

ORDINANCE NO. 267

An Ordinance providing for the establishment of a public Contract Review Board for the City of Brookings and establishing the powers of such Board and declaring an emergency.

The City of Brookings does hereby ordain as follows:

Section 1. Contract Review Board. The Brookings City Council is hereby designated as the local Contract Review Board and relative to contract concerns of this city shall have all the powers granted to the State Public Contract Review Board.

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

(1) Public Contract. Any purchase, lease or sale by the City of Brookings 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 of Brookings.

(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 for any purchase the amount of which is less than \$3,000.00.

(c) Contracts for any thing which is available only through one company, firm or individual.

(d) Informal bids only shall be necessary for any purchase which exceeds \$3,000.00 but is less than \$5,000.00. An informal bid shall be considered to be the procedure whereby the purchasing agent of the city ascertains by correspondence, telephone calls or direct contact the various prices for the items involved, quoted by a number of reliable firms that shall have said items for sale. The purchasing agent shall cause to be kept all records and evidence of such informal bids, and after obtaining the same, the purchase may be made by the City Manager or his designated agent. The board may by resolution designate an administrative officer who shall have authority in specified situations to declare an emergency in lieu of board action.

(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.

Section 4. Emergency Contracts. A contract may also be exempted from competitive bidding if the board, by unanimous vote, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination was made.

Section 5. 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 or 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 6. 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 7. Bid Rejection. The City or an official designated by the City 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 or an official designated by the City 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 financial 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 9. Appeal of Disqualification. A person who has been disqualified 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 Manager and/or Mayor that he wishes to appeal his disqualification.

(2) Immediately upon receipt of such written notice of appeal, the City Manager and/or Mayor 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 ORS 279.045 (3)<sup>8</sup> and decide the appeal within 10 days after receiving the 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.

It is hereby declared that this ordinance is necessary for the peace, health and safety of the City of Brookings and that therefore an emergency exists and that this ordinance shall be in full force and effect immediately upon its passage by the council and signing by the Mayor.

Passed by the Council and approved by the Mayor  
this 27<sup>th</sup> day of January, 1976.

APPROVED:

Robert L. Hess  
Mayor

ATTEST:

Marjorie B. McKeenan  
City Recorder