

TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Karl R. Amylon, City Manager

DATE: June 12, 2019

RE: **Exempting the Procurement of Professional Design and Engineering Services for the Women in Safe Homes (WISH) Domestic Violence Center from the Competitive Bidding/Written Quotation Requirements of the Ketchikan Municipal Code – Welsh Whiteley Architects, LLC**

The motion detailed below was prepared at the request of Public Works Director Mark Hilson, who asked that it be placed before the City Council for consideration at its meeting of June 20, 2019. If adopted, the motion provides for exempting the procurement of professional design and engineering services for the Women in Safe Homes (WISH) Domestic Violence Center from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code and authorizing the purchase of such services from Welsh Whiteley Architects, LLC at a cost of \$92,782.

Subparagraph 5 of Section 3.12.050 of the Ketchikan Municipal Code states that competitive bidding or quotations are not required for:

“Contractual services of a professional nature, such as engineering, architectural, legal, medical or consulting services”.

Subparagraph A of Section 3.12.051(c)(2) states that solicitation of proposals for professional service contracts is not applicable:

“if the manager demonstrates to the council that there is a single source of the expertise or knowledge required, or that one person or firm can clearly perform the required tasks more satisfactorily because of the person’s or firm’s prior work”.

The rationale for the exemption is detailed in Mr. Hilson’s transmittal memorandum and requires no elaboration on the part of my office. I concur with the Public Works Director’s recommendation.

Mr. Hilson is also recommending a three percent contingency in the amount of \$3,098, bringing the total procurement cost to \$95,880.

The Public Works Director will be attending the City Council meeting of June 20, 2019, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

RECOMMENDATION

Pursuant to Sections 3.12.050(5) and 3.12.051(c)(2)(A) of the Ketchikan Municipal Code, it is recommended the City Council adopt the motion exempting the procurement of professional design and engineering services for the Women in Safe Homes (WISH) Domestic Violence Center from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code; authorizing the City Manager to enter into Contract No.19-29, Women in Safe Homes (WISH) Domestic Violence Shelter – Design and Engineering, with Welsh Whiteley Architects, LLC in the amount of \$92,782; establishing a three percent contingency in the amount of \$3,098, bringing the total project cost to \$95,880; and approving funding from the Public Health Department's Women in Safe Homes (WISH) Domestic Violence Center capital account.

Recommended Motion: Pursuant to Sections 3.12.050(5) and 3.12.051(c)(2)(A) of the Ketchikan Municipal Code, I move the City Council exempt the procurement of professional design and engineering services for the Women in Safe Homes (WISH) Domestic Violence Center from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code; authorize the City Manager to enter into Contract No.19-29, Women in Safe Homes (WISH) Domestic Violence Shelter – Design and Engineering, with Welsh Whiteley Architects, LLC in the amount of \$92,782; establish a three percent contingency in the amount of \$3,098, bringing the total project cost to \$95,880; and approve funding from the Public Health Department's Women in Safe Homes (WISH) Domestic Violence Center capital account.

MEMORANDUM

TO: Karl Amylon, City Manager

CC: Lacey Simpson, Assistant City Manager
Bob Newell, Finance Director
Agnes Moran, Executive Director, Women in Safe Homes

VIA: Mark Hilson, P.E., Public Works Director

FROM: Bob Diaz, Contract/Grants Administrator

DATE: June 11, 2019

SUBJECT: **Authorizing and Exempting the Procurement of Professional Services from Competitive Bidding / WISH Domestic Violence Shelter – Design & Engineering (Contract 19-29) / Welsh Whiteley Architects**

The purpose of this memorandum is to request that the City Manager seek City Council approval to have Welsh Whiteley Architects provide the design and engineering services necessary to renovate the former KRYF facility into a Domestic Violence Shelter. If adopted, this motion provides for exempting the procurement of professional engineering and architectural services from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code authorizes the acquisition of these services from Welsh Whiteley Architects for \$92,782; and establishes a contingency in the amount of \$3,098 for a total project cost of \$95,880.

Background

At its meeting on June 6th, 2019, City Council approved entering into a Grant Agreement with the Alaska Department of Commerce, Community, and Economic Development (DCCED) which will provide up to \$95,880 to fund Design and Engineering work that is prerequisite to repurposing the former KRYF building (623 Gateway Court) into a WISH Domestic Violence Shelter.

Prior to the City Council's decision to pursue Federal CDBG funding in partnership with WISH¹, WISH independently issued a Request For Proposals for professional services to help them determine if renovating the former KRYF facility was feasible. As a result of this work, Welsh Whiteley Architects provided architectural services that culminated in an architectural layout and cost estimate for the renovation. Successful completion of this prior work has uniquely positioned Welsh Whiteley Architects as having specialized knowledge regarding the needs of WISH and the

¹ Resolution No. 18-2709 (September 20, 2018)

KRYF building. Since WISH already conducted an RFP for professional services, and since the City and WISH have entered cooperative partnership for this project, and since having continuity of professional architectural services maximizes the project's chances for success, staff concluded that exempting procurement of design and engineering services from competitive bidding was worth pursuing. Additionally, the exemption would allow the procurement process to be shorter with fewer resources spent on conducting another RFP process.

Staff obtained DCCED's written agreement that Welsh Whiteley Architects could be awarded the Design & Engineering contract to remodel the KRYF facility without having to go out for a competitive bid. The DCCED approved of this approach with the caveat that we remain in compliance with applicable local laws and regulations, which are:

- KMC § 3.12.050(5) states that Competitive bidding or quotations are not required for *"Contractual services of a professional nature, such as engineering, architectural, legal, medical, or consulting services"*, and
- KMC § 3.12.051(c)(2)(A) states that the Solicitation of Proposals for Professional Service contracts is not applicable *"if the manager demonstrates to the council that there is a single source of the expertise or knowledge required, or that one person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work"*

A motion has been prepared for City Council consideration.

RECOMMENDATION

Pursuant to Section 3.12.050(5) and 3.12.051(c)(2)(A) of the Ketchikan Municipal Code, the Public Works Department is recommending that Contract 19-29 'WISH Domestic Violence Shelter – Design & Engineering' be awarded to Welsh Whiteley Architects, LLC in the amount of \$92,782. We further recommend the establishment of a contingency in the amount of \$3,098 for a total project cost of \$95,880. This project will be funded by the Community Development Block Grant.

Recommended Motion: Pursuant to Section 3.12.50(5) and 3.12.051(c)(2)(A) of the Ketchikan Municipal Code, I move the City Council award Contract 19-29 'WISH Domestic Violence Shelter – Design & Engineering' to Welsh Whiteley Architects, LLC in the amount of \$92,782; establish a contingency of \$3,098 for a total project cost of \$95,880; and direct the City Manager to execute the contract documents on behalf of the City Council.

3.12.050 Purchasing – When competitive bidding or quotations are not required.

(a) The following may be purchased or contracted for without competitive bidding or soliciting quotations:

(1) Supplies, materials, equipment, contractual services, the cost of which does not exceed \$10,000 in a single transaction;

(2) Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, which have a uniform price wherever purchased or which are telecommunications supplies, materials, or equipment purchased by KPU for retail sale or lease;

(3) Supplies, materials, equipment or contractual services purchased from another unit of government at a price or rate determined by governmental authority;

(4) Supplies, materials, equipment or contractual services purchased from a public utility at a price or rate determined by governmental authority;

(5) Contractual services of a professional nature, such as engineering, architectural, legal, medical or consulting services;

(6) Supplies, materials, equipment or contractual services which should be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment or contractual services. For purpose of this subsection, the term "incompatibility" is defined as:

(A) The inability to interconnect, combine, interchange, or join; or

(B) That which causes substantial duplication in maintenance, expertise or training or in the stocking of parts, materials, supplies or replacements. Any purchase which is to be excluded from competitive bidding by the authority of this subsection which exceeds \$10,000 must first be approved by the council;

(7) Supplies, materials, equipment or contractual services which are required on an emergency basis; provided, however, that to the extent practical under the conditions of the emergency, the council shall declare an emergency;

(8) Placement or purchase of insurance;

(9) When it is advantageous to the city to enter into a contract with a person, firm or corporation for the same supplies or services under substantially the same terms as such person, firm or corporation is providing another municipal or state government, or the United States, where such supplies or services are being provided the other government unit on the basis of formal bids, price quotations or other competitive proposal procedure or pursuant to a contract with or through such other government unit so that the benefit of the price quotation or other competitive proposal accrues to the city;

3.12.051 Professional service contracts.**(a) Definitions.**

(1) "Professional services," as used in this section, shall mean professional, technical or consultant services that are predominantly intellectual in character and that:

- (A) Include analysis, evaluation, prediction, planning or recommendations; and
- (B) Result in the production of a report, plan, drawings, or the completion of a task.

Examples of professional service contractors include, but are not limited to: accountants, architects, appraisers, engineers, land surveyors, financial consultants, attorneys, planning consultants, economists, computer programmers and system analysts, insurance consultants and risk analysts, insurance providers, and other specialized consultants.

(2) "Request for proposals" means a written solicitation for contract proposals by prospective contractors that sets out the nature of the services to be performed or product to be secured with sufficient information for a qualified prospective contractor to prepare a responsive contract proposal for consideration and evaluation by the city.

(b) Professional Service Contracts Generally – Contract Authority.

(1) The manager may award and sign, without prior approval of the council, any contract for professional services if adequate funding is budgeted, except as provided in this subsection.

(2) Any proposed professional service contracts with an estimated cost in excess of \$50,000 shall be awarded by the council.

(3) The manager shall utilize a selection committee including the manager or manager's designee, a department head, members of the American Society of Civil Engineers, American Society of Mechanical Engineers, American Institute of Architects and/or other professional organizations and interested citizens as the manager deems appropriate to evaluate proposals and select the best qualified professional services contractor to provide the required service. All meetings of selection committees shall be open to the public.

(c) Solicitation of Proposals.

(1) When the city proposes to enter into a contract for professional services, it shall:

- (A) Publish a public notice soliciting proposals for the proposed professional services contract at least two times in a newspaper of general circulation in the city and post notice in such other location as the manager deems appropriate. The first notice shall be published not less than 21 days

before the deadline for submittal of proposals as announced in the public notice and the second notice shall be published not less than seven days thereafter. The notice shall include:

- (i) A brief description of the proposed project for which the city is seeking professional services;
- (ii) The procedure by which a person or firm interested in the professional services contract may make a proposal to the city for consideration for the contract; and
- (iii) The deadline for submittals.

(2) The provisions of this section do not apply if:

(A) The manager demonstrates to the council that there is a single source of the expertise or knowledge required, or that one person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work;

(B) The manager makes a determination that public necessity will not permit delay incident to the procedures otherwise required by this section; or

(C) The service is to be provided by another government agency; or

(D) The estimated cost of the contract does not exceed \$50,000.

(3) In addition to other criteria set forth in the request for proposals, the following selection factors shall be considered by the city when it evaluates the proposals received:

(A) Specialized experience and technical competence of the person or firm (including a joint venture or association) with the type of service required;

(B) Capacity of the person or firm to perform the work, including any specialized services, within the time limitations;

(C) Character, integrity, reputation, judgment, experience and efficiency of the person or firm;

(D) Past record and performance on contracts with the city or other governmental agencies and private industry with respect to such factors as control of costs, quality of work and ability to meet schedules;

(E) Familiarity with the details of the project;

(F) Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm; and

(G) Estimated cost of services.