



## Resolution 2004-081

### A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE POLICE FACILITY FIRING RANGE RENOVATION AND CONSTRUCTION

**WHEREAS**, the Sherwood City Council is designated as the City's Local Contract Review Board as authorized by ORS 279.055 and exercises its duties and responsibilities under Sherwood Municipal Code at Chapter 2.24; and

**WHEREAS**, the technical nature of the renovation and construction of the firing range requires that factors other than price be considered when selecting the contractor, including experience of the contractor, quality of the product and suitability of the firing range for the desired use; and

**WHEREAS**, Carey's Heating and Air Conditioning, Inc. is the most experienced contractor of indoor firing ranges in the United States; and

**WHEREAS**, the renovation and construction of the Police Facility Firing Range requires a public contract because such renovation and construction constitutes a public improvement as those terms are defined in ORS 279.011; and

**WHEREAS**, in such cases, the applicable State of Oregon Administrative Rules at OAR 137-040-0550 allow procurement to proceed as a sole source contract award, when authorized by the Local Contract Review Board.

### NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

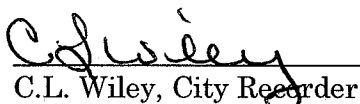
**Section 1** The City Manager is authorized enter into a contract with Carey's Heating and Air Conditioning, Inc. in an amount not to exceed \$173,032.

**Section 2:** This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 12<sup>th</sup> day of October 2004.

  
Mark O. Cottle, Mayor

ATTEST:

  
C.L. Wiley, City Recorder

**EXHIBIT A**  
**CAREY'S**

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**Heating and Air Conditioning, Inc.**

May 19, 2004

Sherwood Police Department  
20495 SW Borchers Drive  
Sherwood, Oregon 97104  
Attn.: Chief William Middleton

RE: Proposal for Small arms range ventilation upgrade and general range renovations.

Dear Bill:

We have reviewed the site conditions and the plans in progress. We have added scope items to the original scope provided in the renovation. In general, the intent of the project is to provide for a safe training area where small arms training can be performed with the least risk to the occupants. The primary issues addressed in this proposal are increasing the training area to provide a 25 yard range, upgrades to the ventilation system to provide for the recommended air flow for lead or any other heavy metals used in ammunition, provide proper protection to the lights and sprinklers, and to contain the noise in the range with acoustical materials to minimize the long term affect on the hearing of the training personnel.

Our scope offers upgrades from the original plans. The proposal is a single source, turn key proposal for the entire project. It is the intent of the proposal to make an offering that is complete. If there are specific items necessary to offer a complete and functioning range that are not mentioned, they will be included. All work necessary to complete the project scope have been included in the price and will be provided to the City. All permit fees are by the City.

It is the intent to provide all roof mounted equipment for the range ventilation. If this exceeds the structural capabilities, the equipment will be set on grade on concrete pads. The price will stay the same for either approach. We will be replacing the roofer with the concrete pads, etc.

The following section is an overall project scope, followed by a detailed price schedule broken out for review. There will be preliminary drawings that follow:

**Overall Project Scope of Work**

1. We will provide the demolition of the wall on the firing side of the range as well as the demolition and capping of the plumbing. This demolition will provide for a 25 yard training area.
2. Furnish and install a complete range ventilation system designed at an average laminar airflow of 75 FPM. The range ventilation is designed for the use of Lead or other heavy metal rounds, providing safety in the respiratory zone. The exhaust air will be filtered to contain any contaminates created in the range in the

filters. We will furnish and install a complete Digital Control System for the range ventilation system with remote monitoring for service and performance monitoring.

3. Provide ballistic protection for the lights and sprinkler that are existing in the range. The bottom of the baffles will be at the top of the steel that is mounted on the walls. This will provide for a contained area about 8 feet from finished floor to maintain the design air flow for tactical training. The light protection will be standard 10ga pistol rated baffles with splatter protection and acoustical tile for sound abatement. They will consist of 10ga steel, an air space, plywood, and then acoustical finish.
4. Furnish and install Sonex acoustical material between each baffle location for sound control.
5. Furnish and install any new sprinkler piping to allow for the proper coverage of the range with the new light baffles. The sprinkler system will be reviewed by Western States Fire Protection, the original installing design and build contractor and modified for proper distribution with the addition of the new light and splatter baffles.
6. Furnish and install 1/4" plate to protect exposed sprinkler piping after the redesign.
7. Furnish and install a lay-in type ceiling at the firing line from the distribution diffuser that will contain the range ventilation area to 8 foot tall.
8. Provide floor and wall markers (Painted lines) showing distances determined by the range instructor. Patch and paint to match areas after demolition.
9. Furnish and install all necessary electrical for new ventilation equipment, provide for any necessary new lighting and relocation of existing lights for new baffle lay out, and provide engineered drawings using DLR and the existing design team for the changes to provide for the most economical solution under the direction of Carey's Heating and Air Conditioning, Inc.
10. Provide roof patch with new walkways by Eagle Roofing, the original roofing contractor to patch and connect the new and relocated roof curbs.
11. Provide coring for new exhaust opening in the roof.
12. Provide engineered plans from Carey's and the original design team to meet local codes and permit requirements. Specific breakdown as follows:
  - a. Carey's Heating and Air Conditioning, Inc.:
    - i. Design range ventilation system to meet current US Navy standards for range ventilation.
    - ii. Oversee all disciplines to coordinate a sole source upgrade to the range ventilation, ballistic and acoustical system for the firing range.
    - iii. Design a baffle lay out for the protection of lights and sprinkler system.
  - b. Architectural, DLR Group:
    - i. Work with Carey's with roof plank manufacturer to ensure structural integrity of new installation.
    - ii. Specify finishes to match requirements of original building.
    - iii. Review total design package to assist in meeting local building codes.
    - iv. Coordinate between the original electrical and mechanical design firms.
  - c. Mechanical, Accipio Consulting Engineers:

- i. Draw, specify and design for plumbing demolition and any relocation of domestic water.
  - ii. Assist in the review of the proposed range ventilation system to ensure that local codes are met.
  - iii. Assist in the design of the new gas line and relocation of the existing gas line.
- d. Electrical, Cundiff Engineering, Inc.:
- i. Using the design of the ventilation system, design and draw the electrical plan for the installation of power to the new equipment provided by Carey's.
  - ii. Design and draw lighting for the new lay-in ceiling for the range from the new diffuser to the new first baffle.
  - iii. Modify the as built drawings showing a relocation of the wall mounted spot lights to the ceiling to not interfere with the new baffle lay out.
  - iv. Show the requirement for the new power and connection points for the new equipment to the existing power panels.
  - v. Provide design for a dedicated 120 volt line to the control panel.
  - vi. Provide design for an analog phone line for the control system.

Description	#	Task	Price
	1	Demolition	\$5,150.00
	2	Range Ventilation System	\$97,500.00
	3	Baffles with splatter protection	\$20,361.00
	4	Sonex Acoustical between baffles	\$17,820.00
	5	Sprinkler Piping	\$5,556.00
	6	Sprinkler Pipe protection	\$3,850.00
	7	Lay in Ceiling	\$2,450.00
	8	Paint and finishes	\$1,150.00
	9	Electrical for HVAC, lighting and controls	\$15,500.00
	10	Roof Patch	\$3,045.00
	11	Coring	\$650.00
	12a	Carey's Design and engineering	(No Charge)
		<b>TOTAL PRICE</b>	<b>\$\$173,032.00</b>

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Please call if there are any questions. Thank you for the opportunity to offer this proposal.

Sincerely,

***William J. Provencher, Jr.***

William J. Provencher, Jr.  
President

## Exhibit B

### **FINDINGS OF THE SHERWOOD CITY COUNCIL ACTING AS LOCAL CONTRACT REVIEW BOARD EXEMPTING A CONTRACT FOR RENOVATION AND RECONSTRUCTION OF THE POLICE FACILITY FIRING RANGE FROM THE NORMAL COMPETITIVE BIDDING PROCESS TO ALLOW PROCUREMENT FROM A SOLE SOURCE PURSUANT TO ORS 279.011, 279.015, AND 279.017**

September 28, 2004

The City of Sherwood ("City") has determined that there is a need to renovate, redesign and reconstruct portions of the firing range in its Police Facility. The improvements are necessitated by deficiencies in the original design and construction with respect to size, ventilation, acoustics, and protection of internal electrical and plumbing.

As provided by ORS 279.015(2) and (6)(a), Oregon law expressly allows public agencies like the City, acting through its authorized Local Contract Review Board, to exempt certain contracts from the requirements of competitive bidding when appropriate notice is provided, and the required findings are made. Following are the findings required by ORS 279.015(2), which are also consistent with ORS 279.011(6)(a). In addition, the City makes further findings set forth below concerning compliance with ORS 279.017.

#### **I. ORS 279.015 FINDINGS**

ORS 279.015(2)(a) and (b) require findings supporting the following two criteria:

1. It is unlikely that this contract exemption will encourage favoritism in the awarding of the contract or substantially diminish competition for the contract; and
2. The awarding of this contract as a sole source procurement will result in substantial cost savings to the City.

As documented below in the findings of conformance with ORS 279.011(6) and 279.017, the City has identified the most experienced contractor for this highly specialized project through research of multiple options. There are very few contractors with the requisite experience to perform the needed renovations to the firing range. As a result, it is unlikely that this contract exemption will encourage favoritism or substantially diminish competition for this contract. Further, the current failures of the existing firing range demonstrate that it is critical to select a contractor with appropriate experience when constructing a highly specialized and potentially high risk facility for use in firearms training.

Due to the limited number of qualified contractors, none of them local, City staff undertook extensive research required to locate the proposed contractor for this sole source procurement. There is an urgent need to reconstruct the police firing range for safety of its users, and also preservation of certain electrical and plumbing fixtures and equipment already in use in the facility. Substantial cost savings will therefore result as more fully documented below.

## **II. SPECIFIC FACTS UNDER ORS 279.011(6) JUSTIFYING EXEMPTION**

### **1. OPERATIONAL, BUDGET AND FINANCIAL DATA.**

(a) Competitively bidding the project would necessarily consume time and money the City cannot afford to spend. Competitive bidding could possibly create excessive costs, including additional internal administrative costs and legal costs. Such additional costs would encroach into the City's limited budget and thus possibly impact the ability to renovate the police firing range as required. These costs are particularly important to save in light of the fact that the City is now required to perform major reconstruction on its relatively new police firing range, and staff has been required to spend extensive administrative time evaluating the shortcomings of the facility and locating a contractor with the necessary expertise to renovate it appropriately.

(b) As a result of the inadequate police firing range, the City's ability to operate essential city functions and serve its residents and entities doing business with the City is currently being compromised. Exempting this contract will allow the reconstruction of the firing range to occur sooner and therefore resolve these problems faster than would otherwise be possible.

(c) Exempting this contract from competitive bidding complements the City's desire to commence and complete this project as quickly and efficiently as possible. Exempting this contract also greatly decreases the risk of injury and property damage, as well as correcting noise violations that endanger the well being of persons using the facility.

(d) Exemption from the typical competitive bidding process that focuses only on the price of the bid will allow the City to use other criteria in addition to price to select a contractor who will provide the type of quality work product that is expected to significantly reduce the need for rework in the future thereby saving the City money. In particular, the expertise of the contractor is the key factor resulting in this proposed exemption due to the unique nature of the firing range and the special requirements that apply to its construction and operation.

### **2. PUBLIC BENEFITS**

(a) The faster the City lets the contract the sooner the corrections to the firing range will be completed. Upon completion, the public will benefit from increased safety of personnel using the facility, and a more efficient ability to provide critical public safety weapons practice. Delay in the corrections to the firing range not only expose users to risk, but delay training of critical public safety personnel, an undesirable outcome to the detriment of the public.

(b) The current firing range exposes persons to injury and therefore exposes the City to potential lost employee time and potential fines for violation of safety requirements, and injuries. These exposures could result in undesirable fiscal impact on an already strained city budget. It is therefore important to get the improvements in place with a known qualified contractor performing the work and to do so as quickly as possible.

(c) The current firing range as designed also opens electrical and fire sprinkler systems to potential damage. This too could result in property damage and resulting loss of funds for needless repairs. For these reasons, too, it is important to get the improvements in place with a known qualified contractor performing the work and to do so as quickly as possible.

### 3. VALUE ENGINEERING

The exemption will allow flexibility to address cost, schedule and product availability with the contractor selected and also allows the contractor to recommend possible ways to value engineer parts of the project to save the City time and money. The contractor proposes in particular to design and engineer aspects of the project at no cost, and takes advantage where possible of the original design team's prior work.

### 4. SPECIALIZED EXPERTISE REQUIRED

The police firing range is a highly specialized construction project, as evidenced by the need to now redesign and reconstruct portions of the range to comply with applicable regulatory and safety requirements. The range must meet detailed specifications as to firing distances, noise, ventilation, and protection to core structures and systems within the building. Selection of a contractor through this sole source procurement is the best way to ensure that the facility fully meets all legal and regulatory requirements.

### 5 PUBLIC SAFETY

As discussed in detail above, the improvements to the firing range are needed to assure the safety of persons using the facility and the structural integrity of the facility itself. In addition, expeditious and full training of public safety personnel on the use of firearms is critically important to the City's public safety mission. As such, the firing range must be upgraded as quickly as possible to allow for the required training under safe and appropriate conditions.

## 6. MARKET CONDITIONS

The unique nature of the project limits the available and appropriate contractor to a very few. As such, market conditions are not a relevant factor in this procurement, since there is a highly limited market and as such very little competition.

## 7. TECHNICAL COMPLEXITY

There is a fairly substantial degree of technical complexity associated with this project as discussed above. An experienced contractor will effectively handle the demands imposed on them by a project of this complexity and will assure compliance with all applicable regulations affecting the firing range.

## 8. FUNDING SOURCES

The City's budget can accommodate this contract due to budgeted positions remaining vacant in the City police department. Other funding sources are discussed in the staff report to the City Council dated September 14, 2004, and the Contract Review Board adopts those funding options as findings as to funding sources for the renovation of the firing range.

### III. FINDINGS UNDER ORS 279.017

ORS 279.017 is the provision allowing the City Council, acting as Local Contract Review Board, to select a particular contractor when certain criteria are met. Findings on each of those criteria are set forth below.

1. It is unlikely the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition.

This requirement duplicates the requirement of ORS 279.015(2)(a). The City Council adopts its findings on this criterion as set forth above. It is also noteworthy that the firing range improvement and reconstruction is a highly unique project, which by its nature would not encourage favoritism due to the lack of any similar contract to be awarded by the City in the foreseeable future.

2. The product of a particular manufacturer or seller would result in substantial cost savings to the City.

Again, this requirement parallels that found in ORS 279.015(2)(b). The City Council adopts its findings on this criterion as set forth above. It is also noteworthy that due to the significant research and analysis of the police firing range already performed, selection of the proposed contractor will result in substantial cost savings. There is also no charge in the proposed contract for



additional design and engineering, a reflection of the efficiency and cost-effectiveness of this selection.

3. There is only one manufacturer or seller of the product of the quality required, or efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

As discussed in detail above, there are very few qualified contractors to perform the unique renovations to the firing range required in this contract. Extensive staff research resulted in a recommendation of a company in Illinois as the most experienced contractor. In addition, this contractor proposes efficient utilization of the existing facility, design, and equipment where feasible, thus reducing duplication and promoting efficiency in the acquisition of compatible equipment. The finished product will maintain the best aspects of the original design while improving it to meet all applicable regulatory requirements using a highly qualified contractor.

#### **IV. CONCLUSION**

The City Council, acting as the Local Contract Review Board, concludes based on the above findings that it is appropriate to exempt the project from the typical competitive bidding requirements imposed by ORS Chapter 279 and to authorize the selection of a contractor as proposed by the City staff. The City Council, acting as Local Contract Review Board, will consider these findings at a duly noticed public hearing, will modify, adopt or reject them as appropriate, by Resolution.