



CLASSIC DESIGN and CONSTRUCTION LLC  
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August 7, 2023

Coburg City Council; Action/Issue Item

Meeting Date: August 8<sup>th</sup> 2023

Staff Contact: Brian Harmon Public Works Director

RE: City of Coburg Operations Maintenance and Storage Buildings Project

Attention: Julie Leland, Brian Harmon and Anne Heath,

City Council Members:

We are appealing the Intent to Award this project to Wildish Building Company for the following reasons.

We have provided multiple references to Julie Leland at Branch Engineering for projects of a similar size and nature such as the following.

1. Monroe Covered Play Shelter which is a 40' x 40' metal structure. The project is currently reaching completion within the allotted time frame and for the allocated budget. The reference was not checked by Staff.
2. Willamalane Parks and Recreation project Pierce Park renamed Arrow Park for a budget which was completed on time and within the budget. We provided Simon Daws as the project contact. Attached is a letter of recommendation written on our behalf regarding the project. He was never contacted.
3. We provided multiple references from our Sub contractor Belco Electrical Services for projects completed on commercial and metal buildings in Lane County.
4. We selected to work with a well-known fabricator with Cory Ingram our sales representative who provided three references of local buildings that Pacific Building Systems has fabricated which were built here in Lane County.
5. We are reading over the City Council Agenda item no. 5 where our name is written incorrectly. We are Classic Design and Construction LLC. We built the Johnny Diamond Park project for the community of the City of Coburg. Everyone was very satisfied with our work on that project.
6. We noticed in the Agenda Item that a comment was made that "they made a mistake in our bid indicating that our bid was \$1,000,000.00 when it was actually \$ 960,000.00". Our base bid was presented as \$ 1,000,000.00 for the project. The bid form stated 0 cu. Yds for Item #2; our bid indicated the extended amount to be a total amount of \$ 60,000.00 dollars or \$ 60.00 as the unit price per yard for a total of 1,000. Cu yds. The bid form was misconstrued as it should have said 1 cu. Yd. if a unit price per yard was desired.
7. We noticed in the Agenda Item that the comment was made by the Branch Engineering staff that "they did not follow the bid process instructions provided in the bid package and therefore caused undo office time for Branch Engineering staff". Could the Branch Engineering staff please explain what that was?
8. We noticed that in the Draft of the Wildish Building Company contract the time frame for the construction schedule of the project has been extended which was not accurately presented as such during the bid process in the Request for Proposal not the Addendums # 1, 2 or 3.

In conclusion we believe that we can build this project successfully for the amount of our bid as disclosed. We have been in business for 40 years. We have worked on a multitude of projects in Oregon since 2006. Prior to our moving here in 2005 we had a very successful business in Marin County, California where we worked on million dollar residential and commercial projects which are illustrated in our two websites.

We feel that the City of Coburg would be just as pleased with our performance in the construction of this project as they were with the Johnny Diamond Park project that was completed in 2021 and still stands the test of time.

Thank you very much,

Cynthia Denny, Landscape Architect



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August 11, 2023

Classic Design and Construction LLC  
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Cynthia,

Enclosed is a response to your protest/appeal of the City of Coburg's intent of contract award for the Operations Building and Operations Storage Building Project. As you are aware, Branch Engineering has managed this bid process and has provided both City Staff and the City Attorney with their review of the bids and made the recommendation for the intent to award to Wildish Building Co.

Upon receipt of your protest/appeal, Branch Engineering, City Staff and the City Attorney reviewed the points raised, which contributed to the formal response by the City Attorney. Following your review of this response to the points raised in your protest/appeal letter of August 7, 2023, I would welcome an opportunity for you and I to meet and discuss the matter if that would be useful to you.

We recognize and appreciate the time and energy that you and all prospective bidders contribute to the City's procurement process. The City and its internal and contract staff also value the process and take extreme care in the review and selection process to best serve the community who has entrusted us with this responsibility.

Thank you again for your willingness to bid on this project and for your request for further explanation of the City's selection of successful bidder.

Sincerely,

Adam Hanks  
City Administrator

C: Julie Leland, Principal, Branch Engineering  
Ann Davies, City Attorney  
Nancy Bell, Mayor  
Brian Harmon, Public Works Director



August 9, 2023

Cynthia Denny  
Classic Design & Construction, LLC  
1955 University St.  
Eugene, OR 97403

Re: City of Coburg Operations Building and Operations Storage Building Project

Dear Ms. Denny:

I am the acting City Attorney for the City of Coburg, and I would like to start out by thanking you for responding to Coburg's Request for Proposal (RFP) regarding construction of a new operations and storage buildings. We appreciate the time that went into your detailed proposal. Although your firm was among the finalists, and the choice was difficult, as you now know, we selected another firm's bid.

There were several items in Classic Design's bid that suggested that it does not qualify as a "responsible offeror" under state law. Oregon Administrative Rule (OAR) 137-049-0390 requires a contracting agency (*i.e.*, the City of Coburg) to find that a bidder demonstrates certain standards of responsibility. Specifically, a contracting agency may determine a bidder is not a responsible offeror if the agency determines the bidder has not completed previous contracts of a similar nature with a satisfactory record of performance.

Your appeal letter mentions the Monroe Covered Play Shelter, which is a 40' x 40' metal structure. However, public contracting laws provides that a bidder must demonstrate comparable projects that have been "completed." See ORS 279C.375(3)(b)(F); see also Project Manual Section 280. Further, other references for similar type and scale projects included three parks, including a covered play structure, and one wood-frame two-bay garage, but no metal buildings of similar type and scale. We have no information demonstrating that Classic Design has experience building a pre-engineered metal building, or a building of this size. See also ORS 279C.375(3). Accordingly, Coburg has determined that Classic Design has not shown that it has "completed" previous contracts for similar sized projects.

Classic Design's bid was also 30% below the next lowest bidder, which suggests to the City that, given Classic Design's lack of experience with a project of this type and size, the bidder may not be able to complete the project for the bid amount. Further, Classic Design's Schedule of Bid Items, indicates discrepancies that also add to the City's doubts as to its ability to perform as proposed. Item #2 of the Schedule, "Authorized Additional Excavation," provides a unit cost and total bid price of \$60,000. Other bidders were within the range of \$63 to \$96.72 for this line item.

In your appeal statement, you explain that the \$60,000 figure referred to a \$60.00 unit price per yard for a total of 1,000 cubic yards. However, the bid documents made no reference to 1,000 cubic yards and did not explain the \$60,000 figure.

Per the Project Manual Section 600 Special Specifications and Section 700 CSI Specifications, the quantity for the bid item No. 2 Authorized Additional Excavation was intended to be as directed by the Engineer in the field \*IF\* poor soils are encountered. The quantity of zero is to create a place holder, so that there is an agreed upon contract unit price for if and when this scenario occurs in the field. By having a zero quantity it does not add to the contract price, but rather allows for an agreed upon unit price if it is needed per the Construction Drawings and Specifications. The City made its best attempt to interpret the intentions of the information provided in the provided bid packet.

The excessive \$60,000 bid amount for this line item makes Classic Design's total bid even further off of the other bidders' total bid amounts.

Additionally, Classic Design's bid amounts for Item Nos. 4 and 5--Building #1 (complete) and Building #2 (complete)--are \$537,000 and \$152,600, respectively. For Building #1, the other bidders' bid amounts range from \$801,727 to \$1,250,000. For Building #2, the other bidders' bid amount range from \$199,739 to \$288,800. Again, the significant amount that Classic Designs' bid is below the other low bidders makes the City question whether the work can be adequately and professionally performed for the bid amount. The three next bidders submitted bids that were very close to each other, and were a good indicator of how much it will cost to build the project. The City is not confident Classic Design can build the project for the amount bid.

Finally, with respect to the work that Classic Design completed on Johnny Diamond Park, the City was not completely satisfied with the work on that project. Classic Design failed to remedy issues that arose during construction and for the final project, which left the City to mitigate after completion of the project, specifically with regard to landscaping plants and turf areas.

Accordingly, the City will be choosing a different bidder. Again, thank you for your time in putting your response together.

Sincerely,

Anne C. Davies  
City of Coburg City Attorney



Received by  
City of Coburg

**AUG 18 2023**

**CLASSIC DESIGN and CONSTRUCTION LLC**  
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**City of Coburg**  
**P.O. Box 8316**  
**Coburg, Oregon 97408**  
**RE: City of Coburg Operations Maintenance and Storage Buildings Response Letter**  
**Att: Adam Hanks, City Administrator**  
**Julie Leland, Principal, Branch Engineering**  
**Ann Davies, City Attorney**  
**Nancy Bell, Mayor**  
**Brian Harmon, Public Works Director**  
**City Council Members**

To All Parties,

Thank you, Mr. Hanks and M. Davies, for your letters in response to our Letter of Appeal for the Bid Rejection and subsequent Protest for the Intent to Award to Wildish Building Company.

We are writing this response letter in defense of our recent appeal to the bid process and subsequent rejection of our bid for the City of Coburg Operations Maintenance and Storage Buildings Project.

The points that you make have been taken into consideration.

How ever our main point of appeal revolves around the bid form. Initially Item #2 stated "6" Subgrade stabilization as Directed by Engineer" and the Quantity was 0 Square yards. Then when the Addendum #1 was put out on June 16<sup>th</sup> the language was to be replaced with "Authorized Additional Excavation" still with the Quantity as 0 Square yards. At that point the Quantity should be 1 Square Yard to be shown in the Unit Cost correctly. As 0 times any Unit price is still zero. The bid form was confusing in that regard. Still our number of \$ 60.00/cu.yd. is characteristically a lot higher than what it was for the Johnny Diamond Park and others in the past. Wildish was at \$ 38.00/ cu.yd. and we were at \$35.00/ cu.yd for those past projects. The bids reflected quite an increase over the last two years in the price per cubic yard for excavation. I would call our number normal and all the other bidders high.

No other bid items are directed at the sitework. To us we would have to include our \$ 60,000.00 dollars as excavation for the site work. Since we put the \$ 60,000.00 in Unit Cost and Total Bid price, we indicated that the \$ 60,000.00 dollars would be included in our Total Cost overall as a ceiling and as "Authorized Additional Excavation or "As Directed by the Engineer" meaning that the Engineer would be approving the excavation and subgrade stabilization work during construction. This is evidenced by our inclusion of the Total Bid Price in our Base Bid Total of \$1,000,000.00 dollars and included in our Bid Form as Base Bid plus the Alt. #1 for a total amount of \$ 1,078,000.00 dollars and as the Base Bid plus the Alt #2 for a total amount of \$ 1,021,905.00 dollars. We disagree with the assessment that the quantity of zero creates a place holder for the excavation of poor soils if encountered. The city did not contact us to discuss our intention for this Bid Item #2 so we do not agree that they made their best attempt to interpret the intentions of the information provided in the bid packet. The intent was not clear in that regard. Clearly excavation is need for the site work to be performed. If poor soils were to be encountered that would be considered an unforeseen condition and would have been dealt with during construction as such.



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Page Two- Response Letter- City of Coburg and City Council Members

To try to insinuate that a place holder of zero times any unit price per cu.yd. does not compute mathematically to a number other than zero for professionals accustomed to performing excavation. Every other project we have ever bid uses the number 1 as a Quantity multiplier per cubic yard as the unit if a price is desired for the duration of the project for additional excavation.

The other differences that you are alluding to in the comparison of bid item costs are reflective of our abilities to self-perform the majority of the work such as excavation, grading, concrete work, irrigation and planting as we have those capabilities in house. In addition, the other bidders are using the fabricator and erector price from Oregon Steel Fabricators of \$ 446,606.00 which was clearly reflected to be higher than our Building #1 and Building #2 Complete bid numbers which did not require a subcontractor as we intended to purchase the buildings directly from the local fabricator for which we provided references from.

Our vendor prices are only \$ 137,700.00 for Building #1 delivered to the site and \$ 53,100.00 for Building #2 delivered to the site. When compared across the Bid item on the spread sheet you can see that every other bidder spent at least \$ 446,606.00 to receive a the PEMB and Steel Supply and Install buildings plus their Subcontractor fee added on top.

If you look closely no other bidder was buying the PEMB direct from the fabricator. We also proposed to self-perform the carpentry for the Mezzanine, the installation of all doors and windows and cabinetry which were priced to be delivered only from our vendors. If you study the bid form further there is no mention of Excavation. In order to clear the land, there is site excavation required. Buildings #1 and #2 sit atop a concrete slab so we considered the slab and up as complete in our bid. Our Subcontractor tier form only has four subcontractors which eliminates a lot of dead weight in our bid.

In the July 31, 2023 Notice of Apparent Low Bidder and Engineer's Recommendation for Award of Contract to the City of Coburg from Julie Leland, P.E. City Engineer of Branch Engineering our Base Bid did not include the \$60,000.00 dollars in the extended price as was intended; the number was omitted. Then in the Base Bid + Alternate #1 our number was changed from \$ 1,078,000.00 to \$ 1,017,952.98 and likewise the number in the Base Bid + Alternate #2 was changed from \$ 1,021,905.00 to \$ 916,894.00 which was incorrectly written it should have been \$961,894.80 if the \$ 60,00.00 was subtracted correctly from the base bid as was indicated on the Bid Opening Record dated July 20, 2023. The paragraph below read that we were found to be complete and responsive however, our previous work was determined to be insufficiently demonstrated. We do not follow the determination to delete the \$ 60,000.00 dollars from our base bid total as we should have had the chance to discuss the inclusion of that number. The city could have reached out at that point for clarification.

We would like to elaborate further on that comment in regards to the next in line second bidder Wildish Building Company's references and experience in completed projects of a similar nature. We presented completed projects of a similar nature that included sitework and building components. Since our Monroe Covered Play Shelter was not complete that reference was not considered. However, on our Section 280 Project References sheet we listed three other projects with contact information. Then subsequently we sent additional photos and Letters of Recommendation describing how we had indeed completed these noted projects on time and with in the allocated budget. Which spoke to our Level of Integrity. These were all government agencies which were preferred.



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Page three- Response Letter- City of Coburg and City Council Members

When we listed Johnny Diamond Park built for the City of Coburg, we were not aware of any issues following our Final Completion. Your concerns regarding the plants and the irrigation were never shared with us. This project was designed by a Landscape Architect; Brad Stangeland and Associates. We had issues on site with the shrubs in the Cornus (Dogwood) family. They were subject to brown spot so we had Nursery Net replace them. They did so as a favor but expressed concern over the wind and water requirements. I brought this to Brad Stangeland's attention but he discounted my request to switch the plant material to a more adaptable species for the park. The irrigation system design was also not adequate for the windy conditions there. We recommended adding heads but the Maintenance crew said that the water source could not be guaranteed to deliver more water for each valve. We explained that the lawn and the plants would need to be kept wet continuously and they agreed to set the controller to try to keep the park watered. We explained that we would be available to help but the maintenance crew said they could handle the park and took over. I guess we could have checked back post completion. We took beautiful finished photos which we can share with you upon our departure. I am sorry to hear that the plants and the irrigation are still not operating sufficiently. We would welcome the opportunity to do a walk through with Brian Harmon and see how we can help get the project back on track.

In terms of the Intent to Award the City of Coburg Operations Building and Storage Buildings Project to Wildish Building Company we are not aware of any like kind metal buildings of similar type and scale that they have completed either? They primarily build bridges, roadways and heavy-duty site work. They have not completed as many of these types of projects either. It warrants a discussion as to which projects they have completed of similar type and scale. They do not self-perform as much of the bid items as we do until recently comparatively speaking.

For these reasons we are still maintain our Intent to Appeal the rejection of our bid as a responsible bidder and Protesting the Intent to Award to Wildish Building Company. We are requesting a review be conducted by the City Council Members regarding this procurement.

If you would like we can set up a meeting to review our bid in more detail and that way the city and the engineer would be able to recognize why our bid was 30% lower than the other bidders.

Thank you for your consideration,

Cynthia Denny, Landscape Architect

Note: Response letter to follow in USPS format.



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August 24, 2023

Classic Design and Construction LLC  
1955 University St  
Eugene, OR 97403

RE: Protest Affirming Denial and Award

Cynthia,

The City received your response to the City's August 11<sup>th</sup> denial of your company's protest on August 18, 2023. Specifically, you requested "a review be conducted by the City Council Members regarding this procurement." Applicable state law and City regulations provide no opportunity for denied protesters to address the City Council. In support of the City's original denial of your protest, the following summarizes dates relevant to the City's formal procurement for the Operations Building and Operations Storage Building Project.

**TIMELINE:** Coburg Operations Building and Operations Storage Building Project:

**June 2, 2023** - Bid Request and Bid Documents released

**July 20, 2023** – Bid Opening

**July 20 – July 27, 2023** – Bid Review

**July 31, 2023** – Notice of Intent to Award to Wildish Building Co. issued

**August 7, 2023** – Classic Design and Construction LLC Protest of Intent to Award received via email

**August 11, 2023** – Denial of Protest and affirmation of award mailed to Classic Design and Construction LLC

**August 18, 2023** – Post-protest denial correspondence from Classic Design and Construction LLC received

The August 11, 2023 letters from both myself and the City Attorney, Anne Davies, provided you with the legal basis for the City's determination that Classic Design and Construction LLC was non-responsible under ORS 279C.375 and OAR 137-049-0390. Upon receipt of your post-denial letter and further examination of the bid process, the City determined that Classic Design's initial protest was not timely-filed within the 5-day protest period set within Project Manual Section 10. Further, Classic Design's bid has been deemed non-responsive, for its bid's failure to provide appropriate project references for metal buildings of similar construction types and scale, meeting the requirements of Project Manual Section 280.

The City's denial of Classic Design's protest is hereby reaffirmed and the City's intended award to Wildish Building Co. reaffirmed. At its meeting on September 12, 2023, the Coburg City Council, in its dual role as the City's governing body and Local Contract Review Board, will review the above outlined bid process. The Council will then review the Selection Committee's recommendation and have an opportunity to award this contract to Wildish Building Co.

Sincerely,

Adam Hanks  
City Administrator

C: Nancy Bell, Mayor  
Julie Leland, Principal, Branch Engineering  
Ann Davies, City Attorney