

RESOLUTION NO. 2367

A RESOLUTION OF THE CITY OF WILSONVILLE APPROVING THE AWARD OF A SOLE SOURCE CONTRACT FOR ROAD CONSTRUCTION TO POLYGON AT VILLEBOIS II, L.L.C.

WHEREAS, the City of Wilsonville ("City"), Villebois LLC ("Villebois") and Polygon Northwest Company L.L.C, a Washington limited liability company ("Polygon"), entered into Contract Addendum No. 2 on September 8, 2011 ("Addendum 2") to the Development Agreement, dated May 24, 2004 ("Development Agreement"), relating to the development of certain property ("Property") located within the residential community commonly known as Villebois; and

WHEREAS, a City imposed Conditions of Approval for the development of the Property is the obligation to make certain road improvements to Graham's Ferry Road ("Road Improvements") and although some of those Road Improvements were commenced by Villebois, using its contractor NEI, they were never completed due to lack of funds; and

WHEREAS because the Road Improvements were designed to serve other properties in the area, the City agreed to pay a proportionate share of the Road Improvements, as more particularly set forth in the Development Agreement; and

WHEREAS, Villebois has now sold the Property to Polygon, who now wishes to develop the Property, and as a condition of the sale, Villebois, the City and Polygon entered into Addendum No. 2 which, among other things, sets forth the continuing obligations of Villebois, Polygon and the City with respect to completion of the Graham's Ferry Road Improvements and land dedication for public right-of-way for the Road Improvements; and

WHEREAS, pursuant to the Development Agreement Polygon is obligated to complete the Road Improvements, as described in Addendum 2, by no later than November 1, 2012; and

WHEREAS, Polygon has formed an entity, Polygon At Villebois II, LLC (Polygon II) and has transferred Polygon's interest and obligations to Polygon II as its successor in interest to develop the aforementioned property, together with the Grahams Ferry Road project, and to be obligated under the Development Agreement; and

WHEREAS, the total construction cost is estimated at FIVE HUNDRED THIRTY THREE THOUSAND TWENTY EIGHT DOLLARS AND NINETY THREE CENTS (\$533,028.93), including the bid estimate from the contractor as well as estimates for engineering, testing, and franchise utilities, which the city will advance approximately half in June 2012 and the balance in the ensuing months as construction occurs; and,

WHEREAS, pursuant to Addendum 2 and the May 2, 2012 Bid Proposal provided by Northwest Earthmovers Inc. to Polygon, the City and Polygon estimate that Polygon's share of the cost of the Road Improvements will be THREE HUNDRED SEVENTY NINE THOUSAND FIVE HUNDRED SEVENTY EIGHT DOLLARS AND SIXTY EIGHT CENTS (\$379,578.68) and the City's share of the cost of the Road Improvements will be ONE HUNDRED FIFTY THREE THOUSAND FOUR HUNDRED FIFTY DOLLARS AND TWENTY FIVE CENTS (\$153,450.25), subject to true-up, based on actual reasonable cost, which Polygon has agreed to manage and control; and

WHEREAS, Polygon II will repay the City for Polygon's share of the Road Improvements by imposing a surcharge of THREE THOUSAND FOUR HUNDRED EIGHTY TWO DOLLARS AND THIRTY SEVEN CENTS (\$3,482.37) per lot on every house sold within the Property, to be paid at the time of issuance of each building permit, subject to true-up,

based on actual reasonable cost; provided, however, if the City is not fully repaid in this way by July 1, 2014, then Polygon II will repay the City the entire remaining unpaid balance to the City on July 1, 2014; and,

WHEREAS, there is sufficient budget authority in fiscal year 2011-12 for the expected payments however the budget for fiscal year 2012-13 will need a supplemental budget adjustment to record the reimbursements from Polygon II (up to \$379,578.68); and,

WHEREAS, because NEI has already built a significant portion of the Road Improvements and is familiar with the plans and designs for the Road Improvements, Polygon and Polygon II believe it is most cost effective and time efficient to continue to retain NEI as Polygon II's contractor; and

WHEREAS, Polygon II is on a tight time frame to complete the Road Improvements and because the City and Polygon believe that Polygon II is in the best position to negotiate, enter into and manage the contract and construction, and that there will be substantially less cost and substantially less potential for lack of coordination issues to use one contractor, retained by Polygon II, rather than trying to mobilize and coordinate between a City retained contractor for the City's portion of the work and Polygon II's contractor for Polygon II's portion of the work; and

WHEREAS, Polygon and Polygon II have agreed that Polygon II's contract with NEI will require NEI to pay prevailing wages on the entire contract in order to satisfy public contracting laws.

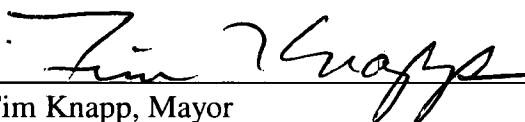
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Incorporating all of the above Recitals, the City Council hereby approves a sole source contract Polygon II as the successor in interest with Polygon Northwest Company, L.L.C.

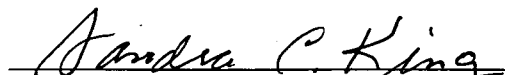
for the completion of construction of the Graham's Ferry Road Improvements, including the City's share, with Polygon II using NEI as its contractor, for the reasons articulated in the Recitals, and

2. City Council finds that it is unlikely that making this sole source exemption, under these unique facts and circumstances, will encourage favoritism in the awarding of other public contracts, nor will it substantially diminish competition for public improvement contracts; and
3. City Council finds that the award of this contract to Polygon II will likely result in substantial cost savings to the City based upon the justification and information described in ORS 279C.330, and as more particularly set forth in the Recitals above.
4. City Council authorizes the disbursement of \$533,028.93 to Polygon II from Street System Development Charges as budgeted in FY 2011-12 and FY 2012-13 from projects #4139 and #7032.
5. This Resolution is effective upon adoption.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 4th day of June, 2012, and filed with the Wilsonville City Recorder on this date.


Tim Knapp, Mayor

ATTEST:


Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Núñez	Yes
Councilor Hurst	Yes
Councilor Goddard	Excused
Councilor Starr	Yes