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2 **RESOLUTION NO. 2021-02**

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4 **A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING FINDINGS FOR A**
5 **PUBLIC CONTRACT EXEMPTION AND AUTHORIZING AN ALTERNATIVE**
6 **CONTRACTING METHOD FOR THE CITY HALL HVAC UPGRADE PROJECT.**

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8 **RECITALS**

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10 WHEREAS, ORS 279C.335(2) permits the City Council, acting as the Local Contract
11 Review Board, to exempt a public improvement contract or class of contracts from the
12 competitive bidding requirements of the Lincoln City Public Contracting Code and
13 use an alternative contracting method, subject to making required findings; and
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15 WHEREAS, on January 11, 2021, the City Council conducted an advertised public
16 hearing on the proposed findings to exempt the City Hall HVAC Upgrade Project
17 from competitive bidding and authorize an alternative public contracting method;
18 and
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20 WHEREAS, on January 11, 2021, after due consideration of public comment and the
21 proposed findings in the record, the City Council, acting as the Local Contract Review
22 Board, deliberated and decided to approve the exemption and authorize the
23 alternative contracting method; and
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25 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**
26 **LINCOLN CITY, AS FOLLOWS:**

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28 **SECTION 1. RECITALS.** The above recitals are true and correct and are
29 incorporated herein by this reference.
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31 **SECTION 2. APPROVAL.** The City Council, acting as the Local Contract Review
32 Board, hereby approves the required Findings to support the exemption from
33 competitive bidding and the use of an alternative contracting method for the City
34 Hall HVAC Upgrade Project, said findings being attached to this Resolution and
35 incorporated herein by this reference; and
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37 **SECTION 3. EFFECTIVE DATE.** This resolution is effective as of the date of its
38 adoption and signature by the Council President.
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1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 11th day of
2 January 2021.

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7 JUDY CASPER, COUNCIL PRESIDENT

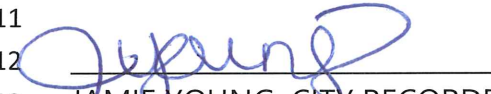
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9 ATTEST:

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13 JAMIE YOUNG, CITY RECORDER

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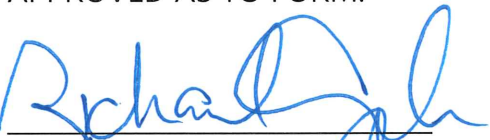
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16 APPROVED AS TO FORM:

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20 RICHARD APPICELLO, CITY ATTORNEY

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Findings in Support of Alternative Contracting Method

FOR THE CONSTRUCTION OF THE CITY HALL HVAC CONTROL UPGRADE PROJECT

Introduction

Use of Alternative Contracting methods, such as Best-Value, is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards. Like other alternative contracting methods, Best-Value has significantly different legal requirements than a typical design-bid-build project delivery method.

Pursuant to ORS 279C.335, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings to the public agency. The Oregon Attorney General's Model Public Contract Rules provide for public notice and opportunity for the public to comment on draft findings in favor of an exemption before their final adoption.

ORS 279C.330 provides that: "findings" means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity; and
- Funding sources
- Findings

Background

This project will upgrade city hall commercial building's Heating, Ventilation, and Air Conditioning control network. The City Hall building currently runs off a 15-year-old control network, on software with limited support. Upgrading this system will solve systemic heating/cooling issues, address employee & public comfort complaints, and significantly improve building energy efficiency.

Operational, Budget, and Financial Data

In 2018, the public works department completed a Technical Analysis Study (TAS) with Energy Trust of Oregon and Trane of Oregon; This study and subsequent energy efficiency analysis, resulted in an incentive offer of a 45% of the project cost to replace this with a more efficient Building Automated Control network (BACnet). This incentive amount may vary but cannot exceed 50%.

The total project cost of \$162,000 was estimated by Trane Oregon in two phases. The first phase of work, totaling ~\$40,000.00, was completed in 2018. This leaves an estimated project cost of \$122,000.00, with total incentive funds as much as \$54,900.00. The city has currently budgeted \$100,000 in city funds to complete the project.

Public Benefit

A Best-Value RFP provides public benefit and opportunities for cost saving in a variety of ways. The presented incentive measures allow for a variety of project implementation styles; contractors familiar with the work can evaluate this and propose the most appropriate & cost effective implementation method.

By utilizing a Best-Value RFP schedule adherence & customer satisfaction criteria can also be considered in order to minimize disruption to employees and visitors to the building.

Value Engineering

The Best-Value process provides many benefits and opportunities for cost savings. The project implementation method allows for specialized contractor input on implementation of the project.

The chosen team can customize Project sequencing & propose the equipment & methods most viable with the existing conditions & the allotted budget. All of these beneficial actions by the team will improve value, expedite construction and in turn eliminate cost & potential change orders.

The benefits of value engineering are allowed for using as a part of the best value process, but only after design and bidding are completed limiting decisions to a short time period to determine if the project can move forward financially.

Specialized Expertise Required

HVAC controls work requires a unique combination of low voltage electrical work, logic programming, and ventilation control. Efficient reconstruction requires specialized knowledge in all these trades, and robust project experience in order to understand and improve system function, both electrically and mechanically.

Market Conditions

The Best-Value contracting process is a modern construction delivery method used by both public and private organizations. Proposers are required to present the required qualifications and project experience. This includes knowledge of the latest construction techniques and products. The team will inform the City of current market conditions, labor and materials availability, and construction methodologies. This can be incorporated into proposals and design and reduce construction time and costs.

Technical Complexity

The Project has significant technical complexities which are best addressed by a specialty contractor with installation & design expertise. Collaboration between a contractor familiar with the requested work and city personnel familiar with the build project implementation will be necessary in the pre-construction phase.

Competition and Cost Savings

The Best-Value method of contracting provides the option to include cost controls within the contract and therefore benefits the City. The collaborative approach, construction schedule, the value analysis, and plan presentation all provide effective cost analysis options. It is critical, and also consistent with the spirit of collaboration encouraged throughout the process that everyone on the Project Team works towards a budget of which they can take ownership.

Unlikely to Encourage Favoritism or Diminish Competition

It is unlikely that the process of selecting a Best-Value firm will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract. Competition will not diminish because public advertisement will be used for the Request for Proposal. All qualified specialty contractors will have the opportunity to bid & the Best-Value contract will still be awarded based on a competitive process.

Cost Savings

The low-bid process offers a level of certainty to the owner that the initial bid price of the project is the lowest cost; however, if changed conditions are encountered during construction, resulting change orders can have significant cost impacts.

With the Best-Value method, the contractor will be asked to compile and own the submitted drawings. This allows the contractor a level of control over implementation of the project schedule, reduces change orders, and results in a more accurate project bid. These costs are not always reflected in a low-bid project scenario.

During proposal submittal, the contractors will provide drawings according to the contract criteria and the associated cost estimate breakdown. This will allow the City to make decisions in the selection process, negotiate on project implementation, and assure that the costs stay within the estimated cost.

The process also allows the construction timing and sequence to be considered. Installation of new wiring and new mechanical equipment will impact employee's work space & comfort. The best-value delivery method will allow customization & presentation of this careful planning of the project schedule during proposal. This will allow the city to include schedule in contractor selection, benefitting city employees and otherwise unaccounted staff productivity.

Summary

An improved cost-benefit will result from a Best-Value approach because decision-making is based on cost effective solutions & collaboration with an experienced, specialized contractor.