

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Resolution Adopting Findings)
in Support of Exempting the Columbia County)
Firing Range Project From Competitive Low)
Bid Requirements)
_____)

RESOLUTION NO. 36 - 2008

WHEREAS, Columbia County will be arranging for the construction of the Columbia County Firing Range project (the "Project"); and

WHEREAS, Columbia County wishes to exempt the Project from the low competitive bidding requirements as provided in ORS 279C.335; and

WHEREAS, Columbia County wishes to enter into a direct contract with Morse Bros Inc., dba Knife River an MDU Resources Company (MBI) to construct the Project on land owned by MBI at cost; and

WHEREAS, the Board of County Commissioners ("BOCC"), as the Local Contract Review Board ("Board" or "LCRB"), made certain findings in support of the direct contract for the Project (the "Findings"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, pursuant to ORS 279C.335, the BOCC held a public hearing on the proposed exemption for the purpose of taking comments on the draft Findings, which hearing was held at the County Courthouse building on Wednesday, April 30, 2008; and

WHEREAS, after full consideration of all comments received at the public hearing; now, therefore, be it

RESOLVED that the BOCC, pursuant to its statutory authority, expressly adopts the Findings attached hereto as Exhibit A;


FURTHER RESOLVED that County staff shall prepare the contract for construction of the Project as set forth in ORS 279C.335, for BOCC approval;

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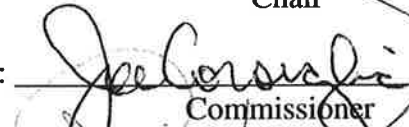
FURTHER RESOLVED that this Resolution shall become effective immediately upon its adoption.

DATED this 30th day of April, 2008.


**BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON**

By: 
Chair

Approved as to form

By: 
Commissioner

By: 
Office of County Counsel

By: 
Commissioner

**FINDINGS IN SUPPORT OF EXEMPTING THE
COLUMBIA COUNTY FIRING RANGE PROJECT FROM
COMPETITIVE LOW BID REQUIREMENTS**

On January 10, 2007, the Board of County Commissioners approved the Columbia County Sheriff's application to site a firing range and law enforcement weapons training facility (the "**Facility**") on real property owned by Morse Bros., Inc., dba Knife River an MDU Resources Company ("**MBI**").

Columbia County desires to enter into a contract with MBI for the construction of the Facility (the "**Project**") on MBI's real property (the "**Property**"). To the extent the competitive bidding requirements of ORS 279C.335(1) apply to the Project, Columbia County requests an exemption pursuant to ORS 279C.335(2).

As the local contract review board, the Columbia County Board of Commissioners (the "**Board**") reviewed the request by Columbia County to exempt the Project from the competitive bidding requirements of ORS 279C.335(1) and made the following findings:

1. The Facility will provide public benefits in that it will be a new state of the art firing range and law enforcement training facility to be used by County law enforcement agencies and the Federal Bureau of Investigation (the "**FBI**"). The current firing range near Watters Quarry is too small and inadequate for the County's and the FBI's needs. A new firing range for County and FBI law enforcement practice and training has been needed for some time.
2. If the exemption is granted, MBI has agreed to construct the Facility on its Property for use by County law enforcement agencies and the FBI. The County and the FBI will jointly provide funding for the Project. The County will operate the Facility.
3. ORS 279C.335(2) permits a local contract review board to exempt a public improvement contract from the competitive bidding requirements of ORS 279C.335(1) if it finds that:
 - (a) It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and
 - (b) The awarding of public improvement contracts under the exemption will likely result in substantial cost savings to the contracting agency.
4. With regard to ORS 279C.335(2)(a), the Board interprets the term "favoritism" to imply that more than one option is available for the construction of a public improvement contract. The Board finds it is unlikely that an exemption here will encourage favoritism based on the following facts:

- (a) The Property is uniquely situated for the Facility. It is a mined out quarry located on the Columbia River Highway, approximately $\frac{3}{4}$ mile northwest of Columbia City. It is easily accessible from Highway 30, yet is well buffered from potential conflicting uses in the area. The Property is 134.22 total acres in size. The Facility will be located in the southern end of the property on approximately 12 acres; a total of 40 acres are available for expansion of the firing range use in the future.
 - (b) Whereas a firing range in an urban growth area would intrude on neighborhood residential uses, the Facility would complement the character of the Property's surrounding industrial uses. The general area is sparsely developed, rural industrial in nature with Dyno Nobel and Airgas located directly south and the Columbia River PUD located to the north. A large forested hill is located to the west of the Property, zoned for Primary Forest, with no development. The Property also provides adequate vehicle access and does not require facilities and services of an urban nature.
 - (c) The Facility will be constructed in a mined-out pit 55 feet below ground level, which enhances public safety. Historically, the Property previously housed the Columbia County fairgrounds and racetrack. Various concerts, approved through temporary permits, were held on the Property more recently.
 - (d) The County does not own the Property. MBI has agreed to construct the Facility on the Property for use by County law enforcement agencies and the FBI. The County cannot force MBI to allow others onto the Property to construct the Facility.
 - (e) There is no other public or private real property available in Columbia County that is similarly situated both in size and location to house the Facility.
 - (f) Given the unique nature and location of the Property and the unavailability of other private or public land for the Facility, it is unlikely that granting the County an exemption here will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts.
5. With regard to ORS 279C.335(2)(b), the Board finds that awarding construction of the Facility to MBI under the exemption will likely result in substantial cost savings to the County based on the following facts:
- (a) MBI has agreed to construct the Facility at cost for \$235,500.
 - (b) MBI will serve as the general contractor for the Project and will hire subcontractors to assist as necessary with the construction of the Facility.
 - (c) General contractors typically charge an extra 10 to 15% for profit. MBI's budget does not include any funds for profit.

- (d) By agreeing to construct the Facility for a fixed price, MBI has assumed the risk that construction costs may exceed \$235,500.
- (e) A significant portion of the cost of construction involves rock being supplied to grade the pit and construct rock and concrete berms for the firing range. Because MBI is currently engaged in mining operations on the Property, it can supply rock and concrete for the Project at below-market prices. The Board finds that MBI's unique ability to utilize supplies already on-site for the construction of the Facility results in value engineering.
- (f) To the extent construction of the Facility requires specialized expertise or presents technical complexity given its location, MBI is uniquely familiar with the Property as the owner and because it mined the site.
- (g) For the foregoing reasons, if the Project were subject to the competitive bidding requirements of ORS 279C.335(1), it is unlikely that any competing contractors could perform the Project for substantially less than \$235,500.