

RESOLUTION NO. _____

CITY OF COTTAGE GROVE

**JOINT RESOLUTION OF THE CITY OF COTTAGE GROVE CITY COUNCIL AND
LOCAL CONTRACT REVIEW BOARD EXEMPTING PUBLIC IMPROVEMENT
PROJECT FROM COMPETITIVE BIDDING REQUIREMENTS**

WHEREAS, the City Council of the City of Cottage Grove (“City”) acts as the City’s Local Contract Review Board (“LCRB”), pursuant to ORS 279A.060; and

WHEREAS, pursuant to Oregon Revised Statutes (“ORS”) 279C.335(1), most public improvement contracts must be based upon competitive bids except those exempted by the LCRB; and

WHEREAS, pursuant to ORS 279C.335(2), the LCRB may exempt certain contracts from the traditional competitive bidding process after holding a public hearing and adopting findings demonstrating that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in substantial cost savings and other substantial benefits to the City; and

WHEREAS, the City has properly adopted City Rule 137-049-0620, which authorizes the use of alternative contracting methods for public improvement contracts, including awarding a public improvement contract to a vendor when justified by findings made under ORS 279C.335(2); and

WHEREAS, the City’s Water Reclamation Facility (Facility) contracts with Heard Farms Inc. to haul and reprocess the bio solids generated at the Facility. Approximately 175 dry tons of bio solids are generated each year and the City pays approximately \$80,000 to Heard Farms Inc. for additional processing; and

WHEREAS, over the past 4 years, City staff has researched options to upgrade the Facility in order to dry the biosolids at the Water Reclamation Facility in an energy efficient and cost-effective manner, in order to create a Class “A” product that can be used as fertilizer at Middlefield Golf Course, City Parks, and other City owned facilities (“the Project”); and

WHEREAS, Centrisys CNP (“Centrisys”) offers a program to design, install, maintain, and provide a lease-to-own or purchase option for all equipment necessary to dry biosolids via a unique centrifuge process for the Project; and

WHEREAS, Centrisys is the only source of drying equipment that operates as a large composter, utilizing heat from the composting process for 75% of the drying process and natural gas to generate the final amount of heat necessary to dry the solids to a Class “A” product; and

WHEREAS, Centrisys's unique process and lightweight equipment uses less than half the temperature of other vendors' drying equipment, effectively reducing safety risks, energy costs, and chemical usage; and

WHEREAS, the Public Contracting Code divides powers and duties for contracting into two categories, those that must be performed by the LCRB, and those that must be performed by the City as the "Contracting Agency;" and

WHEREAS, to adopt a public improvement exemption, ORS 279C.335(2) and City Rule 137-049-0630 require the City to submit findings to the LCRB which support exempting the Project from competitive bidding requirements; and

WHEREAS, as required by ORS 279C.335(5), the City published notice of the public hearing where the City Council and LCRB would consider this Resolution once in the *Daily Journal of Commerce*, not less than 14 days before the hearing; and

WHEREAS, the LCRB considered the findings presented by the City supporting the requested exemption, as set forth in the attached Exhibit A; and

WHEREAS, the LCRB considered public testimony regarding the proposed public improvement exemption submitted orally or in writing during the public hearing held on January 9, 2023; and

WHEREAS, the LCRB and the City Council, being fully advised, find and conclude as follows:

1. It is unlikely that the use of the proposed public improvement exemption from competitive bidding will encourage favoritism in the award of the proposed public improvement contract or will substantially diminish competition for this public improvement contract;
2. Granting the proposed Project exemption will likely result in substantial cost savings and other substantial benefits to the City; and
3. The City has complied with all procedures required under ORS 279C.335.

NOW, THEREFORE, the City Council hereby resolves as follows:

1. Findings. The above recitals and those set forth on the attached Exhibit A are hereby adopted by the City Council, sitting as the LCRB, as findings of fact supporting approval of the City's requested public improvement exemption from competitive bidding for the Project.
2. RFP and CM/GC Exemptions. Use of Centrisys's designs, equipment, installation, maintenance, and ultimate transfer of all Project components is found to be in the City's best interests. The requested exemption is, therefore, approved.

3. Contract. Award to Centrisys is hereby approved [Project cost and Public Improvement and Purchase Contract will be presented to City Council once 30% construction documents are completed] and the City Manager is hereby authorized to sign that contract and all associated documents on the City's behalf.

4. Post-Project Evaluation.

a) Upon conclusion of the Project, pursuant to ORS 279C.355 and City Rule 137-049-0620(2), the City Manager or the City Manager's designee is directed to prepare a formal post-project evaluation of the Project to determine whether it was actually in the City's best interest to exempt the Project from competitive bidding. The evaluation must be delivered to the LCRB within thirty (30) days of the date the City accepts the Project, as defined in the executed contract.

b) The post-project evaluation shall set forth:

(1) Financial information, consisting of actual costs compared with original cost estimates, any guaranteed maximum price, and the number of change orders issued;

(2) A narrative description of successes and failures experienced during the design, engineering, and construction phases; and

(3) An objective assessment of the use of the Project exemption, as compared to the findings set forth in this Resolution.

DATED this 9th day of January, 2023.

Candace Solesbee, Mayor
City of Cottage Grove
City Council

Candace Solesbee, President,
Local Contract Review Board

ATTEST:

ATTEST:

Richard Meyers, City Manager
City of Cottage Grove
City Council

Richard Meyers, Secretary
Local Contract Review Board

EXHIBIT A

EXEMPTION FINDINGS FOR THE CITY OF COTTAGE GROVE WATER RECLAMATION FACILITY PROJECT ORS 279C.330(1) AND ORS 279C.335(2)(b)

1. Unlikely to Encourage Favoritism or Substantially Diminish Competition.

Bioforcetech is the only provider of the decanter centrifuge unit, model CS18-4 2PH with an automatic hydraulic backdrive (“BFT Equipment”) that will best accomplish the Project because it operates at temperatures that reduce safety risks and costs to the City. Centrisys CNP (“Centrisys”) is the only source of the BFT Equipment. For that reason, exempting the Project from the competitive bidding process is unlikely to encourage favoritism or diminish competition.

2. Will Likely Result in Substantial Cost Savings and Other Substantial Benefits?

The Project will likely result in substantial cost savings and other substantial benefits to the City because of the following:

- a. Firms Available to Bid. The City has investigated biosolid dryers and the associated market for four years. That market research revealed that Centrisys is the only source of the BFT equipment, thus is the only firm available to design, provide, install and maintain the Project. From a technology standpoint, the BFT equipment is the only product or service that can satisfy the City’s requirements. Further, Centrisys is the only centrifuge supplier that utilizes a hydraulic backdrive system as the standard scope of supply.
- b. Project Budget, Project Operational Costs, and Financial Data. The City currently spends \$80,000 per year to haul away and dispose of biosolids from the Water Reclamation Facility. The BFT equipment provided by Centrisys would process biosolids into soil amendment/fertilizer at the Water Reclamation Facility, thus eliminating the need to haul away biosolids and saving the City the \$80,000 per year. Additional savings will be achieved through reduced and or elimination of the use of chemicals. It is possible that these savings can be used to fund the debt or lease payments for the BFT equipment. Further, the BFT equipment uses less energy than other biosolid drying technologies, which will save the City energy costs.
- c. Public Benefit. Exempting the Project from the competitive bidding processes will result in public benefit by eliminating the staff time and costs that would otherwise be required by the competitive bidding process. The public will also benefit from the increased safety and decreased costs associated with using Centrisys’ BFT equipment to dry biosolids at the Water Reclamation Facility. Further, the public will benefit from Centrisys’ ability to provide ongoing

maintenance and repair of the BFT equipment once installed, which will allow the Water Reclamation Facility to operate without interruption or malfunction.

- d. Value Engineering. In conjunction with Centrisys, the City's Engineer of Record will create 30% designs of the City's needed system and Facility. Centrisys will provide input and value engineering throughout that design process. The resulting designs will then be provided to Centrisys for completion and continued value engineering to ensure the lowest cost and most effective design and equipment for Project completion.
- e. Specialized Expertise. Centrisys has worked with other municipalities to install its BFT equipment and has experience integrating its BFT equipment into existing water reclamation facilities with limited modifications to the existing facilities. This is essential for the City because the City's Water Reclamation Facility must remain open and operation during the installation. Further, Centrisys is the only source for its BFT equipment, which is the only equipment that meets the City's technological requirements for the Project. In addition to designing and installing its BFT equipment, Centrisys is able to provide ongoing maintenance, repairs, and training for the operation of its BFT equipment.
- f. Public Safety. Exempting the Project from the competitive bidding process will result in public safety benefits by using Centrisys' BFT equipment to avoid the safety risks posed by other vendors' biosolids drying equipment. Its BFT equipment uses less energy than other vendors' equipment, thus reducing public safety risks and operational costs. Further, the public will benefit from Centrisys' ability to provide ongoing maintenance and repair of its BFT equipment once installed, which will allow the Water Reclamation Facility to operate without interruption or malfunction.
- g. Risk Reduction. Exempting the Project from the competitive bidding process will reduce risks to the City by allowing the City to contract with Centrisys, who has the experience and expertise to design, install, and providing ongoing maintenance, training, and repairs of its BFT equipment. Exempting the Project from the competitive bidding process will also reduce risks to the public by using BFT equipment, which uses less energy than other vendors' equipment and reduces safety risks, risks of malfunctions or Water Reclamation Facility interruptions, and decreases costs.
- h. Funding Source. Funding for the project will be from a City construction loan or a lease to own agreement with Centrisys and BioForce Tech. The debt service will come from current facility fixed operational cost savings; chemical, energy, and contracted bio-solid processing fees.
- i. Market Conditions. Exempting the Project from the competitive bidding process will allow the City to capitalize on current market conditions, which could change if the City was to undergo the lengthier competitive bidding process. Also, the

City needs the certainty associated with Centrisys equipment as support for its request to Department of Environmental Quality to modify the City's NPDES permit. An exemption will allow the City to enter into a contract with Centrisys and commence work as soon as possible, which will lower the risk of market conditions becoming unfavorable to the Project. Once the contracted is executed, Centrisys will not be able to go over the negotiated contract price, but may come in under that price and the City will realize the benefits of the cost differentials.

- j. Technical Complexity. The Water Reclamation Facility must continue to be operational during the Project, so it is essential that the City's vendor have the skills, experience, and knowledge to integrate the BFT equipment with the City's existing facility without causing interruptions. Centrisys has experience designing, constructing, and integrating BFT equipment with other municipalities' existing facilities and will be able to use its experience to the City's benefit.
- k. New Construction or Renovation of an Existing Structure. The Project involves the renovation of the existing Solids Press and Storage buildings at the Water Reclamation Facility.
- l. Occupied or Unoccupied During Construction. The Water Reclamation Facility will remain occupied and operational during construction which, as discussed in subsection j above, adds to the Project's technical complexity.
- m. Single Phase or Multiple Phases of Construction Work to Address Specific Project Conditions. The Project will include two design and one installation phases. It is vital that the City's Project vendor be involved in all phases to ensure the successful and timely completion of the Project with minimal impacts on the City's Water Reclamation Facility. The City's Engineer of Record will create 30% design documents, with Centrisys input and coordination. This is vital because Centrisys will use the 30% design documents to complete the design and install its BFT equipment. During the installation phases, the Water Reclamation Facility must remain open and operational and Centrisys' involvement in the design phase will help ensure that it is able to do so.
- n. Whether the City has the Personnel, Consultants and Legal Counsel with Necessary Expertise and Substantial Experience in Alternative Contracting Methods. The City has consulted with and will continue to consult with experienced and qualified legal counsel in regards to exempting the Project from the competitive bidding process. Further, the City's Engineer of Record will create 30% design documents, in coordination with Centrisys, and will continue to be available to consult on the Project. Finally, City's personnel have gained experience with the technical aspects of the Project by investigating biosolid drying during the past four years, touring multiple operating bio-solids drying facilities, and performing market research on biosolid drying solutions.