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2 **RESOLUTION NO. 2022-35**
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4 **A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING FINDINGS FOR A PUBLIC**
5 **CONTRACT EXEMPTION AND AUTHORIZING AN ALTERNATIVE CONTRACTING**
6 **METHOD FOR THE LINCOLN CITY COMMUNITY CENTER POOL RE-GROUTING PROJECT**
7

8 **RECITALS**
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10 **WHEREAS**, ORS 279C.335(2) permits the City Council, acting as the Local Contract Review
11 Board, to exempt a public improvement contract or class of contracts from the competitive
12 bidding requirements of the Lincoln City Public Contracting Code and use an alternative
13 contracting method, subject to making required findings; and
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15 **WHEREAS**, on August 22, 2022, the City Council conducted an advertised public hearing on
16 the proposed findings to exempt the Community Center Pool Re-Grouting Project from
17 competitive bidding and authorize an alternative public contracting method; and
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19 **WHEREAS**, on August 22, 2022, after due consideration of public comment and the proposed
20 findings in the record, the City Council, acting as the Local Contract Review Board,
21 deliberated and decided to approve the exemption and authorize the alternative contracting
22 method; and
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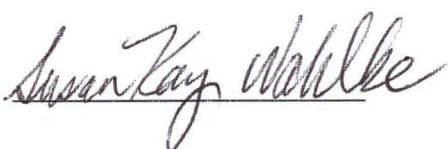
24 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN**
25 **CITY, AS FOLLOWS:**
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27 **SECTION 1. RECITALS.** The above recitals are true and correct and are incorporated
28 herein by this reference.
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30 **SECTION 2. APPROVAL.** The City Council, acting as the Local Contract Review Board,
31 hereby approves the required Findings to support the exemption from competitive bidding
32 and the use of an alternative contracting method for the Lincoln city Community Center Pool
33 Re-Grouting Project, said findings being attached to this Resolution and incorporated herein
34 by this reference; and
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36 **SECTION 3. EFFECTIVE DATE.** This resolution is effective as of the date of its adoption and
37 signature by the Mayor or Council President.
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40 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 22nd day of August,
41 2022.
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1 SUSAN WAHLKE, MAYOR

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3 ATTEST:

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JAMIE YOUNG, CITY RECORDER

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10 APPROVED AS TO FORM:

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RICHARD APPICELLO, CITY ATTORNEY

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Findings in Support of Alternative Contracting Method

For The Community Center Pool Re-Grouting Project

Introduction

The Use of Alternative Contracting methods, such as Best-Value is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards.

Pursuant to ORS 279C.335, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings to the public agency. The Oregon Attorney General's Model Public Contract Rules provide for public notice and opportunity for the public to comment on draft findings in favor of an exemption before their final adoption.

ORS 279C.330 provides that: "findings" means the justification for a contradicting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity
- Funding sources
- Findings

Background

This project will remove the Community Center Pool existing grout to ½ inches and replace it with new grout and sealer. The pool is 82 feet x 42 feet. The pool is 3.5 feet deep to 13 feet deep. The tiles are on the sides, bottom, and 2 feet wide along the pool deck.

Operational, Budget, and Financial Data

The amount budgeted for the project was \$140,000.00. There are constraints on the contractor for timing. The proposal request will include: *"The date that the pool must remain open is November 12-13 for a swim meet. It will take the City 4 days to drain the*

pool. The City desires that the project's construction be as speedy as possible with no gaps in the timeline. The City will review the Contractor's project schedule and completion date as a factor in the selection. The completion date shall be prior to July 1, 2023.), therefore it is important that we select a reliable contractor who can work with the City to meet this time table.

Public Benefit

Best-Value Contracting Method provides opportunities for cost savings by benefit the public by allowing the city to take contractor's experience, proposed materials and method of installation into consideration when awarding the bid.

Value Engineering

The Best-Value Contracting Method is essentially value engineering. This process allows the contractor, at the city's discretion, to implement real-time cost saving strategies up to the construction phase of the project. These beneficial actions by the team will eliminate the potential for costly change orders. The proposal evaluation criteria will include the Contractor providing any changes in the described project that would improve the project with a better value to the City.

Specialized Expertise Required

The City wants to review the contractor's experience in re-grouting large pools and review past projects that they have completed to assure the City is hiring the best qualified contractor with the lowest price. The City has in the past issues with contractors hired through the low bid process for these types of projects requiring specific expertise.

Market Conditions

The Best-Value contracting process is a modern construction delivery method used by both public and private organizations. The team is tasked with knowing the latest construction techniques and products. The chose contractor is given the opportunity to incorporate their knowledge of current market conditions, labor and materials availability, and construction methodologies and reduce construction time and costs. The process also allows the construction timing and sequence to be considered.

Technical Complexity

The Project requires meticulous grout removal skills and attention to detail, craftsmanship for applying new epoxy grout and sealing. Advertising using the desing-

bid-build method would require staff specify the exact approach and award to the lowest bidder regardless of performance history.

Competition and Cost Savings

The Best-Value method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The approach requires the contractor to compete with other proposals and present the most affordable and efficient method of project implementation.

Unlikely to Encourage Favoritism or Diminish Competition

It is unlikely that the process of selecting a contractor through the Best-value method will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract. Competition will not diminish because the Best-Value contract will be awarded based on a competitive process, with clearly identified criteria.

Cost Savings

The low-bid process offers a level of certainty to the owner that the initial bid price of the project is the lowest cost; however, if changed conditions are encountered during construction, resulting change orders can have significant cost impacts.

With the Best-Value method, the contractor is required to submit their mark-up percent. The percent mark-up includes the contractor's profit. This allows the contractor a level of certainty and eliminates the motivation for finding ways to increase his profit during construction.

With the Best-Value method, the contractor will be asked to review the project for constructability & propose improvements where feasible. This allows the contractor a level of control over implementation of the project schedule, reduces change orders, and results in a more accurate project bid.

Additionally, the use of value engineering through cooperation among the contractor and City is essential to the Project delivery. Value engineering will help eliminate change orders and progress delays – benefitting both the city budget and residents affected by the construction. Cost savings will result from consideration of construction timing and sequence, public impact, and constructability are not realized under a low bid process.

Summary

Substantial cost savings and minimizing the are anticipated from the Best-Value approach because decision-making is based on cost effective and informed solutions proposed by contractors with proven project expertise.