

**CITY OF LAKESIDE
ORDINANCE NO. 207**

**AN ORDINANCE ESTABLISHING PROCEDURES FOR CONTRACTS AND
PURCHASING. ESTABLISHING A CONTRACT REVIEW BOARD.**

Section 1. Policy. It is the policy of the city of Lakeside to encourage public contracting competition that supports openness and impartiality to the maximum extent possible. The city of Lakeside finds that competition exists not only in process, but in the technical competence of the suppliers, in their ability to make timely deliveries and in the quality and performance of their products and services and that a balance must exist between performance competition and price competition.

Section 2. Contract Review Board. The Contract Review Board is hereby designated as the local contract review board and relative to contracts and purchasing concerns of the city shall have all the powers granted pursuant to ORS 279. It shall consist of the city council and city recorder.

Section 3. Definitions.

(1) EMERGENCY means circumstances that could not have been reasonably foreseen that create a substantial risk of loss, damage, interruption of services or threat to the public health or safety that requires prompt execution of a contract to remedy that condition.

(2) PUBLIC CONTRACT means any purchase, lease or sale by the city of personal property, public improvements or services other than agreements which are for personal services.

(3) PUBLIC IMPROVEMENT means projects for construction, reconstruction or major renovation on real property by or for the city.

Section 4. General Provisions

(1) The city shall prefer goods or services that have been manufactured or produced in Oregon if, price, fitness, availability and quality are otherwise equal.

(2) No contract or purchase may be arranged, fragmented or divided with the purpose or intent to circumvent these rules.

(3) No payment or partial payment for goods and supplies may be made without approval of the city council.

(4) All contracts shall be approved as to form by the city attorney.

Section 5. Exemptions. The following contracts for goods and services are exempt from these rules. The city recorder shall determine whether a particular contract or purchase is exempt, provided, however, that the city recorder may refer such determination to the Contract Review Board for decision.

- (1) Contracts with other public agencies.
- (2) Contracts for items and services where price is regulated by federal, state or local regulatory agencies.
- (3) Contracts for insurance.
- (4) Contracts for purchases for which there is only one seller or price available within a reasonable purchase area. Determinations regarding the latter circumstance shall only be made by the Contract Review Board.
- (5) Contributions to community projects and programs specifically authorized pursuant to the annual budget adoption process.
- (6) Contracts for such items that must be compatible with existing equipment if required for the efficient utilization of the equipment, provided, however, that contract exempted pursuant to this category may only be so exempted by the Contract Review Board.
- (7) Emergency contracts up to \$5,000. for the prompt remedy of conditions if circumstances that could not be reasonably foreseen create a substantial risk of loss, damage, interruption of services or threat to public health or safety, provided, however, that contracts exempted pursuant to this category may only be exempted by the Contract Review Board as a matter of public record.
- (8) Contracts or classes of contracts specifically exempted by the Contract Review Board, provided that the Contract Review Board shall submit these determinations as a matter of public record.

Section 6. Purchases of Materials, Supplies, Services and Assets.

- (1) General. Material, supplies, services and assets are those items regularly purchased and consumed by the city. These items include, but are not limited to, office supplies, asphalt products, chemicals, cleaning supplies, food, lumber, minor equipment, motor vehicle parts, paint, plumbing supplies and parts for operating equipment.
- (2) Minor Purchases (\$0-\$2,500). Purchases in amounts of less than \$2,500 may be made without competitive quotations or bids. When practical, however, competitive quotations shall be obtained, taking into consideration the time spent in obtaining the quotations in relation to normal price differentials among prospective suppliers.
- (3) General Purchases (\$2,500 to \$5,000). When an order for goods or services exceeds \$2,500 but is less than \$5,000, at least three written quotations shall be obtained. A lesser number of quotations may be acceptable if there are an insufficient number of competitive vendors. The purchase shall be made from the vendor providing the lowest quotation and meeting specifications. The written quotations shall be

attached to the purchase order for the item. No payment shall be made for the item without the authorizing purchase order and attached quotations. There shall be no deviations from this procedure without the prior approval of the city recorder and the Contract Review Board.

(4) Major Purchases (\$5,000 and over). Unless otherwise exempted pursuant to these rules, purchases of \$5,000 or more are subject to the competitive bidding process set out in section 9 of these rules. The city recorder shall place the appropriate advertisement at least once in at least one newspaper of general circulation in the area and any other publication if deemed appropriate. All bids for purchases of \$5,000 or more shall be opened by the Contract Review Board at a regularly scheduled city council meeting and the city council shall award all bids for such purchases.

Section 7. Contracts for Personal Services.

(1) General

(a) Personal service contracts are for service performed by an independent contractor in a professional capacity which produces a service predominantly of an intangible nature. These include,, but are not limited to the services of architects and engineers, physicians, attorneys, appraisers, surveyors and planners.

(b) The selection of personal service contractors shall be based on an evaluation of the services needed, the abilities of the contractor and their assigned personnel, the uniqueness of the service and the performance of the contractor with city contracts with similar public entities. The lowest quote need not be the successful contractor.

(2) Minor Contracts (\$0 - \$2,500). Personal service contracts for less than \$2,500 may be executed without first obtaining competitive quotations or proposals upon recommendation of the appropriate department head and approval of the city recorder.

(3) General Contracts (\$2,500 - \$5,000). Personal service contracts for \$2,500 and over but less than \$5,000, may be executed with out first obtaining competitive quotations or proposals upon the recommendation of the city recorder and the approval of the Contract Review Board which shall forward its determination as a matter of public record.

(4) Major Contracts (\$5,000 and over).

(a) When a contract for personal services is for \$5,000 or more, a request for proposal shall be prepared. The request shall indicate the nature of the service needed, a description of the work to be performed and any other information on which the selection may be made. The city recorder shall place the appropriate advertisement at least one in at least one newspaper of general

circulation in the area and any other publication if deemed appropriate.

(b) Proposals for personal services for \$5,000 or more shall be in writing and sealed and opened by the Contract Review Board at a regularly scheduled city council meeting. The Contract Review Board and the city recorder will then review and make a recommendation for selection. The Contract Review Board and the city recorder may employ such review procedures as will aid in the selection, including personal interviews if appropriate. The Contract Review Board shall recommend a proposal for award. The contract need not be awarded to the contractor submitting the least costly proposal.

Section 8. Contracts for Public Improvements and Maintenance Services.

(1) Minor Contracts (\$0-\$2,500). When a contract for public improvements or maintenance is less than \$2,500, competitive quotations shall be in the manner of bidding, taking into consideration the time spent in obtaining the quotations in relation to normal price differentials among prospective contractors.

(2) General Contracts (\$2,500-\$5,000). When a contract for public improvements or maintenance is for more than \$2,500 but less than \$5,000, at least three written quotations shall be obtained. A lesser number of quotations may be acceptable if there are insufficient number of competitive contractors. The written quotation shall be attached to the successful contractor's invoice for partial or full payment, and no invoices shall be paid without the attached quotations. Further, the successful contractor's specifications must be the lowest of those obtained and meeting specifications. There shall be no deviations from this procedure without the prior approval of the city recorder and the Contract Review Board.

(3) Major Contracts (\$5,000 and over). Unless otherwise exempted pursuant to these rules, public improvements or maintenance contracts of \$5,000 or more are subject to the competitive bidding process set out in Section 9 of these rules. The city recorder shall place the appropriate advertisement at least once in at least one newspaper of general circulation in the area and any other publication if deemed appropriate, provided, however, that public improvements or maintenance contracts over \$50,000 shall be published in at least one trade newspaper of general statewide circulation. All bids for public improvements or maintenance contracts of \$5,000 or more shall be opened by the Contract Review Board at a regular scheduled city council meeting. The Contract Review Board shall award all bids for such public improvements or maintenance contracts.

Section 9. Bidding Provisions.

(1) Bid Specifications. Specifications for public contracts may identify products by brand name provided that the words "or equal" follow the name or description.

(2) Advertising Requirements. All advertisements for bids shall state:

(a) Of the contract is for a public work subject to ORS 279.348 to 279.363 or the Davis-Bacon Act (40 U.S.C. 276a), that no bid shall be received or considered unless the bid contains a statement by the bidder as a part of its bid that the provisions of ORS 279.350 or 40 U.S.C. 276a are to be complied with;

(b) The date and time after which bids will not be received, which shall be not less than five days after the date of the last publication of the advertisement;

(c) The character of the work to be done or the material or things to be purchased;

(d) The office where the specifications for the work, material or things may be seen;

(e) The name and title of the person designated for receipt of the bids;

(f) The date, time and place that the bids will be publicly opened;

(g) That each bid must contain a statement as to whether the bidder is a resident bidder as defined in ORS 279.029.

(h) That no bid for a construction contract shall be received or considered unless the bidder is registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board as required by ORS 671.530; and

(i) That the city may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all bids upon a finding of the city that it is in the public interest to do so.

(3) Requirements for Bids. All bids to the city shall be:

(a) In writing;

(b) Filed with the person designated for receipt of bids;

(c) Opened publicly at the time designated in the advertisement;

(d) Filed for public inspection; and

(e) For contracts and improvements and maintenance only, shall require a surety bond, cashier's check or certified check of the bidder as bid security. Bid security shall be attached to the bid when submitted. Security shall be 10 percent of the amount of the bid for the contract.

(4) Award of Contract.

(a) After bids are opened and a determination made that a contract is to be awarded, the award shall be made to the lowest responsible bidder.

(b) "Lowest responsible bidder" means the lowest bidder who has substantially complied with all prescribed requirements and who has not been disqualified under Section 9 (7). In determining the lowest responsible bidder, the city shall, for the purpose of awarding the contract, add a percent increase on the bid of a non-resident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides.

(c) The successful bidder shall execute a formal contract, and, if the contract is for a public improvement or maintenance contract, deliver a bond, cashier's check or certified check to the city recorder's office in equal sum to the contract price for the faithful performance of the contract.

(5) Return or Retention of the Bid Security. Upon execution of the contract and bond by the successful bidder, the bid security of the successful bidder, shall be returned to the bidder. The bidder who is awarded a contract and who fails to promptly and properly to execute the contract and performance bond shall forfeit the bid security that accompanied the successful bid. The bid security shall be considered as liquidated damages and not as a penalty for failure of the bidder to execute the contract and bond. The bid security of unsuccessful bidders will be returned to them after the bids have been opened and the contract has been awarded or all bids have been rejected. The bid security shall not be retained by the city after the contract has been executed, but the city reserves the right to retain the bid security of the three lowest bidders until the awarded contract has been signed and returned.

(6) Rejection of the Bids. The city council may reject any bid not in compliance with all requirements, and may reject for good cause any or all bids upon finding of the city that is in the public interest to do so.

(7) Disqualification of the Bidders. The Contract Review Board may disqualify a bidder under ORS 279.037 or this section if:

(a) The bidder does not have sufficient financial ability to perform the contract (if a bond is required to insure performance of a contract, evidence that the bidder can acquire a surety bond in the amount and type required shall be sufficient to establish financial responsibility);

(b) The bidder does not have equipment available to perform the contract;

(c) The bidder does not have key personnel available of sufficient experience to perform the contract; or

(d) The person has repeatedly breached contractual obligations to public and private agencies.

- (e) The Contract Review Board may make such investigation as is necessary to determine whether a bidder is disqualified. If a bidder or prospective bidder fails to supply promptly information as requested by the Board pursuant to such investigation, such failure is grounds for disqualification.

Section 10. Appeals Procedure.

- (1) Any supplier, vendor or contractor who believes that the city has made a decision in violation of these rules may appeal that decision to the Contract Review Board.
- (2) The contractor shall file a written appeal letter, physically delivered to the office of the city recorder, within three working days from the decision appealed. The appeal letter must state all relevant facts of the matter and the remedy sought.
- (3) Upon receipt of the appeal letter the city recorder shall forward to the Contract Review Board the letter and any other relevant information.
- (4) The Contract Review Board shall conduct a hearing on the matter and provide the contractor an opportunity to be heard. A written decision shall be sent to the contractor.

Section 11. Disposition of Surplus Property.

- (1) Surplus property is personal property purchased by the city and used until worn out or no longer useful, property for which the intended use no longer exists, property found and unclaimed or property that has been seized and forfeited.
- (2) The city may transfer surplus property without remuneration or only nominal remuneration with out competitive bids to itself, another public agency or any recognized non-profit activity.
- (3) Trade-Ins. Surplus property may be traded in on similar new property if the city recorder in consultation with the appropriate department head determines that it would
- (4) Auction Sales. Surplus property may be sold at auction if the city determines that the auction will probably result in a higher net return than if the property were sold by competitive bid.
- (5) Other Sales. Items for sale not sold at public auction shall be advertised for sale by competitive, sealed bid by the city recorder at least once in at least one newspaper of general circulation in the area and any other publication if deemed appropriate. The advertisement shall state the item or items to be sold, the minimum acceptable price, conditions of sale if any and the date, time and place at which bids may be submitted. Bids shall be sealed and submitted to and opened by the mayor and city council at regularly scheduled city council meetings. The city council shall award such bids or may reject any or all bids received.

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approval, unanimous - March 13th 1997