

*Sec 3(1)(a)  
Amended  
by 449*

## ORDINANCE NO. 414

AN ORDINANCE ESTABLISHING A CONTRACT REVIEW BOARD; PROVIDING PUBLIC CONTRACT PROCEDURES; REPEALING CONFLICTING ORDINANCES OF THE CITY OF WILLAMINA, OREGON; AND DECLARING AN EMERGENCY.

The city of Willamina, Oregon, ordains as follows:

Section 1. Contract Review Board. The 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 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.
- (3) Board. The local contract review board as established in Section 1 of this ordinance.
- (4) City. The city of Willamina, Oregon.

Section 3. Competitive Bids; Exemptions.

- (1) All contracts shall be based upon competitive bids except:
  - (a) Contracts made with other public agencies or the federal government. [Subpart (a) of Subsection (1) of Section (3) as amended by Ordinance No. 449, passed June 29, 1978.]
  - (b) Contracts for any purchase the amount of which is less than \$1,000.00.
  - (c) Contracts for any item which is available only through one company, firm or individual.
  - (d) Contracts for any purchase exceeding \$1,000.00 but which is less than \$2,000.00 may be made upon obtaining informal bids, 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 council or its designated agent.

(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 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 7. Bidder Disqualification. The city council or an official designated by the 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 city recorder that he wishes to appeal his disqualification.

(2) Immediately upon receipt of such written notice of appeal, the 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 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.

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.

Section 10. Repeal of Conflicting Ordinances. All ordinances, or parts of ordinances, of the city of Willamina in conflict herewith are hereby repealed.

Section 11. Emergency Clause. The council desires and deems it necessary for the preservation of the health, peace and safety of the city of Willamina that this ordinance take effect at once; and therefore an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the council and approved by the mayor  
January 8, 1976.