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RESOLUTION NO. 2015 - 06

**A RESOLUTION DECLARING AN EMERGENCY AND
EXEMPTING THE MARYLAND PUMP STATION REPLACEMENT PROJECT
FROM FORMAL COMPETITIVE BIDDING REQUIREMENTS
PURSUANT TO OAR 137-049-0150 AND LCMC 2.05.080.A.**

5 WHEREAS, on June 23, 2014, following formal competitive bidding, the City
6 Council approved the Notice of Intent to Award the Maryland Pump Station
7 Replacement Project to Dave Roberts Contracting, Inc.; and

8 WHEREAS, the city suspended work on the contract on October 20, 2014 due to
9 changed circumstances at the site; and

10 WHEREAS, on November 12, 2014 the City and Contractor agreed to terminate
11 the contract; and

12 WHEREAS, the delay in the Maryland Pump Station Replacement Project has
13 created a risk of substantial loss, damage, unnecessary or undesirable interruption or
14 degradation of public facilities or services, and public health threat requiring prompt
15 award and execution of a contract to remedy the situation; and

16 WHEREAS, under the City's public contracting code, which implements State
17 contracting requirements, the City Council may declare an emergency and enter into a
18 public contract without first obtaining competitive bids or proposals; and

19 WHEREAS, pursuant to LCMC 2.05.080.A(2), the City Manager, through the
20 Public Works Director, has filed the prerequisite written report with the Council
21 describing the proposed contract and explaining the circumstances that create the
22 emergency, said report incorporated herein by this reference; and

23 WHEREAS, the circumstances creating the emergency include the continued
24 degradation of the Pump Station facility, including the necessity of frequent
25 maintenance to keep the facility operational and avoid improper sewage discharges;
26 and

27 WHEREAS, the time constraints associated with the emergency work make

1 formal competitive bidding processes impossible and necessitates an emergency
2 procurement;

3 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**
4 **LINCOLN CITY, AS FOLLOWS:**

5 Section 1. The Council finds that the facts as stated in the recitals to this
6 Resolution and the Report of the City Manager/ Public Works Director, are true and
7 correct and support this Resolution and are incorporated herein by this reference; and

8 Section 2. The Council finds that an emergency as defined in OAR 137-049-0150
9 and LCMC 2.05.080.A exists in that there is a substantial risk of loss, damage, or
10 unnecessary or undesirable disruption or interruption of public facilities and services, or
11 a threat to health and safety (sewage discharge or backup), which loss may be avoided
12 by an emergency procurement of construction services; and

13 Section 3. The Council authorizes the City Manager to directly award such
14 emergency contract to a contractor experienced with pump station replacement and
15 directs the Manager to utilize the prior formal competitive bidding for this project by
16 soliciting the second lowest bidder first, followed by the third bidder until a qualified
17 contractor is found and if not found to seek competitive quotes; the Manager need not
18 solicit written or oral requests for offers if the Manager determines a direct award to a
19 qualified bidder under the prior formal procurement is possible within ten days of
20 approval of this Resolution.

21 Section 4. The scope of this Contract must be limited to Work that is necessary
22 and appropriate to remedy the conditions creating the Emergency; the Council
23 authorizes the expenditure of funds up to the \$237. 173.08 (includes \$20,000
24 contingency). The award of this emergency contract shall occur within 10 days of this
25 Resolution, unless an extension is awarded by the City Manager, but in no case more
26 than fifty days; performance and payment bonds may not be waived by the Manager.

27 Section 5. The Council further finds that the emergency contract specifically

1 authorized by this Resolution will result in substantial cost savings to the City, given the
2 familiarity of prior bidders with the contract and that the proposed method of
3 proceeding, utilizing first the prior formal process, will not encourage favoritism in the
4 awarding of the contract or substantially diminish competition.

5 Section 6. This resolution shall be effective as of the date of its adoption by the
6 City Council.

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8 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 23rd
9 day of February, 2015.

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ATTEST:

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CATHY STEERE, CITY RECORDER

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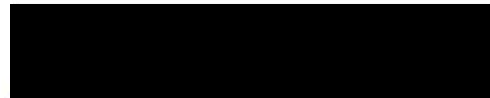
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DON WILLIAMS, MAYOR

G. CITY MANAGER REPORTS/CITY ATTORNEY DISCUSSION

7. *City Attorney - LUBA Appeal: Oregonians In Action Legal Center and Jon Chandler vs. Lincoln City*

Presented By: Richard Appicello, City Attorney - He will file the brief unless he receives direction otherwise.

Questions and Comments By: Council consensus is to move forward to the brief.

8. *Other City Manager/City Attorney Reports*

Presented By: Richard Appicello, City Attorney asked for Council approval to add a deadline date to the contract that had been terminated for the Maryland Pump Station project. Council consensus was unanimous.

Ron Chandler, City Manager - Council consensus is to meet with City Manager on Tuesdays at 3:30 pm. Councilor Ryan suggested that Council members call Mr. Chandler to let him know who is coming to the Tuesday meetings to avoid quorum issues.

H. RESOLUTIONS

9. Resolution 2015-06: A Resolution Declaring an Emergency and Exempting the Maryland Pump Station Replacement Project From Formal Competitive Bidding Requirements Pursuant to OAR 137-049-0150 and LCMC 2.05.080.A.

Presented By: Mayor Williams read the resolution title. Mr. Appicello, City Attorney noted a change in the wording, "highest bidder" to "lowest bidder". Councilor Noreikis asked about wording on page 3, line 27, regarding payment bonds being waived by the City Manager, and suggested adding the word "not." Mr. Chandler notes he has never waived a performance bond or a payment bond.

Motion To: Motion to approve Resolution 2015-06.

COMMENTS - Current Meeting:

Councilor Sprague amended the motion to add the word "not" regarding the City Manager's authority to waive performance bonds.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Roger Sprague, Councilor Ward 3
SECONDER:	Wes Ryan, Councilor Ward 1
AYES:	Wahlke, Williams, Ward, Noreikis, Sprague, Ryan
EXCUSED:	Jim Davis

I. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

None

J. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Sprague announced that he needs to be excused for April 13, 2015, April 20th, 2014, and May 25, 2015. He also added that on February 26, the Lincoln City Kiwanis's Club is hosting the law enforcement groups from the City, County and State. The public is invited to attend, however they need to call Dick Wasson on the Siletz River. You can call Jay Heck at 541-994-6035. Lunch is \$10.00.

Mayor Williams states that he will be attending the City's Day at the Capitol. He discussed with Senators Schrader and Merkley dredging on the Siletz, and the response was that it is possible if the City can prove that it was a navigable river.

Councilor Noreikis provided an update from the City Manager's weekly report as City Public Works projects.