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2 **RESOLUTION NO. 2021-42**

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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 LINCOLN CITY COMMUNITY CENTER ROOF**
7 **REPLACEMENT PROJECT.**

8
9 **RECITALS**

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11 WHEREAS, ORS 279C.335(2) permits the City Council, acting as the Local Contract
12 Review Board, to exempt a public improvement contract or class of contracts from the
13 competitive bidding requirements of the Lincoln City Public Contracting Code and
14 use an alternative contracting method, subject to making required findings; and
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16 WHEREAS, on September 27, 2021, the City Council conducted an advertised public
17 hearing on the proposed findings to exempt the Lincoln City Community Center Roof
18 Replacement Project from competitive bidding and authorize an alternative public
19 contracting method; and
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21 WHEREAS, on September 27, 2021, after due consideration of public comment and
22 the proposed findings in the record, the City Council, acting as the Local Contract
23 Review Board, deliberated and decided to approve the exemption and authorize the
24 alternative contracting method; and
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26 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**
27 **LINCOLN CITY, AS FOLLOWS:**

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29 **SECTION 1. RECITALS.** The above recitals are true and correct and are
30 incorporated herein by this reference.
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32 **SECTION 2. APPROVAL.** The City Council, acting as the Local Contract Review
33 Board, hereby approves the required Findings to support the exemption from
34 competitive bidding and the use of an alternative contracting method for the Lincoln
35 City Hall Community Center Roof Replacement Project, said findings being attached
36 to this Resolution as Exhibit A, and incorporated herein by this reference; and
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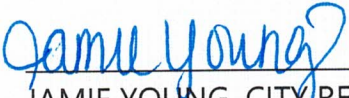
38 **SECTION 3. EFFECTIVE DATE.** This resolution is effective as of the date of its
39 adoption and signature by the Mayor.
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PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27th day of September 2021.


SUSAN WAHLKE, MAYOR

ATTEST:


JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

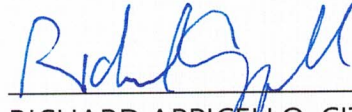

RICHARD APPICELLO, CITY ATTORNEY

Exhibit A

Findings in Support of Alternative Contracting Method

FOR THE REPLACEMENT OF THE ROOF AT THE COMMUNITY CENTER

Introduction

Use of Alternative Contracting methods, such as Design-Build 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.

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 contradicting 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
- Funding sources
- Findings

Background

This project will replace the existing roof at the Community Center. The improvements will consist of removing the existing metal roof, repair any damage, install a new metal roof and gutters.

Operational, Budget, and Financial Data

The amount budgeted for the project was \$400,000.00.

Public Benefit

Best Value Contracting Method provides opportunities for cost savings by allowing the contractor to make changes to meet the project budget.

A Best-Value proposal will additionally benefit the public by allowing the city to take contractor's proposed materials and method of installation into consideration when awarding the bid.

Value Engineering

The Best Value Contracting Method is essentially value engineering. The plans are complete, but this process allows cost saving design changes or substitutions to be identified through constructability reviews. This allow the contractor, at the city's discretion, to implement real-time cost saving strategies up to the construction phase of the project. These beneficial actions by the team will improve design, expedite construction and eliminate the potential for costly change orders.

Specialized Expertise Required

The City wants to review the contractor's experience in installing commercial metal roofs and review past projects that they have completed to assure the City is hiring the best qualified contractor with the lowest price. The City has in the past issues with roof contractors hired through the low bid process.

Market Conditions

The Best-value contracting process is a modern construction delivery method used by both public and private organizations. The team is tasked with knowing the latest construction techniques and products. The chose contractor is given the opportunity to incorporate their knowledge of current market conditions, labor and materials availability, and construction methodologies and reduce construction time and costs. The process also allows the construction timing and sequence to be considered.

Technical Complexity

The Project has technical complexities in the project conditions; the work consists of infrastructure construction on a high volume street, in close proximity to existing homes, businesses, and through-traffic.

Competition and Cost Savings

The Best Value method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The approach requires the contractor to compete with other proposals and present the most affordable & efficient method of project implementation.

Unlikely to Encourage Favoritism or Diminish Competition

It is unlikely that the process of selecting a contractor through the Best-value method will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract. Competition will not diminish because the contract will be awarded based on a competitive process, with clearly identified criteria.

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 is required to submit their mark-up percent. The percent mark-up includes the contractor's profit. This allows the contractor a level of certainty and eliminates the motivation for finding ways to increase his profit during construction.

With the Best-Value method, the contractor will be asked to review the plans for constructability & propose improvements where feasible. 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.

During proposal submittal, the contractors will provide a traffic control plan, project schedule, and any construction improvements according to the contract documents. This will allow the City to make decisions in the selection process, negotiate on project implementation, and assure that the costs fall within budget.

Additionally, the use of value engineering through cooperation among the contractor and City is essential to the Project delivery. Value engineering will help eliminate change orders and progress delays – benefitting both the city budget and residents affected by the construction. Cost savings will result from consideration of construction timing and sequence, public impact, and constructability are not realized under a low bid process.

Summary

Substantial cost savings and minimizing the are anticipated from the Best-Value approach because decision-making is based on cost effective and informed solutions proposed by contractors with proven project expertise.