

ORDINANCE NO. 600

AN ORDINANCE ESTABLISHING A CONTRACT REVIEW BOARD; REQUIRING COMPETITIVE BIDS WITH EXCEPTIONS; AUTHORIZING EMERGENCY CONTRACTS; PERMITTING REJECTION OF BIDS FOR CAUSE; PERMITTING DISQUALIFICATION OF BIDDERS AND PROVIDING FOR APPEALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 1975 Legislative Session enacted Chapter 771, Oregon Laws 1975, relating to public contracts which will take effect January 1, 1976, and will be administered by the Public Contract Review Board which the new statute created. However, the statute provides that cities, counties, municipally owned utilities and peoples' utility districts may choose to have their own governing bodies perform the duties of the State Board; and

WHEREAS, the Canby City Council desires to take advantage of the local option aspect of Chapter 771, Oregon Laws 1975, and therefore enacts this Ordinance to accomplish that purpose.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: CONTRACT REVIEW BOARD. The Canby City Council is hereby designated as the local Contract Review Board and relative to contract concerns of this City of Canby 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 Canby City Council 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 Canby.

(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 \$2,000 or less.

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

(d) In any case where the interest or property of the City probably would suffer material injury by delay or would be materially benefited by immediate purchase or contract.

(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.

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 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 6: BID REJECTION. The Canby City Council or an official designated by the Canby 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 7: BIDDER DISQUALIFICATION. The Canby City Council or an official designated by the Canby City Council 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 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 Canby City Recorder that he wishes to appeal his disqualification.

(2) Immediately upon receipt of such written notice of appeal, the Canby 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 consider de novo the notice of disqualification, the record of the investigation made by the City Administrator and/or the City's Superintendent of Public Works or City Engineer, and any evidence provided by the parties. The hearing shall be public and the appeal decided within ten (10) days after receiving the notification. The board's decision and reasons therefor shall be in writing.

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 and may also:

(1) Require notice publication in addition to that required by state law.

(2) Require prequalification for persons desiring to bid for public improvement contracts.

(3) Grant exemptions from the bid security and performance bond required on contracts for public improvements.

(4) Make alternate arrangements for retainage pursuant to ORS 279.575.

Section 10: EFFECTIVE DATE. This Ordinance shall become effective immediately upon its final reading and enactment by the Canby City Council.

Passed on first reading of the Canby City Council at a regular meeting thereof on Monday, the 15th day of December, 1975; ordered posted as provided by the Canby City Charter and to come up for final reading and action of the Canby City Council at a regular meeting thereof on Monday, the 5th day of January, 1976, at the hour of 8:00 p.m. at the Canby City Hall.

ATTEST:

Harold A. Wyman
HAROLD A. WYMAN City Recorder

Paul N. Roth
PAUL N. ROTH - Mayor

Passed on final reading at a regular meeting of the Canby City Council held on the 5th day of January, 1976, by the following vote:

Yeas 5. Nays 0.

ATTEST:

Harold A. Wyman
HAROLD A. WYMAN City Recorder

Paul N. Roth
PAUL N. ROTH - Mayor