

CITY OF GRASS VALLEY

RESOLUTION NO. 2014-6

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF GRASS VALLEY, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, TO EXEMPT THE PAVILION RENOVATION PROJECT FROM COMPETITIVE BIDDING REQUIREMENTS.

WHEREAS, it is the policy of the Common Council of the City of Grass Valley that a sound and responsive public contracting system should allow impartial, meaningful, and open competition, preserving formal competitive selection as the standard for public contracts unless otherwise specifically exempted herein, by state law, or by subsequent ordinance or resolution; and

WHEREAS, ORS 279C.335(2) authorizes the Common Council of the City of Grass Valley, acting as the contract review board for the City, to exempt contracts from the competitive bidding requirements of state law based upon making certain findings; and

WHEREAS, in order to exempt contracts from competitive bidding requirements, a local contract review board must find, under ORS 279C.335(2), that the exemption is unlikely to encourage favoritism in awarding contracts and that the exemption will result in cost savings to the City; and

WHEREAS, a public hearing on the exemption of the contract for the Pavilion Renovation Project from the requirements of competitive bidding was scheduled for May 12, 2014; and

WHEREAS, notice of the hearing on the exemption from competitive bidding for the Pavilion Renovation Project was published in the "Daily Journal of Commerce", a trade newspaper of general statewide circulation, more than 14 days prior to the aforementioned public hearing; and

WHEREAS, pursuant to ORS 279C.335(5), the Common Council of the City of Grass Valley held the duly advertised public hearing on the proposal to exempt the Pavilion Renovation Project from competitive bidding and instead utilize a request for proposal process to select a "Manager/General Contractor" ("CM/GC"); and

WHEREAS, the Common Council of the City of Grass Valley has concluded, based on the findings set forth in detail below, that the utilization of the CM/GC alternative contracting method is the most advantageous, expeditious, and cost effective method to use for the Pavilion Renovation Project;

NOW THEREFORE, Be It Resolved By The Common Council of the City of Grass Valley, that the award of a contract for the Pavilion Renovation Project is hereby exempted from the City's competitive bidding requirements, and shall be awarded pursuant to a request for proposal method for selection of a CM/GC, based on the following specific findings:

1. **Favoritism and Competition.** It is unlikely that the exemption will encourage favoritism in awarding of public contracts or substantially diminish competition for public contracts. The Common Council notes that the purpose of the public contracting law is to provide a degree of uniformity of procedure, while still providing for the diverse needs of local governments in this state. Indeed, in *Morse Bros. Prestress, Inc. v. The City of Lake Oswego*, 55 Or App 880, 640 P2

645, 647 (1982), the Oregon Court of Appeals stated that:

“It appears that the legislature intended to establish a degree of statewide uniformity in public contracting, while according local governing bodies some autonomy over their contracts. The degree of autonomy is accomplished by authorizing local boards to adopt regulations and to grant exemptions from competitive bidding. Statewide uniformity is effected by the requirements that the regulations adopted conform to the state statute and that all contracts not exempted be awarded by competitive bidding.”

The proposal to exempt the Pavilion Renovation Project from the requirements of competitive bidding will not encourage favoritism in awarding of public contracts because the City will produce a protocol for reviewing proposals from contractors to determine whether the candidates have the necessary qualifications to act as a CM/GC for this project, which includes working within the parameters of the city's needs for scheduling flexibility required by the fund raising efforts for the project. Candidates will be evaluated based on several objective criteria, including demonstrated experience with projects of similar size and complexity; willingness to work with a city this size in rural Eastern Oregon; and the willingness and ability to accommodate the flexibility of scheduling required by the availability of funding for the project.

2. **Cost Savings.** The Pavilion Renovation Project is being done in phases, the size and timing of which are dictated by the availability of the funds to pay for the project. These funds have heretofore been raised by a local fund raising committee, and grants of \$50,000 and \$25,000, respectively. The project will be done in phases, the size and timing of which must conform to the fund raising schedule. This flexibility will enable the City to allocate costs effectively.
3. **Specialized Expertise Required.** By exempting the project from standard competitive bidding processes, and using a request for proposal process to obtain the most qualified Construction Manager/General Contractor to undertake this project, the District will likely procure the most qualified contractor to undertake this project, which requires expertise and flexibility in a relatively remote rural area.
4. **Effective Date.** Based on the foregoing rationale, this resolution should become effective upon adoption.

ADOPTED by the Common Council of Grass Valley, Oregon this 12 day of May, 2014, by the following vote: Yeas: 6 Nays: _____


Neil Pattee, Mayor for the City of Grass Valley


Carol von Borstel, City Administrator