TIGARD-TUALATIN SCHOOL DISTRICT NO. 23J
RESOLUTION NO. 2627-08
EXHIBIT A

FINDINGS OF FACT

IN SUPPORT OF AN EXEMPTION FROM COMPETITIVE BIDDING TO AUTHORIZE THE USE OF A COMPETITIVE REQUEST FOR PROPOSALS PROCESS THAT CONSIDERS BOTH THE CONTRACTOR'S QUALIFICATIONS AND THE BID PRICE TO SOLICIT THE CONSTRUCTION CONTRACT FOR THE PLAYGROUND PROJECT.

1. General

ORS 279C.335(2) permits a local contract review board to exempt contracts from traditional competitive bidding upon approval of findings of fact showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and that the process will result in cost savings to the School District. The Tigard-Tualatin School District ("District"), through its School Board, acts as the Local Contract Review Board ("LCRB") for the District.

ORS 279C.400 – ORS 279C.410 describe the Request for Proposals method of solicitation as an alternative to traditional competitive bidding. Pursuant to ORS 279C.410(8), a public Agency using the Request for Proposals method may award a contract to the responsible proposer "whose proposal is determined in writing to be the most advantageous to the contracting agency based on the evaluation factors set forth in the request for proposals and, when applicable, the outcome of any negotiations authorized by the request for proposals."

ORS 279C.330 defines "Findings" and identifies specific information to be provided as a part of the District justification. Under ORS 279C.335(5) a public hearing must be held before the findings are adopted, allowing an opportunity for interested parties to comment on the draft findings.

PURPOSE OF THESE FINDINGS: The Tigard-Tualatin School District will hold a public hearing as required by ORS 279C.335 and to consider the following findings with respect to the issue of whether the Playground Project ("Project"), as defined herein, should be exempt from competitive bidding to authorize the use of a competitive request for proposals process that considers both the contractor's qualifications and the bid price ("QUAL+BID") to solicit the construction contract for the Playground Project.

2. Background

Tigard-Tualatin School District ("the District") serves approximately 10,000 students in 18 schools.

A committee of staff and community members spent the 2023-24 school year studying the District's existing school facility needs, projected enrollment growth and bond measure options and costs. A bond measure for $421.3 million was passed to support District needs in May of 2025.

A part of these bond measure funds will be used for the Playground Project (the "Project"). The project replaces playground equipment and playground surfacing and subdrainage across five District campuses (Charles F. Tigard Elementary, Deer Creek Elementary, Tualatin Elementary and Metzger Elementary) and playground surfacing and subdrainage at (Templeton Elementary). The construction cost estimate is approximately $4.8M.

The Playground Project presents a high degree of technical and operational complexity due to a scope that

includes replacing approximately 50,000 square feet of playground area across five District campuses within a compressed summer schedule. Additionally, there is inherent risk in the subsurface conditions that will be encountered during construction. The deadline for completion is firm, as all playgrounds are critical for school operations and must be fully operational and ready for the return of students and staff in the fall. This blend of complex subsurface excavation, drainage and grading work combined with playground structure installation and specialized poured in place rubber surfacing necessitates rigorous planning, precise scheduling, and critical coordination across multiple specialized trades.

Furthermore, the project's financing is limited to constrained bond dollars, requiring a contractor with a proven commitment to value engineering and clear, concise accounting to maintain budget integrity. Mitigating the substantial risk of construction delays impacting the school year opening requires a selection process that emphasizes contractor expertise and proven experience meeting hard deadlines for complex, multi-faceted projects on school properties.

In consideration of these facts, an alternate method of construction of these public improvements should be considered. Therefore, the following findings support an exemption from competitive bidding and the use of the Request for Proposal based upon QUAL+BID as an alternative method of construction contracting.

FINDINGS OF FACT

SUMMARY FINDINGS

Use of the QUAL+BID process for the Project complies with the criteria outlined in ORS 279C.335(2):

1. It is unlikely the exemption will encourage favoritism or diminish competition. The request for proposals selection process will be competitive based upon relevant selection criteria including qualifications and bid price and will open to all interested proposers as described in the findings below.

2. The exemption could result in substantial cost savings to the District. The District has found several areas in which substantial cost savings to the District might be achieved. Also, value will be added to the Project that could not otherwise be obtained by ensuring a qualified contractor that is experienced with K-12 construction and short construction windows and can ensure school operations in time for classes in the fall.

SPECIFIC FINDINGS which substantiate the summary findings are as follows:

1. FINDING: The Contractor will be selected through a competitive process in accordance with the qualifications-based selection process authorized by the District that will include bid price. Therefore, it is unlikely that the awarding of the construction contract for the Project will encourage favoritism or diminish competition. This finding is supported by the following:

A. SOLICITATION PROCESS: Pursuant to ORS 279C.360, the QUAL+BID solicitation will be advertised at least once in the Daily Journal of Commerce, and in as many additional issues of publication as the District may determine.

B. FULL DISCLOSURE: To ensure full disclosure of all information, the Request for Proposals solicitation package will include:

a. Detailed Description of the Project
b. Contractual Terms and Conditions
c. Selection Process
d. Evaluation Criteria
e. Role of Evaluation Committee
f. Provisions for Comments
g. Complaint Process and Remedies Available

C. COMPETITION: As outlined below, the District will follow processes which support competition in the procurement of a QUAL+BID Contractor.

a. The District expects that competition for this contract will be similar to that experienced in other projects of this type. The competition will remain open to all qualifying proposers.

b. The District has been communicating with the construction contracting community as well as the design consulting community about the QUAL+BID contracting method.

c. The evaluation and solicitation process employed will be open and impartial. Selection will be made based on final proposal scores derived from qualifications, price and other components, which expand the ground of competition beyond price alone to include experience, quality and innovation factors with price weighing heaviest in the final selection.

D. SELECTION PROCESS: Other highlights of the selection process will include:

a. A pre-proposal vendor conference will be announced and held. This conference will be open to all interested parties. During this pre-proposal conference, as well as any time prior to ten (10) days before the close of the solicitation, interested parties will be able to ask questions, request clarifications and suggest changes in the solicitation documents if such parties believe that the terms and conditions of the solicitation are unclear, inconsistent with industry standards, or unfair and unnecessarily restrictive of competition.

b. The evaluation process will determine whether a proposal meets the screening requirements of the RFP, and to what extent. The following process will be used:

- Proposals will be evaluated for completeness and compliance with the screening requirements of the RFP. Those proposals that are materially incomplete or non-responsive will be rejected.
- Proposals considered complete and responsive will be evaluated to determine if they meet and comply with the qualifying criteria of the RFP. If a proposal is unclear, the proposer may be asked to provide written clarification. Those proposals that do not meet all requirements will be rejected.
- The voting members of the Evaluation Committee will independently score proposals. Scores will then be combined and assigned to the proposals.
- The bid price will be one of the factors considered as part of the evaluation.
- The Evaluation Committee will meet to select a finalist(s) from the highest-scoring proposers.
- The Evaluation Committee may conduct interviews.
- Should the Evaluation Committee conduct interviews, the Evaluation Committee will use the interview to confirm the scoring of the proposal and to clarify any questions.

Based upon the revised scoring, the Evaluation Committee will rank the proposers, and provide an award recommendation.

- The Tigard-Tualatin School District will negotiate a contract with the top-ranked firm. If an agreement cannot be reached, the District will have the option to enter into an agreement with the second-ranked firm, and so forth.

c. Competing proposers will be notified in writing of the selection of the apparent successful proposal and will be given seven (7) calendar days after receipt of the notice to review the RFP file and evaluation report at the District Office. Any questions, concerns, or protests about the selection process will be subject to the requirements of the OAR 137-049-0450, must be in writing, and must be delivered to the Tigard-Tualatin School District within seven (7) calendar days after receipt of the selection notice. No protest of the award selection shall be considered after this time period.

2. FINDING: The awarding of construction contract(s) for the Project using the QUAL+BID method will result in substantial cost savings to the District. This finding is supported by the following information required by ORS 279C.335(2)(b) and ORS 279C.330.

A. PERSONS AVAILABLE TO BID. Based upon our outreach to the contracting community and current market conditions, the District does not expect that the pool of interested contractors will materially be affected by this process.

B. OPERATIONAL, BUDGET, FINANCIAL DATA

a. BUDGET: The District has a fixed budget available for the Project that cannot be exceeded. The completion date cannot be exceeded.

b. SAVINGS: Under the QUAL+BID method the District will enjoy the savings associated with competitive bidding in an active market because price will be one of the evaluation factors.

c. FUNDING SOURCE: The Project will be funded from general obligation bond sale proceeds.

C. PUBLIC BENEFITS The District will benefit from QUAL+BID by ensuring that the selected contractor has a complete understanding of the District's needs, the architect's design intent, the scope of the Project, and the operational needs of the Project and that has experience in constructing this type of project.

D. VALUE ENGINEERING. The QUAL+BID process will ensure that the selected contractor has experience and qualification to suggest alternatives or improvements that will save District funds while achieving the goals of the Project.

E. SPECIALIZED EXPERTISE: Selection of a contractor using a QUAL+BID framework will ensure that the selected contractor will have the experience and expertise in complex projects conducted in a short summer construction window. The consideration of the bid price as a factor in the selection will ensure that the District obtains this expertise at the best price.

F. PUBLIC SAFETY: All work must be coordinated to avoid safety and security risks to the general public and to ensure efficiency in construction. Due to school campus outdoor spaces being open to the public, the coordination between the District and an experienced QUAL+BID

contractor will assure coordination of work and consideration for the safety of vehicular and pedestrian paths on outdoor portions of the campus that cannot easily be fully closed to the public during the Project.

G. REDUCTION OF RISK TO THE CONTRACTING AGENCY AND THE PUBLIC. A complex project conducted in a short summer construction window creates inherent risks for the contracting agency, particularly with firms that lack sufficient experience and planning focus in this specialized arena. Using a QUAL+BID process is crucial for mitigating this risk, allowing the District to select a contractor with the proven expertise to proactively address and overcome these time and logistical constraints.

H. SOURCE OF FUNDING. The District will fund the Project with the proceeds from the sale of general obligation bonds authorized in the 2025 May Election. Use of the QUAL+BID RFP process will not affect this funding source.

I. MARKET CONDITIONS: There are a multitude of construction market factors that exist today in Oregon (competition of other projects, environmental issues that limit construction materials, variable bid market, high unemployment, etc.). The current economy makes it necessary for many contractors to bid for jobs for which they might not be qualified. Alternative contracting methods will be more likely to result in a more experienced and better suited contractor for this Project than the usual low bid competitive procurement. The complexities which need to be addressed to accomplish the tasks are not well served by the usual competitive procurement. The lowest bidder may not be the best suited for this particular Project.

J. TECHNICAL COMPLEXITY: Technical expertise will be required for environmental management, quality management, scheduling, and estimating. The complexity and scheduling issues discussed in the background section above will require special expertise. However, the Project will draw upon existing skills and capabilities available in the construction community, as the Project presents overall challenges similar to those faced on many public works Projects. A high level of coordination among the District and all the design and construction entities is required and facilitated by an experienced contractor. As noted above, the request for proposals method of selection will enable the District to ensure that the selected QUAL+BID Contractor has the necessary skills and experience to address this technical complexity.

K. NEW CONSTRUCTION/RENOVATION/OCCUPATION STATUS. As noted above, the Project is a replacement of existing playgrounds at existing facilities that may be occupied during construction, requiring a contractor with expertise in school construction safety measures.

L. PHASING. The Project will be constructed in one phase.

M. DISTRICT EXPERTISE. District staff has substantial expertise with construction. In addition, the District's consultant project managers and Miller Nash LLP have years of experience with alternative contracting methods, including selection of competitive requests for proposals.