

RESOLUTION NO. 357 (CCCLVII)

A RESOLUTION BY THE COUNCIL ACTING IN ITS CAPACITY AS
CITY CONTRACT REVIEW BOARD, ADOPTING RULES TO SUPERCEDE
THE TEMPORARY RULES ESTABLISHED BY ORDINANCE NO. 743.

WHEREAS, by Ordinance No. 743, the City Council acting as the City Contract Review Board (hereinafter "Board") adopted the Oregon Administrative Rules, Chapter 127, as temporary rules governing public contracts in the City; and

WHEREAS, Section 2 of Ordinance No. 743 provides that the Board may adopt, by resolution, rules to supercede any portion or all of the temporary rules; NOW THEREFORE

BE IT RESOLVED BY THE COUNCIL OF CANBY, OREGON, acting in its capacity as the City Contract Review Board, as follows:

Section 1. Adoption of Permanent Rules. Sections I through IX of Exhibit "A" entitled "Contract Purchasing Rules" attached hereto and incorporated herein by this reference are hereby adopted as permanent rules governing public contracts in the City.

Section 2. Temporary Rules Superceded. The temporary rules adopted by Section 2 of Ordinance No. 743 are hereby superceded. Section 4 of Ordinance No. 743 is not affected by this resolution.

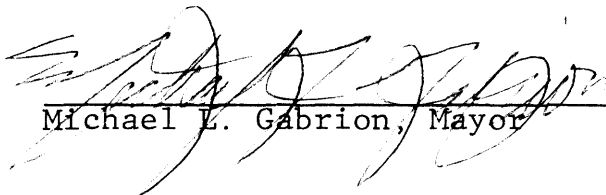
Section 3. Oregon Administrative Rules, Chapter 127 Established as Guidelines. Oregon Administrative Rules, Chapter 127, as now or hereafter amended, shall not be deemed rules of the Board, but shall be considered as optional guidelines for purposes of administration of the powers of the Board. In the event that any permanent rule of the Board conflicts with the Oregon Administrative Rules, Chapter 127, the permanent rules established by this resolution control.

Section 4. City Administrator Authorized to Establish Purchasing Procedures. The Board finds that proper control and documentation of the day to day purchasing by the City requires uniform office procedures; and that the City Administrator is best suited to determine the procedures needed. In accordance with this finding, the City Administrator is hereby authorized to establish uniform regulations governing all procedural matters pertaining to purchasing by the City. This authority shall not extend to substantive matters within the exclusive authority of the Board.

Section 5. Amendment to Permanent Rules. The Board may adopt, by resolution, rules supplementing, amending or superceding any portion or all of these permanent rules.

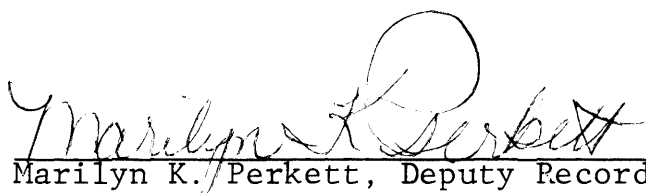
Section 6. Effective Date. This resolution, and the rules adopted hereby, shall be effective immediately upon passage by the Canby City Council.

ADOPTED by the Canby City Council at a regular meeting thereof on May 16, 1984.



Michael L. Gabrion, Mayor

ATTEST:



Marilyn K. Perkett, Deputy Recorder

EXHIBIT "A" TO RESOLUTION NO. 357

CITY OF CANBY
CONTRACT PURCHASING RULES

SECTIONS:

- I Definitions
- II Competitive Bids-Exemptions
- III Emergency Contracts
- IV Brand Names Specifications in Contracts
- V Exemption Hearing
- VI Bid Rejection
- VII Bidder Disqualification
- VIII Appeal of Disqualification
- IX Additional Authority of the Board

Section I. Definitions. The following words and phrases when used in this resolution shall have the meaning ascribed to them in this section:

- A. "Board" means the local contract review board as established in Section 1 of Ordinance 743.
- B. "Public Contract" means any purchase, lease or sale by the City of personal property, public improvements or services other than agreements which are exclusively for personal service.
- C. "Public Improvement" means any construction of improvements or real property by or for the City.

Section II. 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 one thousand five hundred dollars (\$1,500);
 - 3. Contracts for any item which is available only through one company, firm or individual;
 - 4. Personal service contracts, to include the following:
 - a. Contracts for services performed as an independent contractor in the professional capacity, including but not limited to the services of an accountant; attorney; architectural or land use planning consultant; physician or dentist; registered professional engineer, appraiser or surveyor.
 - b. Contracts for services of a specialized, creative and research oriented, noncommercial nature.
 - c. Contracts for services as a consultant.

- d. Contracts for educational and human custodial care services.
 - e. Contracts for data processing services including systems software.
 - 5. Contracts for the purchase of goods, materials, and supplies which contain no element of personal service, except personal service in connection with the repair and maintenance of office equipment, if the purchase exceeds one thousand five hundred dollars (\$1,500) but is less than ten thousand dollars (\$10,000);
 - 6. Contracts for construction, maintenance, repair, or any contract containing an element of personal service (other than contracts for repair and maintenance of office equipment and contracts for road, highway or parking lot maintenance) if said purchase exceeds one thousand five hundred dollars (\$1,500) but is less than five thousand dollars (\$5,000);
 - 7. If the City Council as the local contract review board proceeds under subsections A-5 or A-6 of this section, the local contract review board must obtain a minimum of three (3) competitive quotes. Competitive quotes shall be defined to mean the solicitation of offers by the local contract review board from competing vendors. The solicitation may be made by advertisement or by the local contract review board initiating a request to vendors to make an offer. The solicitation and the offer may be in writing or oral. The public contracting agency shall keep a written record of the source and the amount of the quotes received. If three (3) quotes are not available a lesser number will suffice provided that a written record is made of the effort to obtain the quotes;
 - 8. Contracts not to exceed twenty-five thousand dollars (\$25,000) for road, highway, or parking lot maintenance if the local contract review board obtains a minimum of three (3) competitive quotes in the manner set forth in subsection A-7 of this section.
- B. The local contract review board may by resolution except 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 contracts;
 - 2. The exemptions will result in substantial cost savings.
- In making such findings 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. Contracts for insurance where either the annual aggregate premium exceeds five thousand dollars (\$5,000) may be let by designation of an agent of record. The agent of record shall be a licensed insurance agent who shall perform insurance services in connection with more than one insurance contract. Among the services to be provided is the securing of competitive proposals from insurance carriers for all coverages for which the agent of record is given responsibility.

1. Prior to the selection of an agent of record, the City Council, as a local contract review board, shall make reasonable efforts to inform known insurance agents in the competitive market area that it is considering such selection. These efforts shall include a public advertisement in at least one newspaper of general circulation in the area where the contract is to be performed. The advertisement shall generally describe the nature of the insurance that the City will require. If the amount of the annual premium for insurance, other than employee benefits insurance, is likely to exceed ten thousand dollars (\$10,000) per year, such notice shall also include a public advertisement in at least one insurance trade publication of general circulation in the state. Separate agents of record may be appointed by the City Council for the City's liability insurance coverage and for employee benefit insurance.
2. An agents appointment shall not exceed a period of three (3) years, but the same agent may be selected in a subsequent period.
3. In selecting an agent of record the City Council shall select the agent or agents most likely to perform the most cost effective service.

Section III. 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 in which the determination was made.

Section IV. Brand Names Specifications in Contracts.

- 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 the contract or substantially diminish competition;
 2. The specification of a product by brand name or make, 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 V. Exemption Hearing. Whenever the board is considering an exemption to the requirements for the competitive bids or brand name specifications, it shall provide for notice to the public and an opportunity for a public hearing on whether the exemption should be allowed.

Section VI. Bid Rejection. The common Council of the City or an official designated by it 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 VII. Bidder Disqualification. The common Council of the City, or an official designated by it 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 VIII. Appeal of Disqualification. A person who has been disqualified as a bidder may appeal such disqualification to the board as follows:

- A. The person shall, within three (3) business days after receipt of notice of disqualification, in writing, notify the City Administrator that he wishes to appeal his disqualification.
- B. Immediately upon receipt of such written notice of appeal, the City Administrator 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 Oregon Revised Statutes 279.045 (3) and decide the appeal within ten (10) days after receiving the notification, and shall set forth in writing the reasons for its decisions.

Section IX. Additional Authority of the Board. In addition to the powers and duties established by this resolution, the board shall have such additional powers as authorized by state law.