

RESOLUTION NO. 1691

JOINT RESOLUTION OF THE CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD OPTING OUT OF THE ATTORNEY GENERAL'S MODEL PUBLIC CONTRACTING RULES AND ADOPTING PUBLIC CONTRACTING RULES FOR THE CITY OF TILLAMOOK

WHEREAS, it is the policy of the City of Tillamook (City) that a sound and responsive public contracting system should allow impartial, meaningful, and open competition, preserving formal competitive selection as the standard for public contracts unless otherwise specifically exempted herein, by state law, or by subsequent ordinance or resolutions; and

WHEREAS, the Oregon Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794), which was signed by the Governor, and had an operative date of March 1, 2005. This Act repealed Oregon Revised Statutes ("ORS") Chapter 279 (with minor exceptions) and replaced it with three new subchapters: ORS 279A, 279B, and 279C. These three subchapters, together, constitute the Public Contracting Code (or Code). Any City rules and exemptions previously adopted under ORS Chapter 279 expired on March 1, 2005; and

WHEREAS, absent any action by the Local Contract Review Board on or after March 1, 2005, govern local governments;

WHEREAS, in order to adopt new public contracting rules that differ from the Model Rules, under ORS 279A.065(5), the City Council must specifically state that the Model Rules adopted by the Attorney General do not apply to City and prescribe its own public contracting rules, which may include portions of the Attorney General's Model Rules. The Local Contract Review Board may also adopt rules for public contracting not covered by the Model Rules, as long as they do not conflict with the Public Contracting Code; and

WHEREAS, the Public Contracting Code divides powers and duties for contracting into two categories: those that must be performed by the "Local Contract Review Board"; and those that must be performed by the "Contracting Agency"; and

WHEREAS, pursuant to ORS 279A.060 the City Council is the Local Contract Review Board for City and, as such, is authorized to act on all such matters on behalf of the City, adopt Public Contracting Rules, and establish procedures for amendment of such rules; and

WHEREAS, the Local Contract Review Board may designate certain personal service contracts or classes of service contracts as personal service contracts, which are not subject to the procedural requirements of the Public Contracting Code or the Model Rules; and

WHEREAS, City recognizes it may exempt certain public improvement contracts or classes of such contracts under ORS 279C.335; and

WHEREAS, the City Council additionally requests that the City's Local Contract Review Board approve the classes of special procurements set forth in the attached rules, based upon the findings set forth in Exhibit A to this Resolution.

NOW, THEREFORE, it is resolved as follows:

1. Local Contract Review Board. The City Council (Council) is hereby designated to continue as the Local Contract Review Board of the City and shall have all of the rights, powers and authority necessary to carry out the provisions of Chapters 279A, 279B, and 279C (the "Public Contracting Code") and attached Rules. Except as otherwise provided in this Resolution, the definitions established in the attached Rules apply herein. The term "Contracting Agency" as used in the attached Rules includes Contracting Agency's chief administrative officer, his or her designee, or any other purchasing agent, as designated by City policy. Those individuals are hereby designated as City's Contracting Agency and may exercise all authorities, powers and duties granted to a Contracting Agency under the Public Contracting Code and attached Rules, unless otherwise established by City policy.

2. Findings. The above recitals and Exhibit A are hereby adopted by the Council, sitting as the Local Contract Review Board, as findings of fact supporting approval of the Council's request for classes of special procurement and public improvement contract exemptions.

3. Rule Adoption. The Model Rules adopted by the Attorney General pursuant to ORS 279A.065 do not apply to City. Instead, the City hereby prescribes the following Rules, which include portions of the Attorney General's Model Rules, as the Rules of Procedure that the City will use for its public contracting: Public Contracting Rules Chapter 137, Divisions 46, 47, 48 and 49. While the numbering of these Rules reflects the numbering system of the Attorney General's Model Rules, they incorporate City changes to the Model Rules, and, therefore, are not the Attorney General's promulgated administrative rules. City exemptions are also set forth in these Rules, as numbered Exemptions 1 through 18 (E-1 through E-18). All above-referenced Rules are attached to this Resolution as Exhibit B, and incorporated herein by this reference.

4. Rule Review. In accordance with ORS 279A.065(6)(b), the City shall review its Public Contracting Rules, adopted herein, each time the Attorney General modifies its Model Rules in order to determine whether amendments are required to ensure statutory compliance.

5. Amendments. Amendments to these Rules and new rules shall be adopted in accordance with this Resolution and the Public Contracting Code. Special procurement requests and approvals shall be made in accordance with Division 47 of the attached Rules and ORS 279B.085. Public improvement contract exemption

procedures, including notice and public hearing requirements, shall be made in accordance with Division 49 of the attached Rules and ORS 279C.335.

6. Cost Accounting. The Model Cost Accounting Guidelines developed by the Oregon Department of Administrative Services pursuant to Section 3, Chapter 869, Oregon Laws 1979 are hereby adopted as the City's Cost Accounting System to apply to public improvement projects exceeding \$5,000 and constructed with City's own equipment or personnel. ORS 279C.310. For such public improvement projects estimated to cost more than \$125,000, City shall also comply with the requirements of ORS 279C.305(3).

7. Purchasing Authority. The City Manager, Recorder/Treasurer, any Department Head, and other designated individuals delegated such authority in writing by the City Manager may make purchases with petty cash, City VISA card or City check in an amount not to exceed \$1,000.00. Any amount greater than \$1,000 requires Council approval. Every effort shall be made to consolidate purchases among all departments to ensure that the price obtained is the most advantageous to the City. To eliminate the potential for abuse or misuse, the City Manager shall request that the City Recorder make periodic audits of the petty cash fund and/or VISA or Check purchases and report the results to the City Manager or the City Manager's designee.

Comment [LGLG1]: \$1,000 reflects the 2013 spending threshold. Is this still appropriate given that the small procurement threshold for goods and services has been raised from \$5,000 to \$10,000?
Comment [LGLG2]: True?

8. Repeal. All previously adopted resolutions establishing public contracting rules for City are hereby repealed.

DATED this _____ day of _____, 20__.

Suzanne Weber, Mayor
City Council

Suzanne Weber, Mayor, as President,
for the Local Contract Review Board

ATTEST:

ATTEST:

Paul Wyntergreen,
City Manager

Paul Wyntergreen, City Manager,
as Secretary for the
Local Contract Review Board