

**RESOLUTION #88-2011**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, APPROVING CLASS EXEMPTION UNDER RULE 10.115 FOR CONTRACTS RELATED TO DETERMINING FEASIBILITY OF THE "BRING IT BACK" BASEBALL PROJECT**

**WHEREAS**, on or about the 3rd day of January, 2006, the Milwaukie City Council adopted Local Contract Review Board Rules (hereinafter LCRB Rules); and

**WHEREAS**, Rule 10.115 of the LCRB Rules and ORS 279B.085 allow the Milwaukie City Council, sitting as Local Contract Review Board (hereinafter Board), to exempt classes of public contracts from the formal competitive procurement process requirements upon the making of certain findings; and

**WHEREAS**, the City's Community Development & Public Works Director has, through the City Attorney, directed a written request to have the Board approve an exemption for a class of public contracts, specifically, professional services for the feasibility work on the "Bring It Back" Project ("Project"); and

**WHEREAS**, the proposed special procurement method requested is direct award of the personal services contracts for the feasibility work on the Project; and

**WHEREAS**, the Board held a public hearing to determine whether there is a basis for the exemption under the LCRB Rules and Oregon law; and

**WHEREAS**, there is evidence to support the following findings contained in the record before the Board.

**NOW, THEREFORE**, the Milwaukie City Council, sitting as Local Contract Review Board hereby finds as follows:

1. The use of a special procurement method, specifically, direct award, to procure the class of contracts related to determining the feasibility of embarking on the "Bring It Back" Project is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts as set forth in (3a) and (3b) below; and
2. Approval of such exemption is reasonably expected to result in substantial cost savings to the City for the reasons detailed in (3c) below.
3. Factual Support:
  - a. The class exemption is sought for the feasibility work on the Project only and shall last only a short period of time (October 2011-November 2012). Should the Project prove feasible, subsequent contracts to perform work on the Project will be let. The Project, if feasible, will include a large (\$20,000,000 - \$30,000,000) construction component, however the class exemption for feasibility contracts will neither

encourage favoritism nor diminish competition when and if the construction component is let.

- b. The services under this class exemption are Professional Communications, Architecture and Project Management. The City has not exhibited nor encouraged favoritism as evidenced by its acceptance of all unsolicited proposals in these disciplines and the fact that the City does not have any prior contracts with the professionals to whom direct award is being recommended. The city considered three Communication Service proposals, three Architecture proposals, and two Project Management proposals. Of those, the City has recognized that there is a "team" of professionals who have collaborated on other large sports facility development projects, and have a track record of successfully delivering these projects to their clients. This teamwork is important in this class; this exemption allows the city to factor this track record into the selection process in a more direct manner than would be the case under the usual procurement process. The work to be performed by these professionals is highly specialized and teamwork efficiencies are an important selection factor.
- c. This exemption is reasonably expected to result in substantial cost savings to the City for the following reasons:
  - i. The direct appointment of a communications firm will allow the City to take advantage of specific expertise in running a successful baseball bond campaign. One firm had bond measure expertise in raising \$30,000,000 in new public funds to build a baseball stadium. This expertise is unique and should translate into public cost savings through expertise in polling, message strategy, paid and earned communications, grassroots activities, and financing recommendations.
  - ii. An architecture firm with significant expertise in designing baseball facilities has offered to make its labor costs contingent on capital project funding. This is a highly specialized firm with much needed expertise that enables it to take some of its fees as a contingent reimbursable.
  - iii. A project management firm with significant expertise in large public works projects has offered the City 30 hours of free project management consulting services, with a six month grace period for project strategy consulting during which time those costs will be invoiced at cost (no mark-up).
  - iv. On highly specialized development and construction projects such as this one, the internal coordination of the team of advisors is critical. A fourth reason to expect savings to the public is the familiarity between the architecture firm and the project management firm. These professionals have collaborated on other large sports facility development

projects, and have a track record of successfully delivering these projects to their clients. This exemption allows the city to factor this track record into the selection process in a more direct manner than would be the case under the usual procurement process. The work to be performed by these professionals will be highly specialized. Not hiring the team would likely result in additional costs by having to bring a different team up-to-speed on the tasks to be performed and may result in an inferior work product compared to the proven results of the team.

- d. The architecture and project management services combined are expected to total less than \$50,000 for the feasibility stage. (Project management services are expected to cost approximately \$20,000 and architecture services approximately \$30,000.) While these amounts suggest that an informal solicitation would suffice for procurement of these services, including them in the class would better serve the City because: a) additional services might be needed during this engagement; and b) the informal process still requires competitive quotes and the architecture and project management services components will function more effectively if the City uses a team of professionals that has a demonstrated track record working together, see (c)(iv), supra.

**NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS, IT IS HEREBY RESOLVED** that exemption from the competitive procurement process of a class of contracts related to determining the feasibility of embarking on the "Bring It Back" Project is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts and approval of the direct award of such personal services contracts is reasonably expected to result in substantial cost savings to the City; and therefore the direct award of such class of contracts by the City of Milwaukie is hereby approved and no further competitive procurement need take place to award contracts in such class.

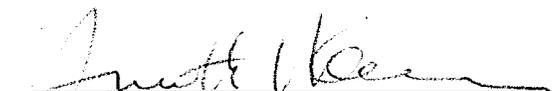
**APPROVED AND ADOPTED** on October 4, 2011. This Resolution takes effect on October 4, 2011.

  
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Jeremy Ferguson, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**  
JORDAN RAMIS, PC

  
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Pat DuVal, City Recorder

  
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City Attorney