

RESOLUTION 05-19

A RESOLUTION OF THE LAKE OSWEGO CITY COUNCIL ADOPTING NEW PUBLIC CONTRACTING RULES; AND DELEGATING TO THE CITY MANAGER AUTHORITY TO AWARD CERTAIN CONTRACTS AND INTERGOVERNMENTAL AGREEMENTS

WHEREAS, the 2003 Legislature adopted amendments to the public contracting laws, adopting the Public Contracting Code (ORS Chapters 279A, 279B and 279C), effective March 1, 2005, pursuant to 2003 OR. Laws Ch. 769, Section 336 and 337; and

WHEREAS, pursuant to ORS 279A.065 and 2003 OR. Laws Ch. 769, Sections 334, 336 and 337, the existing Lake Oswego Public Contracting Rules and Procedures will not be applicable to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005, and

WHEREAS, the Lake Oswego City Council is the Public Contract Review Board for the City of Lake Oswego, pursuant to ORS 279A.060; and

WHEREAS, ORS 279A.065(5) and 2879A.070 authorizes a Public Contract Review Board to adopt and from time to time amend rules of procedures that a public contracting agency will use for public contracts, which may include portions of the model rules of public contracting adopted by the Oregon Attorney General (OAR 137-046, -047, and -049); and

WHEREAS, the City Council finds that to the degree reasonably possible, there are administrative, legal and financial advantages to maintaining public contract procedural rules similar to the Model Public Contract Rules, and further that potential bidders are also benefited if the public contract procedural rules for the City of Lake Oswego are similar to the Model Public Contract Rules and that the public contracting rules for the City of Lake Oswego and the Lake Oswego Redevelopment Agency be identical; and

WHEREAS, the Lake Oswego City Council, acting as the Lake Oswego Local Public Contract Board, may adopt "class special procurement" rules, to establish a contracting procedure that differs from the contracting procedures established by ORS 279B.055, -.060, 065, and -070 over time for a specified class of goods or services, subject to at least one public notice of the approval process being given in a newspaper of general circulation, pursuant to ORS 279B.060(4) and 279B.055(4); and

WHEREAS, pursuant to ORS 279C.335(4) and other related statutes, public notice of a public hearing for the consideration of the adoption of this Resolution, and the accompanying Lake Oswego Public Contract Rules 2005, was given on January 28, 2005 (a date not less than 14 days prior to the date of the hearing), in the Portland Daily Journal of Commerce, a trade newspaper of general statewide circulation; and

WHEREAS, a public hearing was held on March 1, 2005, on this resolution, at which persons were offered an opportunity to appear and present comment; and

WHEREAS the City Council finds that the City Manager should be authorized to enter into:

(a) Contracts with governmental entities for goods, materials, services, personal services, public improvements, and public works the same as if the contract was made with private vendors and service providers; and

(b) Mutual aid agreements with other governmental entities, provided service within the City is not significantly impacted; and

(c) Agreements with other governmental entities to implement Council policies, for the expenditure or receipt of grant funds, and contracts which are at no or minimal cost to the City,

BE IT RESOLVED as follows:

Section 1. Adoption of Public Contracting Rules of Procedures. The Lake Oswego City Council, acting as the Lake Oswego Public Contract Review Board, hereby adopts the Lake Oswego Public Contract Rules (Sections 101, 102, 103, and 104) in lieu of the Oregon Attorney General Model Public Contract Rules 2004 (OAR 137-046, -047, -048, and -049), attached as Exhibit A, for all public contracts of the City of Lake Oswego first advertised, but if not advertised then entered into, on or after March 1, 2005.

The existing Sections 1 through 4 of the Lake Oswego Contracting and Purchasing Procedures are repealed effective March 1, 2005; provided however that the repealed Lake Oswego Contracting and Purchasing Procedures shall continue to apply to public contracts first advertised, but if not advertised then entered into, before March 1, 2005.

The existing Section 5 of the Lake Oswego Contracting and Purchasing Procedures is hereby renumbered as Section 104 of the Lake Oswego Public Contract Rules.

Section 2. Delegation of Authority to Award Contracts and Contract Amendments. The Lake Oswego City Council hereby delegates to the City Manager, or City Manager's designee, authority to award contracts and amendments to contracts, as set forth in the attached Rules (see Section 101-0140).

Section 3. Intergovernmental Agreements and Grants. The Lake Oswego City Council hereby delegates to the City Manager, or City Manager's designee, authority to execute the following types of intergovernmental agreements and contracts with other governmental entities:

A. Intergovernmental Agreements for the budgeted purchase of materials, supplies, equipment, vehicles, services, personal services, public improvements, and assets, when a Public Contracting Officer would be authorized to award a contract under the City's Public Contracting Rules and Procedures to a non-governmental vendor or provider of service, if the contract had

been solicited to private vendors and service providers. (This delegation of authority may be reflected in the Lake Oswego Public Contract Rules, Section 101-0140 for ease of reference by the City Manager, however that does not render intergovernmental agreements thereby subject to the requirements of the Public Contracting Code or the Lake Oswego Public Contract Rules; grants are exempt from the application of the Public Contracting Code by ORS 279A.025(2)(c)).

B. Intergovernmental Agreements for allocation of existing equipment and personnel, such as mutual aid agreements or involvement in dedicated task forces, if such agreement does not significantly impact the City's ability to provide services within its own boundaries.

C. Intergovernmental Agreements implementing Council policy decisions.

D. Grant Agreements for which the funds are included in the budget, including grants where the city will either donate or receive funds. The City Manager may submit applications to receive grants.

E. Contracts by which the City receives materials or services at no or minimal costs such as Americorp, Work Study, or Job Corps programs.

Section 4. Findings Regarding Adoption of Class Special Procurement Rules. The Lake Oswego City Council, acting as the Lake Oswego Public Contract Review Board, hereby adopts the findings, attached as Exhibit B, in support of the class special procurement exceptions to competitive bidding (See Sections 101-0130, 101-0131, 101-0400 - .0440, 102-0260 - .0290, 103-0600 - .0800, 104-0100 - .0120).

Section 5. Power of City Recorder to make editorial changes to City of Lake Oswego Contracting and Purchasing Procedures, when approved by the City Attorney. The Lake Oswego City Council, acting as the Lake Oswego Public Contract Review Board, empowers the City Recorder to make certain editorial changes and corrections in the Lake Oswego Public Contract Rules, provided such changes are approved by the City Attorney, and further provided that such changes shall not alter the sense, meaning, affect, or substance of any rule or procedure. Said changes and corrections may include the following:

- (1) Numbering and re-numbering sections and parts of sections of rule or procedure, either as enacted or as codified;
- (2) Changes in the wording of headnotes;
- (3) Rearrangements of sections;
- (4) Changes of reference numbers to agree with renumbered chapters, sections and statutes;
- (5) Substitutions of the proper subsection, section, chapter, or other division numbers;
- (6) Omission of figures or words which are merely repetitious;
- (7) Changes of capitalization and punctuation for purposes of uniformity;
- (8) Correction of manifest clerical or typographical errors;

- (9) Update changes in references resulting from a change in the statutory number or subsection in the Oregon Revised Statutes or Oregon Administrative Rules;
- (10) Update cited statutory or administrative rule language set forth by footnote.

Section 6. This Resolution shall become effective March 1, 2005.

Considered and enacted at the regular meeting of the City Council of the City of Lake Oswego on the 1st day March, 2005.

AYES: Mayor Hammerstad, Peterson, Graham, Groznik, Hoffman, McPeak

NOES: none

EXCUSED: Turchi

ABSTAIN: none

-----/s/-----
Judie Hammerstad, Mayor

ATTEST:

-----/s/-----
Robyn Christie, City Recorder

APPROVED AS TO FORM:

/s/ Evan P. Boone for
David D. Powell, City Attorney