

**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 Recycling ) **RESOLUTION NO. 21-2009**  
and Reuse Facility Contract From )  
Competitive Low Bid Requirements )

**WHEREAS**, Columbia County will be arranging for the construction of the Columbia County Recycling and Reuse Facility located at the existing Columbia County Transfer station; and

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

**WHEREAS**, Columbia County wishes to procure the construction of the facility through the Construction Manager/General Contractor (CM/GC) alternative contracting methodology, as defined in OAR 137-049-610(2); and

**WHEREAS**, the Board of County Commissioners ("BOCC"), as the Local Contract Review Board ("Board" or "LCRB"), considered draft findings in support of the exemption 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 22, 2009; and

**WHEREAS**, ORS 279C.335(4) provides that the local contract review Board shall, when appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition;

**NOW, THEREFORE**, it is hereby resolved, as follows:

1. Pursuant to its statutory authority the Board of County Commissioners adopts the Findings attached hereto as Exhibit "A".

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2. County staff shall prepare competitive procurement documents to procure a Construction Manager/General Contractor (CM/GC) contract using the statutory competitive proposal procedures.

DATED this 22<sup>nd</sup> day of April, 2009.

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

By: 

Chair

Approved as to form

By: 

Commissioner

By:   
Office of County Counsel

By: 

Commissioner

## Exhibit "A"

### FINDINGS IN SUPPORT OF THE USE OF THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR ALTERNATIVE CONTRACTING METHOD COLUMBIA COUNTY RECYCLE-REUSE FACILITY

Columbia County (the "County"), by and through its Land Development Services Department, intends to contract for the construction of a Recycle and Reuse Facility to be located at the existing Columbia County Transfer Station in St. Helens, Oregon (the "Project"). The County has requested that it be authorized to use the Construction Manager/General Contractor ("CM/GC") alternative contracting method to procure the construction in accordance with OAR 137-049-0690.

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

#### FINDINGS

1. ORS 279C.335(1) requires that all public improvement contracts shall be based upon competitive bids except: "\*\*\* (b) a public improvement contract exempt under subsection (2) of this section." The County has requested that the Board adopt findings to support the exemption under ORS 279C.335(2) to exempt the contract from the competitive bid requirements and to direct the use of the CM/GC alternative contracting method.
2. ORS 279C.335(2) permits a local contract review board to exempt a public improvement contract from the competitive bidding requirements of subsection (1) if it finds:
  - (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 based upon information described in ORS 279C.330.
3. With regard to ORS 279C.335(2)(a), the Board finds that it is unlikely that an exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts because the proposed CM/GC procurement method is a competitive procurement method carried out in accordance with OAR 137-049-0690. The County will solicit CM/GC proposals through public advertisement in a trade publication of general statewide circulation. The County will also establish an evaluation committee that will evaluate the proposals based on identified

selection criteria and will encourage competition. An award will be made based on the Committee's evaluation of the competitive criteria. Finally, the County will provide an opportunity to contest the award.

4. With respect to ORS 279C.335(2)(b), the Board finds that awarding a contract under the exemption will result in substantial cost savings to the County because selection of a Contractor will be based in large part on cost savings. The CM/GC contract will include a guaranteed maximum price ("GMP"). The Contractor's overhead rate and fee and the proposed GMP are two of the most significant factors to be evaluated in selecting a contractor. In addition, the County may negotiate with the successful proposer until an acceptable price is reached. This negotiation will help define and contain Project costs. Negotiation up front will avoid excessive change orders and other unanticipated changes to the scope of the work that might otherwise give rise to an increase in the GMP. In addition, the unique characteristics of the Project lead to the conclusion that the CM/GC process will result in cost savings. The Project will need to be completed while other Transfer Station operations are on-going, including the storing of recyclable and hazardous wastes and in a tight time frame due to weather considerations. If Transfer Station operations are interrupted or construction is delayed the costs likely will exceed the County's tight budget for the Project. The opportunity to select the best overall contractor under the CM/GC methodology will allow the County to avoid such problems and therefore avoid excessive project costs.

In addition, the public improvement presents significant technical complexities that are best addressed by a collaborative team effort between the County, design professionals and Contractor, in which the Contractor will assist in addressing specific project challenges through preconstruction consultation and which will allow for value engineering. The project involves the expansion of an existing structure and two new structures with underground facilities which will require consistency and functionality between the security, electrical, lighting, fire/life safety, and data/communication systems in existing and new structures. Contractor input on issues such as operations of the facility during construction, public safety, delivery of an early budget or GMP, systems continuity between existing and new structure, and coordinated scheduling will save the County money by avoiding delays and other problems during construction.