

RESOLUTION NO. 15

Series 2021

A RESOLUTION ESTABLISHING A LOCAL BID PREFERENCE POLICY IN CONNECTION WITH THE AWARD OF TOWN CONSTRUCTION CONTRACTS

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Purpose. The Town Council recognizes that a healthy local economy benefits the community as a whole, helps to keep local businesses viable, and also helps to maintain the local tax base. The Town Council also recognizes that broadening the pool of qualified local contractors who submit bids to construct Town construction projects is the public interest, and by adopting this resolution the Town Council intends to encourage the award of bids for Town construction projects to local contractors and to contractors who have been certified as a Disadvantaged Business Enterprise (DBE) under applicable law.

Accordingly, the Town Council finds, determines, and declares that it is in the public interest and is declared to the policy of the Town of Breckenridge to:

- A. Encourage the award of Town Construction Contracts to qualified local contractors.
- B. Encourage qualified contractors that have been certified as a "DBE" under applicable law to bid on Town Construction Contracts.
- C. Assure that the process of awarding Town Construction Contracts is free from bias so that all qualified local contractors and DBEs may compete for the Town's business.

Section 2. Applicability. This resolution shall apply to all Town Construction Contracts between the Town and a general contractor that are to be awarded by competitive sealed bidding. The Town Engineer shall determine those Town construction contracts that are to be awarded by competitive sealed bidding.

Section 3. Definitions. As used in this resolution the following terms shall have the following meanings:

"Contractor" means an individual, partnership, corporation, limited liability company, or other recognized business entity that submits a sealed bid seeking the award of a Town Construction Contract.

"Disadvantaged Business Enterprise (DBE)" means a contractor that has been certified as a DBE under the guidelines established by the United States Department of Transportation, as amended from time to time. As of the date of this resolution, the term "DBE" means a for-profit small business concern where socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. The certification that a contractor is a DBE shall be made by the Colorado Department of Transportation (who administers the DBE program for the United States Department of Transportation in Colorado), and such determination shall be conclusive. A contractor seeking recognition as a DBE shall be required to submit proof that it has been certified as a DBE along with its sealed bid.

"Local Bidder" means a contractor with its principal office located within Summit County, Colorado. At least one (1) full-time employee must work in such office. A contractor seeking recognition as a local bidder shall be required to sign and submit along with its sealed bid a verified statement under oath that the business meets the qualifications.

"Lowest Responsible Bidder" means a bidder that: (i) submitted its bid in accordance with the time and other requirements set forth in the Town's Invitation to Bid; (ii) submitted the lowest monetary bid for the Town Construction Contract, including the preference for local bidders and DBEs provided in this resolution; and (iii) is determined by the Town Engineer to be qualified to perform the work for which the bid was submitted based upon the bidder's fitness, ability, integrity, judgment, and skill.

“Town Construction Contract” means a contract with the Town for: (i) the construction of improvements on any real property owned, leased, or controlled by the Town, or (ii) any repairs of such improvements.

“Town Engineer” means the Town Engineer of the Town of Breckenridge, or her authorized representative or designee.

Section 4. Local Bid Preference. When a Town Construction Contract is to be awarded to a bidder, a Local Bidder and a DBE shall be allowed a preference, as follows:

- A. If a Local Bidder or a DBE is the lowest responsible bidder, the contract shall be awarded to the Local Bidder or the DBE.
- B. If the bid submitted by a Local Bidder or a DBE is within three percent (3%) of the lowest bid submitted by a bidder that is neither a Local Bidder or a DBE, the contract shall be awarded to the lowest bid by the Local Bidder or the DBE; provided, however, that the maximum amount of the preference provided to a Local Bidder or a DBE shall be Twenty Thousand Dollars (\$20,000).

Section 5. Exceptions.

- A. The local bid preference policy established by this resolution is not applicable to any Town Construction Contract that is required by state or federal law, rule, or regulation to be awarded to the “lowest responsible bidder.”
- B. If it is determined by the Town Engineer that compliance with this resolution may cause a denial of federal moneys which would otherwise be available to the Town, or would otherwise be inconsistent with requirements of federal law, this resolution is not applicable.
- C. This local bid preference policy established by this resolution does not apply to the selection of a subcontractor by a general contractor.

Section 6. Effective Date. This resolution is effective upon adoption.

RESOLUTION APPROVED AND ADOPTED this 22nd day of June, 2021.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____/s/_____
Eric S. Mamula, Mayor

ATTEST:

_____/s/_____
Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

_____/s/_____
Town Attorney Date