

RESOLUTION NO. 5005

A RESOLUTION TO WAIVE COMPETITIVE BIDDING FOR THE ACQUISITION OF AN IRREVOCABLE RIGHT OF USE FOR FIBER OPTIC CABLE AND RELATED COMMUNICATION SERVICES TO BE PROVIDED BY NORTHWEST OPEN ACCESS NETWORK OREGON (NOANET OREGON).

WHEREAS, Albany Municipal Code 2.64.060(20) authorizes the City Council, acting as the Local Contract Review Board, to exempt certain contracts from the requirements of competitive bidding upon findings that such exemption will not result in favoritism or substantially diminished competition and that the exemption will result in substantial cost savings; and

WHEREAS, it is in the public interest to provide fiber optic communication facilities for the use and benefit of City buildings and facilities; and

WHEREAS, City Staff has obtained construction bids/estimates from a private contractor, concerning the cost to construct the necessary fiber optic facilities for the City of Albany alone and has determined that the anticipated cost for such services would be in excess of \$300,000; and

WHEREAS, NoaNet Oregon proposes to construct fiber optic cable facilities through the City of Albany, as a part of an overall expansion intended to serve other customers, most particularly governmental entities; and

WHEREAS, the City of Albany has an opportunity to take advantage of NoaNet Oregon's planned fiber optic extension through the City of Albany and obtain the necessary fiber optic facilities and services through an indefeasible right of use proposed to be granted by NoaNet Oregon to the City for 20 years, with an additional 20 year renewal option, at a cost of \$143,000; and

WHEREAS, a waiver of competitive bidding and direct contract with NoaNet Oregon will enable the City to realize a substantial cost savings as compared to the anticipated cost of a stand alone purchase of such facilities or services by the City through the customary competitive bidding process; and

WHEREAS, the City's direct contract with NoaNet Oregon will not result in favoritism or substantially diminished competition in the telecommunications market in the Mid-Willamette Valley;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Albany, acting as the Local Contract Review Board, adopts the recitals set forth above as findings along with the information contained in the memorandum which accompanies this resolution and further finds that exemption of this contract from the requirements of competitive bidding will not result in favoritism or substantially diminished competition and will result in substantial cost savings for the City.

BE IT FURTHER RESOLVED, that the City Manger of the City of Albany is hereby authorized to enter into a contract with NoaNet Oregon for acquisition of the indefeasible right of use to fiber optic facilities to serve the City of Albany.

DATED AND EFFECTIVE THIS 19TH DAY OF JULY 2004.

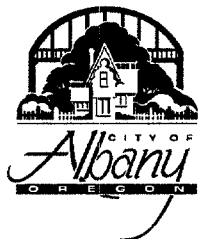


Mayor

ATTEST:



City Clerk



TO: Albany City Council
VIA: Steve Bryant, City Manager
FROM: Susan Busbice, Assistant City Manager
DATE: July 15, 2004 for the July 19, 2004, City Council Work Session

SUBJECT: A Resolution to exempt the NoaNet Oregon contract from competitive bidding.

Action Requested:

Staff recommends that the Council adopt the accompanying resolution exempting the NoaNet Oregon contract from the requirements of competitive bidding.

Discussion:

On July 23, 2003, staff recommended that the Council accept the recommendations of Moss Adams Advisory Services to direct the City to contract with NoaNet Oregon to extend fiber optic cable services to City buildings. NoaNet Oregon was a particularly attractive fiber provider because it was projecting an expansion of fiber optic cable facilities through the City of Albany as a part of a larger contract with Oregon State University (OSU).

Staff had previously investigated the cost of constructing fiber optic facilities to serve City buildings and had obtained quotes from Cherry City Electric in Salem, Oregon. In 2002, the anticipated cost was projected to be \$287,253.91. Two years later, Cherry City provided a second quote in the amount of \$532,729. Both of these quotes were for essentially the same services and would have provided no greater fiber optic capacity than the City can utilize through the proposed agreement with NoaNet Oregon.

The Cherry City proposal envisioned that the fiber optic facilities would be constructed for, and owned by, the City of Albany. The agreement with NoaNet Oregon envisions that NoaNet Oregon will construct and own the facilities and the City will contract for an indefeasible right of use for a one-time fee of \$143,000. The indefeasible right of use will last for 20 years and also provides for an option to extend for an additional 20 years for the relatively nominal price of \$2,500.

Staff believes that the substantial cost savings that can be achieved by piggy backing onto the OSU extension warrants exempting this contract from competitive bidding so that the necessary facilities can be obtained at the lowest possible cost with the least amount of delay.

Given the opportunity to utilize these facilities for 40 years, a time period which is likely to exceed the useful life of this technology, staff does not think that the advantage of ownership would outweigh the disproportionate cost to purchase these facilities as part of a stand alone contract for the City of Albany.

Budget Impact:

On July 23, 2003, the City Council authorized the City to contract directly with NoaNet Oregon and allocated \$179,000 for the entire project. Staff has expended approximately \$35,000 to date for City owned equipment necessary to take advantage of fiber optic communication facilities and with the balance of \$143,000 which would be paid to NoaNet Oregon if the agreement is authorized, we should be within our previous budgetary authorization.

JVBD

Attachments

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