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BY JMH Date '05
CODIFIED

ORDINANCE NO. 1880

(An ordinance amending Section 2.32.040—Public Improvement Contracts of the Hood River Municipal Code)

WHEREAS, the Oregon Legislature adopted HB 2214 (2005 Oregon Laws, Chapter ___), which became effective retroactively to March 1, 2005;

WHEREAS, Section 15 of HB 2214 exempted public improvement contracts of \$100,000 or less from the bid security requirements of ORS 279C.365;

WHEREAS, under Chapter 2.32 of the Hood River Municipal Code, the City is required to seek competitive bids or proposals on public improvement contracts of \$25,000 or more and to seek competitive quotes on smaller contracts;

WHEREAS, it is in the City's best interest to be able to require bid security for any public improvement contract; and

WHEREAS, because the effective date of HB 2214 is March 1, 2005, the public fiscal welfare requires that this ordinance take effect immediately.

NOW, THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

Section 2.32.040 of the Hood River Municipal Code is amended to read as follows:

CHAPTER 2.32 – PUBLIC CONTRACTING

Sections:

- 2.32.010 Contract Review Board
- 2.32.020 Definitions
- 2.32.030 Public Contracts for Goods and Services
- 2.32.040 Public Improvement Contracts
- 2.32.050 Offeror Disqualification
- 2.32.060 Personal Services Contracts
- 2.32.070 Disposition of Personal Property
- 2.32.080 Adoption of Code and Rules

2.32.040 Public Improvement Contracts. A public improvement contract is defined pursuant to the Public Contracting Code and does not include contracts for emergency work, minor alterations, ordinary repair and maintenance of public improvements, contracts for projects for which no funds of the City are directly or indirectly used except for participation

that is incidental or related primarily to project design or inspection, and does not include any other construction contract that is not defined as a public improvement under the Public Contracting Code. A public improvement contract shall not be artificially divided to qualify for a different award procedure than that provided by this section.

A. Generally. All public improvement contracts shall be awarded by the Council based on competitive sealed bids pursuant to the Public Contracting Code.

B. Exemptions. The requirements of subsection (A) and the procedures applicable to the award of those contracts do not apply to the following classes of public improvement contracts.

1. Public Improvement Contracts Valued at Less than \$5,000. Public improvement contracts valued at less than Five Thousand Dollars shall be awarded by the Contracting Agency based on informal quotes.

2. Public Improvement Contracts Valued at \$5,000 or More But Less than \$25,000. Public improvement contracts valued at Five Thousand Dollars or more but less than Twenty-five Thousand Dollars shall be awarded by the Contracting Agency based on formal quotes.

3. Emergency Public Improvement Contracts. Emergency public improvement contracts may be exempted from competitive bidding if the Contracting Agency determines that an emergency exists and that conditions require the prompt execution of a contract. Emergency public improvement contracts shall be awarded in accordance with the Public Contracting Code.

a. The Contracting Agency shall provide the Council with a written statement indicating the nature of the emergency and stating with particularity the emergency conditions and why they pose an imminent threat to the public health, safety or welfare. The Contracting Agency shall not declare the same emergency more than two times in any 90 day period.

4. By resolution, the City Council may exempt from competitive bidding a public improvement contract or class of public improvement contracts not otherwise exempt under this section pursuant to ORS 279C.335.

5. When an exemption allows for award of the contract through competitive proposals, the provisions of ORS 279C.400 to 279C.410 shall apply.

C. Amendments. Amendments to public improvement contracts shall comply with the Public Contracting Code.

D. Bonds. The performance and payment bonds requirements and exceptions of the Public Contracting Code shall apply to all public improvement contracts. The Contracting Agency may require bid security for any public improvement contract in accordance with ORS 279C.365, and notwithstanding ORS 279C.365(5).

E. Notice of Solicitation Documents. Notice of Solicitation Documents may be published on the City's Electronic Procurement System in lieu of publication in a newspaper of general circulation.

F. City Construction Services. The City may undertake to construct a public improvement using its own equipment and personnel if doing so will result in the least cost to the City or public. For purposes of this section, resurfacing of roads at a depth of two or more inches and at an estimated cost of more than \$125,000 is a public improvement. If the City decides to construct a public improvement estimated to cost more than \$125,000 using its own personnel and equipment, the City shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with ORS 279C.305.

G. Negotiations. If all responsive offers on a public improvement contract exceed the budget for the project, the Contracting Agency may, prior to contract award, negotiate for a price within the budget under the following procedures:

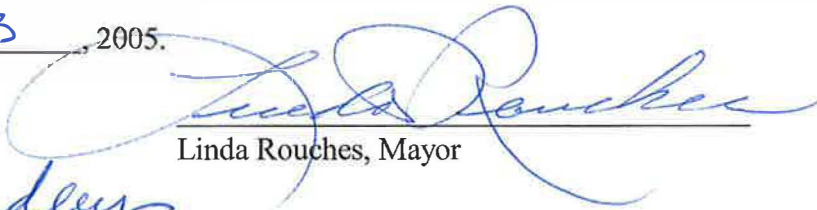
1. Negotiations shall start with the lowest responsive, responsible offeror. If negotiations are not successful, then the Contracting Agency may negotiate with the second lowest responsive, responsible offeror, and so on.
2. Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.
3. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation documents.
4. The records of an offeror used in contract negotiations under this section are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated.

H. Brand Name Specifications. The use of brand name, mark or manufacturer specifications in public improvement contracts shall be made in accordance with ORS 279B.215.

Read for the first time: August 22, 2005.

Read for the second time and passed: September 12, 2005, to become effective immediately.

Signed September 13, 2005.


Linda Rouches, Mayor

ATTEST:


Jean Hadley, City Recorder