

Repealed by 99-1070
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Amended by
Ordinance # 97-1023
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CITY OF SHERWOOD
ORDINANCE NO. 94-993

Amended by
Ordinance # 97-1031
Am

AN ORDINANCE REPEALING ORDINANCE NO. 664 AND ADOPTING NEW AND REVISED PROVISIONS EXERCISING LOCAL OPTION TO DESIGNATE CITY COUNCIL AS THE LOCAL CONTRACT REVIEW BOARD PURSUANT TO CHAPTER 279, OREGON REVISED STATUTES, AND EXEMPTING CERTAIN CONTRACTS FOR BID PROVISIONS

THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

Section 1. Contract Review Board. The City Council of the City of Sherwood 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" means any purchase, lease or sale by the City of Sherwood of personal property, public improvements or services other than agreements which are for personal service.

(2) "Public improvement" means projects for construction, reconstruction or major renovation on real property by or for the City. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance necessary in order to preserve a public improvement.

(3) "Board" means the local contract review board as established in Section 1 of this ordinance.

(4) "Emergency" means circumstances that could not have been reasonably foreseen that create a substantial risk of loss, damage, interruption of services or threat to the public health or safety that requires prompt execution of a contract to remedy the condition.

(5) "Director" means the City Manager or his designated agent.

Section 3. Competitive Bidding; Exceptions; Exemptions.

(1) Subject to the policies and provisions of ORS 279.005 and 279.007, all public contracts shall be based upon competitive bids or proposals except:

(a) Contracts made with 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 City, may be excluded from the competitive bidding requirement if the value of the contract is less than \$2,500;

(e) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145;

(f) Contracts for repair, maintenance, improvement or protection of property obtained by the Director of Veterans' Affairs under ORS 407.135 and 407.145(1); and

(g) Contracts between the City and other public agencies utilizing an existing solicitation or current requirement contract of the public agency that is party to the contract for which:

(i) The original contract met the requirements of Chapter 279, Oregon Revised Statutes.

(ii) The contract allows other public agency usage of the contract; and

(iii) The original contracting public agency concurs.

(2) Subject to subsection (5)(b) of this section, the director or board may exempt certain public contracts or classes of public contracts from the competitive bidding requirements of subsection (1) of this section upon approval of the following findings submitted by the public contracting agency seeking the exemption:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

(b) The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency. In making such finding, the director or board may consider the type, cost, amount of the contract, number of persons available to bid and such other factors as may be deemed appropriate.

(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; or

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

(4) The director or board shall adopt rules allowing the City and City Manager for contracts under \$25,000 to declare that an emergency exists and establishing procedures for determining when the conditions in subsection (3)(a) of this section are present. The rules shall prescribe that if an emergency is declared, any contract awarded under this subsection and subsection (3)(a) of this section must be awarded within 60 days following declaration of the emergency, unless the director or board grants an extension.

(5) In granting exemptions pursuant to subsection (2)(a) and (b) of this section, the director or board shall:

(a) 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 also consistent with the public policy of encouraging competition.

(b) Require and approve or disapprove written findings by the public contracting agency that support the awarding of a particular public contract or a class of public contracts, without the competitive requirements of subsection (1) of this section. The findings must show that the exemption of a contract or class of contracts complies with the requirements of subsection (2)(a) and (b) of this section.

(6) Informal bids only shall be necessary for any purchase which exceeds \$1,000.00, but is less than \$15,000.00. An informal bid shall be considered to be the procedure whereby the purchasing agency 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.

Section 5. Specifications for Contracts; Exemptions.

(1) Specifications for public contracts shall not expressly

or implicitly require any product by any brand name or mark, nor the product of any particular manufacturer or seller unless the product is exempt under subsection (2) of this section.

(2) The director or board may exempt certain products or classes of products from subsection (1) of this section upon any of the following findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;

(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 to the public agency;

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

(d) Efficient utilization of existing equipment or supplies requires 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. Exemption and appeal procedure regarding exemptions shall be as set forth in ORS 279.019, except that jurisdiction for review of the order shall be with the Circuit Court of the State of Oregon for Washington County.

Section 7. Bid Rejection. The City Council or an official designated by the 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 8. Bidder Disqualification.

(1) The City Council or an official designated by the City Council may disqualify any person as a bidder on a contract if the City finds:

(a) The person does not have sufficient financial ability to perform the contract if a board is required to insure performance of a 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 key personnel of sufficient experience to perform the contract; or

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

(2) The City may make such investigation as is necessary to determine whether a person is qualified. If a bidder or prospective bidder fails to supply promptly information as requested by the City pursuant to such investigation, such failure is grounds for disqualification.

(3) Any information voluntarily submitted by a bidder or prospective bidder pursuant to an investigation under subsection (2) of this section or in a prequalification statement required by ORS 279.039 or in a prequalification request submitted pursuant to ORS 279.041 shall be deemed a trade secret pursuant to ORS 192.501 to 192.505 if requested by the person submitting the information.

Section 9. Appeal of Disqualification.

(1) Any person who wishes to appeal disqualification as a bidder may appeal such disqualification to the board as provided in this section.

(2) The person shall, within three business days after receipt of disqualification, in writing notify the City Manager or Administrator that he wishes to appeal his disqualification.

(3) Immediately upon receipt of such written notice of appeal, the City Manager or Administrator shall inform the Board.

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

(5) The Board shall conduct the hearing according to the provisions of ORS 279.045(3) and decide the appeal within 10 days after receiving the notification and shall set forth in writing the reasons for its decisions.

(6) Procedure for the hearing and appeal shall be as set forth in ORS 279.045(4), (5), (6) and (7), and ORS 279.047.

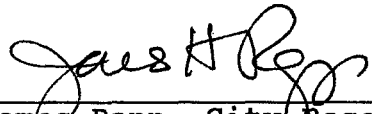
Section 10. Additional Authority of the Board. In addition to the powers and duties established by this ordinance, the Board shall have such additional powers as authorized by State law.

Section 11. Public Improvements Constructed by City. Public improvements constructed by the City itself need not be submitted to public bid. However, the requirements of ORS 279.023 shall be met where the estimated cost of the public improvement exceeds \$50,000.00.

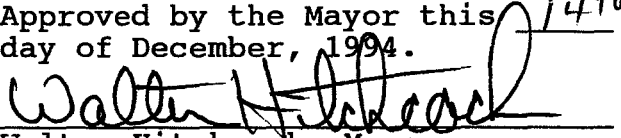
Section 12. Effective Date. This ordinance shall be effective on the thirty-first day after its enactment by the City Council of the City of Sherwood.

Section 13. Repeal of Ordinance No. 664. Upon this ordinance becoming effective, Ordinance No. 664, enacted February 11, 1976, is repealed.

Duly passed by the City Council
this 14th day of December, 1994.



James Rapp, City Recorder

Approved by the Mayor this 14th
day of December, 1994.


Walter Hitchcock, Mayor

	<u>Aye</u>	<u>Nay</u>
Boyle	<u>Absent</u>	___
Cottle	<u>X</u>	___
Hitchcock	<u>X</u>	___
Kennedy	<u>X</u>	___
Tobias	<u>X</u>	___