

RESOLUTION NO. 1726

RESOLUTION OF THE CITY OF WILSONVILLE CITY COUNCIL ACTING IN ITS CAPACITY AS ITS LOCAL CONTRACT REVIEW BOARD, DECLARING THAT AN EMERGENCY EXISTS EXEMPTING THE CONSTRUCTION OF THE WILSONVILLE ROAD PEDESTRIAN PATH, SW KINSMAN AVENUE TO ARROWHEAD CREEK, FROM THE COMPETITIVE REQUIREMENTS OF ORS 279.005 ET SEQ. AND THE WILSONVILLE CODE, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN EMERGENCY CONTRACT WITH NW EARTHMOVERS, INC.

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 "emergency" means circumstances that could not be reasonably foreseen 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.

Therefore, the City Council, acting as the Contract Review Board makes the following findings:

- 2.1 The West Linn-Wilsonville School District proposed a bond measure to replace the existing Boones Ferry Elementary School. With the measures successful passage, a new school, also named Boones Ferry Elementary School, is currently under construction approximately one mile to the west.
- 2.2 Unlike the previous school, which is located along a section of Boones Ferry Road which has extremely low traffic volume, the new school is located along Wilsonville Road which has an extremely high traffic volume.
- 2.3 In the effort to eliminate substantial risk of loss and damage and/or a threat to public health and safety the City Council authorized and funded the improvement to Wilsonville Road from Boones Ferry West to Kinsman Road and Arrowhead Creek west to the City limits. The latter improvements are currently under construction, will add additional pavement width, bikelanes, sidewalks and traffic signals in the area immediate to the new school site.
- 2.4 A section of Wilsonville Road, from Kinsman Road west to Arrowhead Creek, remains unimproved with limited avenues for pedestrian and bicycle movements.
- 2.5 With the opening of the new school there will be substantial changes to pedestrian, bicycle and vehicular patterns from Boones Ferry west to the City limits.

- 2.6 In the effort to eliminate substantial risk of loss and damage and/or a threat to public health and safety the City Council finds that interim pedestrian and bicycle improvements are needed along the section of Wilsonville Road from Kinsman Road west to Arrowhead Creek.
- 2.7 The reconstruction of the remaining section of Wilsonville Road from Kinsman Road west to Arrowhead Creek was generally anticipated, but new federal rules regarding endangered species has increased costs so that it was only recently determined that full reconstruction work may be several years in the future.
- 2.8 Additionally, budgeting policy choices could not be adequately addressed and balanced until the budgeting process, which culminates on June 18, 2001 for fiscal year 2001-2002, was substantially completed and funding could be determined for this interim project.
- 2.9 Late into the budgeting process, it was finally determined that prior to the interim pedestrian improvements undergrounding needed to occur to minimize "throw away" costs in the improvements; thus, adding to the interim costs and necessary construction time.
- 2.10 To follow the traditional bidding process would require at least 60 days to advertise and award a construction contract which would seriously impact the ability to complete the improvements before September 4, 2001, and prevent the immediate risks recited above.
- 2.11 Preliminary discussions with the contractor currently constructing the improvements along Wilsonville Road, NW Earthmovers Inc., have determined

that it can provide the needed improvements at a cost within the engineer's budgeted estimate, and can complete the improvements in time for the opening of the new school in September 2001.

2.12 The totality of the circumstances, including changes in project scope, timing of funding considerations and determinations, and limited construction time, together with the safety needs of grade school age pedestrians and bicyclists along an unimproved section of a heavily traveled arterial street, have created an unforeseen emergency as that term is defined in ORS 279.011(4) and used in the Wilsonville Code.

2.13 There is insufficient time to otherwise exempt the Project under ORS 279.015(2)(a) and (b) and WC 2.314(2) and follow that process.

NOW, THEREFORE THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

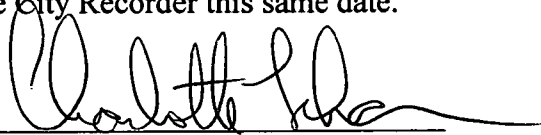
A. Based upon the findings and authority recited above and incorporated as if fully set forth herein, the City Council, acting as the City's Contract Review Board, hereby finds and declares that there is a serious safety pedestrian and bicycle related issue along Wilsonville Road from Kinsman Road west to Arrowhead Creek, and the opening of the new grade school in September of 2001, and that prompt execution of a construction contract is required to remedy the emergency conditions;

B. The City Manager, and such persons as she may direct, is authorized to immediately solicit a construction proposal from NW Earthmovers Inc. and enter into an emergency construction contract with NW Earthmovers Inc. to construct the pedestrian and bicycle improvements with such undergrounding of utilities as to provide pedestrian and bicycle

safety along Wilsonville Road from Kinsman Road West to Arrowhead Creek;

C. The City Council, acting as the City Contract Review Board further finds and declares that using emergency contracting under these special and limited facts and circumstances, will not substantially reduce competition or result in greater price costs.

ADOPTED by the Wilsonville City Council at a regular Council meeting thereof this 18th day of June, 2001, and filed with the Wilsonville City Recorder this same date.


CHARLOTTE LEHAN, MAYOR

ATTEST:


SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Holt	<u>Yes</u>