

ORDINANCE No. 577

AN ORDINANCE PROVIDING FOR COMPETITIVE BID EXEMPTIONS AND AMENDING STAYTON CITY CODE SECTION 2.351(3) and 2.355

WHEREAS, ORS Chapter 279 authorizes the City Council, acting as local contract review board, to exempt particular contracts from the requirement of competitive bids; and,

WHEREAS, the Council finds that the competitive bid exemption of certain types or contracts enumerated herein will not likely encourage favoritism in the awarding of public contracts and will result in substantial cost savings to the City; and,

WHEREAS, the Council wishes to adopt certain definitional and monetary limit provisions to parallel recent acts of the Legislature and State Contract Review Board,

NOW THEREFORE,

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Section 1. Section 2.351(3) of the Stayton City Code shall be amended to be consistent with State Statute and shall read:

3. Public Contract. Any purchase, lease or sale by the City of personal property, public improvements or services other than agreements which are for personal services.

Section 2. Section 2.355 is amended to read as follows:

2.355 Contract Review Board - Competitive Bids Exemptions

1. All public contracts shall be based on competitive bids except:

- a. Contracts with public agencies. Contracts made with or the cost of which is provided by other public agencies or the Federal Government.

- b. Single seller contracts. Contracts for any item which is available only through one company, firm, or individual.

- c. Contracts under \$10,000. Contracts for purchase of sale where the amount does not exceed \$10,000.

- (1) Where contracts are for more than \$5,000, at least three competitive quotes shall be obtained where practicable. A written record shall be made containing the source and amount of the quotes received.

- (2) Where contracts are for more than \$500 but less than \$5,000, competitive quotes may be obtained where practicable.

- (3) No contractor may be awarded, in the aggregate, within the fiscal year, contracts in excess of \$20,000 under this subsection without competitive bidding. In computing the aggregate under this subsection, awards under \$500 need not be included.
- d. Personal service contracts. The following are personal service contracts:
 - (1) 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; passenger aircraft pilot; aerial photographer; timber cruiser; or broadcaster.
 - (2) Contracts for services as an artist in performing or fine arts, including but not limited to photographer, filmmaker, painter, weaver, sculptor.
 - (3) Contracts for services of a specialized, creative and research oriented, noncommercial nature.
 - (4) Contract for services as a consultant.
 - (5) Contracts for educational and human custodial care services.
 - e. Contracts for price regulated items. Contracts for the purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state or local regulatory authority.
 - f. Allocated petroleum products. Contracts for the purchase of petroleum products if such purchase is required to be made from a particular supplier as a result of a federal allocation or if purchase from other than an established supplier could jeopardize an allocation or future supply of such petroleum products.
 - g. Copyrighted materials. Contracts for the purchase of copyrighted materials where there is only one supplier available for such goods.
 - h. Advertising contracts. Contracts for the purchase of advertising, including that intended for the purpose of giving public notice.
 - i. Investment contracts. Contracts for the purpose of investment of public funds or the borrowing of funds.
 - j. Requirements contracts. Purchases of goods or services from a supplier when the price of the goods and services has been established under a previously competitive bid requirements

contract whereby it is agreed to purchase requirements or an anticipated need at a predetermined price.

- k. Data processing contracts. Contracts for purchase or acquisition of data processing (hardware or software) may be let without competitive bid subject to the following conditions:
- (1) Prior to selection of the contractor, reasonable efforts have been made to solicit proposals from all known vendors. If the amount of the contract exceeds \$10,000, written proposals shall be solicited from the appropriate vendors appearing on the list composed by the Data Systems Division of the Executive Branch of the State of Oregon or by publication of an advertisement in a major trade publication of general circulation.
 - (2) The contractor is selected on the basis of the most competitive offer in both the cost and quality of the product to be purchased or acquired.
 - (3) Whenever a contract for data processing let pursuant to this exemption exceeds \$5,000, a written report shall be submitted to the board. The report shall include:
 - (a) The name of the company and, if applicable, the name of the retail vendor;
 - (b) The reasons why competitive bidding was not appropriate; and
 - (c) A description of the reasons why the contractor was selected and other proposals rejected.
- l. Insurance contracts.
- (1) Contracts for the purchase of insurance where the public agency either (1) appoints an agent of record to perform insurance services on its behalf or (2) solicits proposals from insurance agents for the purpose of acquiring specific insurance contracts.
 - (2) Contracts for employe benefit insurance.
- m. Contract amendments. Any contract amendment, including change orders, extra work, field orders, or other change in the original specifications which changes the original contract price or alters the work to be performed, may be made with the contractor subject to the following conditions:
- (1) The original contract imposes a binding obligation on the parties covering the terms and conditions regarding changes in the work;
 - (2) The amended contract does not substantially alter the scope or nature of the project; or

- (3) If the amendment has the effect of substantially altering the scope or nature of the project, the amount of the aggregate cost change resulting from all amendments creating such new obligations shall not exceed 10% of the initial cost.
- n. Equipment maintenance. Contracts for the purchase of services, equipment or supplies for the maintenance, repair or conversion of existing equipment are exempt if required for the efficient utilization of the equipment. Where practicable, competitive quotes shall be obtained.
- o. Asphaltic concrete and rock. Contracts for the purchase of asphaltic concrete and rock where the material is to be used for maintenance. Where practicable, competitive quotes shall be obtained.
- p. Bids obtained by the State for same materials. Contracts for the purchase of materials where competitive bids for the same materials have been obtained by the State of Oregon, and the contract is awarded to the same party that the State dealt with, and the price of the materials is the same or lower than that paid by the State.
- q. Sale of personal property. Personal property may be disposed of without competitive bidding under any of the following conditions:
- (1) There are specific statutory or ordinance procedures for the sale of the type of property involved, and the property is disposed of according to those procedures;
 - (2) The property has a value of less than \$500 (unless otherwise provided by statute or ordinance); or
 - (3) The public contracting officer finds that competitive bids would be inappropriate for the type of property involved. A report of all sales made under this subsection shall be made to the board and shall include the reasons that competitive bids were deemed inappropriate.

PASSED BY THE COMMON COUNCIL THIS 18th DAY OF October, 1982.

Signed by the Mayor this 20th day of October, 1982.

Henry A. Pate
Mayor

ATTEST:

Ellis Vandenberg
City Administrator