

1                   **BEFORE THE COLUMBIA GATEWAY URBAN RENEWAL AGENCY**  
2   **CITY OF THE DALLES, OREGON**

3 In the Matter of Amending the    )  
4 Rules of the Columbia Gateway                                        )  
5 Urban Renewal Agency Local    )  
6 Contract Review Board    )  
7   **RESOLUTION**  
8   **NO. 98-029**

6           **Whereas**, the Columbia Gateway Urban Renewal Agency (hereinafter called “Agency”) created the Local Contract Review Board, by adoption of Resolution No. 91-108; and

8           **Whereas**, the Agency, acting as the Local Contract Review Board, has adopted rules and procedures concerning public contracts entered into by the Agency; and

11           **Whereas**, certain revisions are needed to ensure the Board’s rules and procedures are in compliance with recent legislation adopted by the Oregon State Legislature, concerning the awarding of emergency contracts, the conduct of public hearings to exempt certain contracts from competitive bidding, and the negotiation with the lowest responsible and responsive bidder in certain authorized situations; and

13           **Whereas**, the City Attorney has prepared revisions to the Contract Review Board’s rules, which have been reviewed and approved by the Agency acting in its capacity as the Local Contract Review Board;

14           **NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:**

15           **Section 1. Rules Amended.** The rules adopted by the Agency, acting as the Local Contract Review Board, by Resolution No. 91-008, shall be amended in the following manner:

17           A.       Section 2(A), Award of Contracts over \$15,000.00, on page 2, shall be renumbered Section 3. The reference in this paragraph to Section 3(3) shall be changed to Section 4(3).

19           B.       Section 3, Competitive Bids; Exemptions, on page 2, shall be renumbered Section 4.

20           C.       Section 3(5) Emergency Contracts Under \$25,000.00, on page 3, shall read be renumbered Section 4(5), and shall read as follows:

22                   5. Emergency Contracts Under \$50,000.00. Pursuant to ORS 279.015(4) and (5), the Board may, in its discretion, let public contracts without formal competitive bidding if an emergency exists, and the emergency consists of circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen, which requires prompt execution of a contract to remedy the condition.

26                   a. Declaration by the Contract Review Board. The Board may by resolution, or motion duly adopted at a regular, special, or emergency Agency meeting, declare the existence of the emergency stating with specificity, either in the resolution or in the minutes or record of its official proceedings, the emergency conditions that require prompt execution of the contract.

1                   b. Declaration by the Agency Staff Coordinator. In the event  
2 emergency circumstances necessitate immediate action, to avoid imminent  
3 danger to persons or property, or to prevent an imminent threat to public  
4 health or safety, and there is not sufficient time to schedule a meeting for  
5 the Board to consider the award of an emergency contract, then the  
6 Agency staff coordinator, or another officer authorized by the Agency, may  
7 declare the existence of an emergency, which shall authorize the Agency to  
8 enter into an emergency contract with a price under \$50,000.00. The  
9 Agency staff coordinator, or his or her authorized designee, must make  
10 written findings describing the emergency conditions necessitating prompt  
11 execution of the contract, which findings must be provided to the Board  
12 for its review.

13                   c. Any contract awarded under this exemption shall be awarded  
14 within 60 days following declaration of the emergency unless an extension  
15 is granted by the Board.

16           D.       Section 3(6), Emergency Contracts in Excess of \$25,000.00, on page 4, shall be  
17 amended by changing the section number to 4(6), and inserting the figure "\$50,000.00" where  
18 "\$25,000.00" appears.

19           E.       Section 4, Exemption Hearing, shall be renumbered Section 5, and shall read as  
20 follows:

21                   Section 5. Exemption Hearing. Whenever the Board is considering an exemption  
22 to the requirements for competitive bids or brand name specification, it shall schedule a  
23 public hearing to consider testimony and evidence as to whether the exemption should or  
24 should not be allowed.

25                   a. Notification of the public hearing shall be published in at least  
26 one trade newspaper of general statewide circulation a minimum of 14 days  
27 prior to the hearing.

28                   b. The notice shall state that the public hearing is for the purpose  
of taking comments on the Agency's draft findings for an exemption from  
the competitive bidding requirement. At the time of the notice, copies of  
the draft findings shall be made available to the public.

                  c. At the public hearing, the Board shall offer an opportunity for  
any interested person to appear and present comment.

                  d. If the Agency is required to act promptly due to circumstances  
beyond its control that do not constitute an emergency, notification of the  
public hearing can be published simultaneously with the Agency's  
solicitation of contractors for the alternative public contracting method, as  
long as responses to the solicitation are due at least five days after the  
meeting and approval of the findings.

                  e. For purposes of this rule, "findings" means the justification for  
the Agency's conclusion that includes, but is not limited to, information  
regarding:

1. Operational, budget and financial data.
2. Public benefits.

3. Value engineering
4. Specialized expertise required.
5. Public safety.
6. Market conditions.
7. Technical complexity.
8. Funding sources.

f. Upon completion of and final payment for any public improvement contract in excess of \$100,000.00 for which the Agency did not use the competitive bidding process, the Agency staff coordinator shall prepare and deliver to the Board an evaluation of the public improvement project. The evaluation shall include but not be limited to the following matters:

1. The actual project cost as compared with original project estimates.
2. The amount of any guaranteed maximum price.
3. The number of project change orders issued by the Agency.
4. A narrative description of successes and failures during the design, engineering and construction of the project.
5. An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279.015.

Evaluations required by this section shall be made available for public inspection, and must be completed within 30 days of the date that the City accepts the public improvement project.

F. Sections 5 through 10, on pages 10, 11, 12, 13, and 14, shall be renumbered Sections 6 through 11, respectively.

G. A new subsection, entitled Section 12. Negotiation With Lowest Responsible & Responsive Bidder, shall be added on page 14, which shall read as follows:

Section 12. Negotiation With Lowest Responsible & Responsive Bidder. Whenever competitive bids have been solicited for a public contract, and all responsive bids from responsible bidders exceed the cost estimate for the contract by a minimum of twenty-five percent, the Agency staff coordinator or his or her authorized designee may initiate negotiations with the lowest responsive, responsible bidder, in order to solicit value engineering and other options to attempt to bring the project within the Agency's cost estimate. The negotiations shall be instituted prior to the award of the contract by the Board.

a. A negotiation with the lowest responsive, responsible bidder pursuant to this section shall not result in the award of the contract to that bidder if the scope of the project is significantly changed from the original bid proposal.

1 b. Notwithstanding any other provision of law, the records of a  
2 bidder used in contract negotiation pursuant to this section are not subject  
3 to public inspection until after the negotiated contract has been awarded or  
4 the negotiation process has been terminated.

5 c. Upon completion of the negotiations, the Agency staff  
6 coordinator shall present the negotiated contract to the Board for approval,  
7 modification, or rejection. In the event negotiations are terminated, the  
8 Agency staff coordinator shall consult with the Board to determine whether  
9 to proceed with negotiations with the next lowest responsive, responsible  
10 bidder, or to reject all bids.

11 **PASSED AND ADOPTED THIS 24TH DAY OF FEBRUARY, 1998.**

12 Voting Yes: Reid, Beckley, Donald, Gosiak

13 Voting No: None

14 Absent: Barrett, MacRadden, Irvine

15 Abstaining: None

16 Judy Reid  
17 Judy Reid, Chair

18 ATTEST

19 Sally Morgan  
20 Recording Secretary



**AGENDA STAFF REPORT**  
COLUMBIA GATEWAY URBAN RENEWAL AGENCY

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
February 24, 1998		

TO: Urban Renewal Agency Board

FROM: Gene E. Parker, City Attorney GP

DATE: February 12, 1998

ISSUE: Resolution No. 98-029, amending the rules of the Columbia Gateway Urban Renewal Agency Local Contract Review Board.

RELATED CITY COUNCIL GOAL: None.

BACKGROUND: In 1991, the Urban Renewal Agency created the Local Contract Review Board, under the authority of Oregon State law. The Agency Board acts as the Local Contract Review Board. Part of the Board's responsibility is to adopt rules and regulations concerning the awarding of public contracts.

The 1997 Oregon legislature adopted certain new provisions concerning public contracting, which in turn require the Agency to modify its public contracting rules and regulations. I have prepared a resolution to incorporate the changes into the Agency's rules. The changes can be summarized as follows:

1. The initial limit for award of emergency contracts has been increased from \$25,000 to \$50,000. I have revised subsections 5(a) and (b) to clarify when the Agency staff coordinator will award the emergency contract, and when the Agency Board can award such a contract.
2. The requirements for holding a public hearing to declare a particular contract or class of public contracts exempt from public bidding have become much more detailed. Notice of the public hearing must now be advertised in a newspaper of statewide circulation, and detailed findings must be prepared to support the exemption.

3. A new subsection 12 has been proposed to allow the Agency to take advantage of new legislation to negotiate with the lowest responsive and responsible bidder, when all bids received exceed the projects' cost estimate.

**BUDGET IMPLICATIONS:** Adoption of the rules will give the Agency more flexibility in the award of public contracts, and may provide the Agency with more opportunities to reduce costs and keep projects within budget estimates.

**ALTERNATIVES:**

A. The Agency Board adopt Resolution No. 98-029.