

AMENDED 9/11/07
ORD # 210

ORDINANCE NO. 111

**AN ORDINANCE CREATING A MUNICIPAL CONTRACT REVIEW BOARD,
PRESCRIBING ITS POWERS AND DUTIES; AND REPEALING ORDINANCE
NO. 108.**

"The City of Detroit, Oregon" ordains as follows:

Section 1. Contract Review Board. The city council of the city of Detroit is designated as the local contract review board, and relative to contract concerns of the city shall have all the powers granted it by ORS Chapter 279 or the corresponding provisions of any future law.

Section 2. Definitions. The following words and phrases shall mean:

(1) **Public contract.** Any purchase, lease or sale by the city council of the city of Detroit of personal property, public improvements or services other than agreements which are exclusively for personal service.

(2) **Public improvement.** Any construction of improvements on real property by or for the city council of the city of Detroit.

(3) **Board.** The local contract review board as established in section 1 of this ordinance.

Section 3. Competitive Bids; Exemptions.

(1) All contracts shall be based upon competitive bids except:

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

(b) Contracts made with qualified nonprofit agencies providing employment opportunities for disabled individuals;

(c) A public contract exempt under subsection (2) of this section;

(d) A contract for supplies, at the option of the contracting agency, may be excluded from the competitive bidding requirement if the value of the contract is less than \$2500.

(2) The contract review board may by resolution exempt other contracts from competitive bidding if it finds:

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

(b) The exemption will result in substantial cost savings. In making such finding, the board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the board may deem appropriate.

(c) In granting exemptions the contract review board shall: Where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods, which are consistent with the public

policy of encouraging competition; and approve or disapprove required written findings by the public contracting agency that support the awarding of a particular public contract or a class of public contracts, without competitive bidding. The findings must show that the exemption of a contract or class of contracts complies with requirements.

(3) A public contract also may be exempted from the requirements of subsection (1) of this section if:

(a) Emergency conditions require prompt execution of the contract; and

(b) The contract review board shall adopt rules allowing the city council and mayor, for contracts under \$25,000 to declare that an emergency exists and establishing procedures for determining when are present. The rules shall prescribe that if an emergency is declared, the contract must be awarded within 60 days following declaration of the emergency, unless board grants an extension.

(c) In case of surplus property by a public agency, the number, value and nature of items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the public agency.

Section 4. Brand Name Specification in Contracts.

(1) 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.

(2) The board may by resolution exempt certain products or classes of products upon any of the following findings:

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

(b) 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.

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

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

Section 5. Exemption Hearing. Whenever the board is considering an exemption to the requirements for competitive bids or brand name specification, it shall provide for notice to the public and an opportunity for a public hearing on whether the exemption should be allowed.

Section 6. Bid Rejection. The city council of the city of Detroit or an official designated by the city council of the city of Detroit 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 7. Bidder Disqualification. The city council of the city of Detroit or any official designated by the city council of the city of Detroit may disqualify any person as a bidder on a contract if:

(1) 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 ability;

(2) The person does not have equipment available to perform the contract;

(3) The person does not have personnel of sufficient experience to perform the contract; or

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

Section 8. Appeal of Disqualification. A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:

(1) The person shall, within three business days after receipt of notice of disqualification, in writing notify the city recorder that he wishes to appeal his disqualification.

(2) Immediately upon receipt of such written notice of appeal, the city recorder shall inform the board.

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

(4) The board shall conduct the hearing according to the provisions of ORS279.045 (3), and decide the appeal within 10 days after receiving the notification and set forth in writing the reasons for its decisions.

Section 9. 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 10. Repeal. Ordinance No. 108 entitled, AN ORDINANCE CRATING A MUNICIPAL CONTRACT REVIEW BOARD AND PRESCRIBING ITS POWERS AND DUTIES, is hereby repealed.

Section 11. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared invalid, such declaration shall not affect the validity of any other section, subsection, paragraph, sentence, clause or phrase; and if this ordinance or any portion thereof should be held to be invalid on one

ground, but valid on another it shall be construed that the valid ground is the one upon which the ordinance, or such portion thereof was enacted.

Section 12. Emergency. An emergency is hereby declared to exist, and this ordinance shall take effect immediately upon it's passage by the Council and approval by the Mayor.

Read first in full, and by title only at the council meeting on April 13, 1993; and read a second time by title only at the council meeting on April 13, 1993. Passed by a vote of 5 ayes and 0 nays of the City Council this 13th day of April 1993. Signed and approved by the Mayor, and signed by the Recorder 13th day of April 1993.



Mayor

ATTEST: 

City Recorder