



Rules of Conduct for Public Hearings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

This meeting is being recorded for public review on the City of Millersburg website.

CITY OF MILLERSBURG SPECIAL CITY COUNCIL PUBLIC HEARING

Electronic Meeting

February 16, 2021 @ 5:00 p.m.

Agenda

This meeting will be held remotely. Instructions for joining the meeting by computer or phone are attached to this agenda. If you do not have access to a phone or computer, or need additional support, please contact City Hall prior to 5:00 p.m. on Monday, February 15.

Meeting link to join via computer:

<https://aspenuc.accessionmeeting.com/j/1168503623>

Phone number to join meeting: 503-212-9900

Meeting ID: 116 850 3623

- A. CALL TO ORDER
- B. ROLL CALL
- C. CHANGES AND ADDITIONS TO THE AGENDA
- D. PUBLIC COMMENT
- E. PUBLIC HEARING
 - 1) Consideration of Exemption of a Public Improvement Project from the Competitive Bidding Requirement
- F. CLOSING COUNCIL COMMENT

- G. ADJOURN TO EXECUTIVE SESSION, AUTHORIZED AND IDENTIFIED IN THE OREGON REVISED STATUTES BELOW:

ORS 192.660(2)(e): Conduct deliberations with persons designated by the governing body to negotiate real property transactions.

ORS 192.660(2)(h): Consultation with legal counsel regarding the legal rights and duties of a public body with regard to current litigation or litigation to be filed.

At the conclusion of the executive session, the City Council will return to regular session and adjourn if no reportable action is required.

- H. ADJOURNMENT

The meeting is accessible to the disabled. If you have a disability that requires accommodation to attend or participate, please notify the Millersburg City Hall in advance by calling (458) 233-6300.



TO: Millersburg City Council
VIA: Kevin Kreitman, City Manager
FROM: Janelle Booth, Assistant City Manager/City Engineer
DATE: February 12, 2021 for the February 16, 2021 Special City Council Meeting
SUBJECT: Fire Station Project Construction Contract Award - Process and Criteria

Action Requested:

Staff recommends Council approve the proposed findings and exemption from competitive bidding requirements of ORS 279C, for award of the construction contract for the Millersburg Fire Station and associated public improvements.

Discussion:

During design of the new fire station, alternate contracting methods for construction (CM/GC, design-build) were considered. Due to the size and type of the project, it was determined that these alternate methods would likely not result in cost savings. It was, however, decided that award of the contract should, in addition to price, also consider contractor qualifications and experience, to insure the best value is provided.

ORS 279C, which governs contracting procedures for public entities, requires competitive bidding (award to low bidder), unless there is an exemption. The local contract review board (City Council) may exempt a public improvement contract from the competitive bidding requirements, if the local contract review board approves findings in accordance with ORS 279C.335. Draft findings are provided in Attachment A.

Staff is requesting approval of the findings and exemption to allow review of both bid price and qualifications in award of project.

Budget Impact: Approving exemption of competitive bidding requirements of ORS 279C to allow consideration of contractor qualifications in addition to bid price is anticipated to ultimately result in cost savings to the project budget.

Recommendation: Adoption of draft findings and exemption of Millersburg Fire Station project from competitive bidding requirements in accordance with ORS 279C.335.

Attachment(s):

- Attachment A – Findings per ORS 297C.335
- Attachment B – 14-Day Public Hearing Notice
- Attachment C – Affidavit of Publication - DJC

Findings for Exemption to Competitive Bidding Requirements in Accordance with ORS
279C.335 for Millersburg Fire Station 15 Project

ORS 279C, which governs contracting procedures for public entities, requires competitive bidding (award to low bidder), unless there is an exemption. The local contract review board (City Council) may exempt a public improvement contract from the competitive bidding requirements, if the local contract review board approves the following findings:

(a) Finding: The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

(b) Finding: Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the public. In approving a finding under this paragraph, the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

(A) How many persons are available to bid;

Finding: This exemption does not adversely impact the number of persons available to bid.

(B) The construction budget and the projected operating costs for the completed public improvement;

Finding: Evaluation of contractor qualifications will allow the City to take into account past project performance, including financial, in determining the best value to the citizens.

(C) Public benefits that may result from granting the exemption;

Finding: Considering contractor qualifications in addition to bid price will result in the best value to the public by evaluating contractor familiarity with the type of work and their capability to insure successful completion of the project.

(D) Whether value engineering techniques may decrease the cost of the public improvement;

Finding: Evaluations of qualifications will enable consideration of contractor's track record of working with architects and owners to find cost savings and provide the best value.

(E) The cost and availability of specialized expertise that is necessary for the public improvement;

Finding: This project involves construction of a new fire station and public infrastructure. It is important that contractors demonstrate experience and capability with construction of emergency facilities and public infrastructure for the success of this project.

(F) Any likely increases in public safety;

Finding: Not applicable. The contracting method is not anticipated to impact public safety.

(G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;

Finding: This method reduces the risk of selecting a contractor who does not have available the appropriate financial, material, equipment, facility and personnel resources and expertise, or has not demonstrated the ability to obtain the resources and expertise, necessary to insure successful completion of the project.

(H) Whether granting the exemption will affect the sources of funding for the public improvement;

Finding: Not applicable. The funding sources are not affected by the contracting method.

(I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

Finding: This method allows consideration of contractor's ability to work with suppliers to minimize negative impacts of market conditions and contractor's ability to work with architects to consider alternatives to mitigate cost and/or schedule impacts due to market conditions.

(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

Finding: This method will enable the City to consider contractor's depth of experience with projects of similar size, type, and technical aspects, including essential services facilities and public infrastructure improvements.

(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;

Finding: The project involves new construction.

(L) Whether the public improvement will be occupied or unoccupied during construction;

Finding: The project will not be occupied during construction.

(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and

Finding: The project will be constructed in a single phase, with multiple schedule components that must be managed and coordinated.

(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

Finding: The project team, including architect, owner's representative consultant, legal counsel, and city staff, have the necessary expertise and experience to develop, award, administer, and enforce the best value contracting method that has been selected.

Finding: The exemption of this contract or class of contracts complies with the requirements of ORS 279C.335(2) as set out above.



NOTICE OF PUBLIC HEARING TO CONSIDER EXEMPTION OF A PUBLIC IMPROVEMENT PROJECT FROM THE COMPETITIVE BIDDING REQUIREMENT

NOTICE IS HEREBY GIVEN that pursuant to ORS 279C.335, the City of Millersburg issues this 14-day public notice to all interested parties of the City of Millersburg's intent to exempt the Millersburg Fire Station Project from the competitive bidding requirements of ORS 279C and utilize a "best value" approach, which considers contractor qualifications in addition to bid price. A public hearing for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement is scheduled before the Millersburg City Council at 5:00 p.m. on February 16, 2021. All interested parties are invited to attend this meeting.

The findings are available for public review on the City's website:

<https://www.cityofmillersburg.org/building/page/draft-findings-exemption-competitive-bidding-requirements-accordance-ors-279c335>

Public Hearing meeting link to join via computer:

<https://aspenuc.accessionmeeting.com/j/1168503623>

Phone number to join meeting: 503-212-9900

Meeting ID: 116 850 3623

If you wish to comment but cannot attend the public hearing, please address written comments as follows:

Janelle Booth, Assistant City Manager/City Engineer

City of Millersburg

4222 NE Old Salem Road

Albany OR 97321

jbooth@cityofmillersburg.org

Written comments must be received by 3:00 p.m. February 16, 2021 in order to be considered.

AFFIDAVIT OF PUBLICATION

DJC



11 NE Martin Luther King Jr. Blvd. Suite 201 / Portland, OR 97232-3579
(503) 226-1311

STATE OF OREGON, COUNTY OF MULTNOMAH--ss.

I, **Nick Bjork**, being first duly sworn, depose and say that I am a **Publisher** of the **Daily Journal of Commerce**, a newspaper of general circulation in the counties of CLACKAMAS, MULTNOMAH, and WASHINGTON as defined by ORS 193.010 and 193.020; published at Portland in the aforesaid County and State; that I know from my personal knowledge that the Goods and Services notice described as

Case Number: NOT PROVIDED

**EXEMPTION OF A PUBLIC IMPROVEMENT PROJECT FROM THE COMPETITIVE BIDDING REQUIREMENT
City of Millersburg; Bid Location Albany, OR, Benton County;**

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 1 time(s) in the following issues:

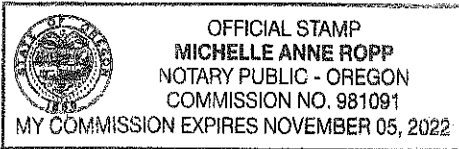
1/29/2021

State of Oregon
County of Multnomah

SIGNED OR ATTESTED BEFORE ME
ON THE 29th DAY OF January, 2021

Nick Bjork

Notary Public-State of Oregon



Kim Wollenburg
City of Millersburg
4222 Old Salem Rd NE
Albany, OR 97321-7377

**CITY OF MILLERSBURG
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