

Agenda Item J

ORDINANCE NO. 3890

TITLE: AN ORDINANCE ESTABLISHING THE CITY COUNCIL AS THE CONTRACT REVIEW BOARD, DEFINING THE POWERS GRANTED TO THE CONTRACT REVIEW BOARD, ESTABLISHING DEFINITIONS, PROVIDING FOR COMPETITIVE BIDS AND CERTAIN EXEMPTIONS THEREFROM, PROVIDING FOR BIDDER DISQUALIFICATION.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: CONTRACT REVIEW BOARD.

The City Council is hereby designated as the local Contract Review Board and relative to the contract concerns of this City Council shall have all powers granted to the State Public Contract Review Board.

Section 2: DEFINITIONS.

The following words and phrases shall mean:

a. PUBLIC CONTRACT. Any purchase, lease or sale by the City Council of personal property, public improvement or services other than agreements which are exclusively for personal service.

b. PUBLIC IMPROVEMENT. Any construction of improvements on real property by or for the City of Albany.

c. BOARD. Local Contract Review Board is established in Section 1 of this Ordinance.

Section 3: COMPETITIVE BIDS; EXEMPTIONS.

a. All contracts shall be based upon competitive bids except:

(1) Contracts made with, or the cost of which is provided by, other public agencies or the federal government.

(2) Contracts for any purchase, the amount of which

is less than FIVE HUNDRED DOLLARS (\$500.00).

(3) Contracts for any item which is available only through one company, firm or individual. Public sales made by a public agency of the county, state or federal government.

b. The Contract Review Board may, by resolution, exempt other contracts from competitive bidding if it finds:

(1) The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and

(2) The exemption results in substantial cost savings.

In making such finding, the board may consider the type, cost, amount of the contract and number of persons available to bid, and such other factors as the board may deem appropriate.

Section 4: EMERGENCY CONTRACTS.

A contract may also be exempted from competitive bidding if the board, by unanimous vote, determines the emergency condition requires prompt execution of the contract. Determination of such an emergency shall be entered into the record of the meeting at which determination was made.

Section 5: BRAND NAME SPECIFICATION AND CONTRACT.

a. Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller, unless the product is exempted from this requirement by the board under this section. However, this section shall not be construed to prevent reference in the specification to a particular product as a description of the type of item required.

b. The board may, by resolution, exempt certain products

or classes of products upon any of the following findings:

(1) It is unlikely that such exemption will encourage favoritism in the awarding of a contract or substantially diminish competition.

(2) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.

(3) There is only one manufacturer or seller of the product of the quality required.

(4) Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies.

Section 6: EXEMPTION HEARING

Whenever the board is considering an exemption to the requirements for competitive bids or brand name specification, it should provide for notice to the public of an opportunity for a public hearing on whether the exemption should be allowed.

Section 7: BID REJECTION

The City Council or an official designated by the City Council may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

Section 8: BIDDER DISQUALIFICATION

The City Council, or an official designated by the City Council, may disqualify any person as a bidder on a contract if:

a. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a

surety bond in the amount and type required shall be sufficient to establish financial ability;

b. The person does not have equipment available to perform the contract;

c. The person does not have personnel of sufficient experience to perform the contract; or

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

Section 9: APPEAL OF DISQUALIFICATION

A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:

a. The person shall, within three (3) business days after receipt of notice of disqualification, in writing notify the City Manager that he wishes to appeal his disqualification.

b. Immediately upon receipt of such written notice of appeal, the City Manager shall inform the board.

c. Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.

d. The board shall conduct the hearing according to the provisions of ORS §279.045(3) and decide the appeal within ten (10) days after receiving notification and shall set forth in writing the reasons for its decisions.

Section 10: ADDITIONAL AUTHORITY OF THE BOARD.

In addition to the powers and duties established by this Ordinance, the Board shall have such additional powers as authorized

by state law.

Section 11: EMERGENCY DECLARED

WHEREAS, it is necessary that this Ordinance take effect prior to January 1976 to be in compliance with Chapter 771 of Oregon Laws of 1975, an emergency is hereby declared to exist and this Ordinance shall become in full force and effect upon its passage by the Council and approval by the Mayor.

Passed by the Council: December 17, 1975

Approved by the Mayor: December 17, 1975

Effective Date: December 17, 1975



Mayor

ATTESTED:



City Recorder