOLUTION NO. 2018-12-19-45

A RESOLUTION APPROVING THE AMENDMENT OF AN EXPIRED CONTRACT FOR PROFESSIONAL DESIGN SERVICES

WHEREAS, Lane Transit District (LTD) is authorized to enter into contractual agreements pursuant to ORS 267.200 (3)-(4);

WHEREAS, the Oregon Administrative Rules permit the amendment of an expired contract in certain, limited circumstances and only upon the adoption of required written findings;

WHEREAS, the LTD Board of Directors, acting as the LTD Contract Review Board, has authority to make the required written findings;

WHEREAS, the Contract Review Board has authorized the LTD Finance Committee to review and recommend action on contracts, contract amendments, and change orders prior to those contracts, contract amendments, or change orders being presented to the LTD Board for review and approval; and

WHEREAS, the Finance Committee reviewed the proposed contract amendment between LTD and Pivot Architecture ("Consultant") on Monday, December 10, 2018, and recommended adoption; provided, the Board adopt findings authorizing amendment of the soon-to-be expired contract with Consultant.

THE BOARD finds as follows:

1. The Board adopts the specific "Findings of Fact" set forth above.
2. The "Findings" show that amending the existing contract with Consultant for design services complies with the requirements of Oregon law for amending an expired contract.

NOW, THEREFORE, BE IT RESOLVED that the Lane Transit District Board of Directors, acting as the LTD Contract Review Board, passes a Resolution as follows:

- 1) The contract shall be in compliance with all applicable laws and regulations.
- 2) Provided that no protests to the contract amendment are received, or that any such protests are resolved, the General Manager, or her designee, is hereby authorized to execute a contract amendment to Consultant's original contract, through the expired contracts process, with Pivot Architecture for the provision of design services, bid support, and contract administration for an amount not to exceed \$15,625.41.

ADOPTED BY THE LANE TRANSIT DISTRICT ON THIS 19 DAY OF Dec., 2018.



PRESIDENT, Gary Wildish

ATTEST:


