

ORDINANCE A-255

AN ORDINANCE REPEALING ORDINANCE NO. A-91-C AND AUTHORIZING THE ADOPTION OF PUBLIC CONTRACTING RULES AND STAFF SPENDING AUTHORITY BY RESOLUTION.

WHEREAS, in 2005, the City adopted Ordinance A-91C, establishing public contracting rules for the City of Coburg; and

WHEREAS, the Oregon legislature's most recent amendments to Oregon's Public Contracting Code went into effect on January 1, 2024; and

WHEREAS, ORS 279A.065(5)(b) requires the City to review all legislative changes to determine whether the City should modify its rules to ensure statutory compliance; and

WHEREAS, pursuant to its Charter authority and ORS 279A.065, the City Council has determined to repeal Ordinance No. A-91C, and replace it with authorization to adopt and update City public contracting rules and staff spending authorities by resolution, in order to facilitate future amendments.

THE CITY OF COBURG ORDAINS AS FOLLOWS:

Section 1. Public Contracting Policy.

- A. Short Title. The provisions of this Ordinance may be referred to as the City of Coburg's Public Contracting Regulations, and all rules adopted by resolution pursuant to this Ordinance may be cited as the City of Coburg's Public Contracting Rules.
- B. Purpose of Public Contracting Regulations. In adopting these Public Contracting Regulations, it is the City's policy to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by: (1) Promoting impartial and open competition; (2) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and (3) Taking full advantage of evolving procurement methods that suit the contracting needs of the City as they emerge within various industries.
- C. Interpretation of Public Contracting Rules. In furtherance of the purpose of the objectives set forth in subsection B, it is the City's intent that the City of Coburg Public Contracting Regulations and Rules be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.

Section 2. Public Contracting Rules.

The City Council may establish and amend City Public Contracting Rules by resolution.

Section 3. Public Contracts – Regulation by the City of Coburg.

Except as expressly delegated under this Ordinance or Rules adopted hereunder, the City of Coburg reserves to itself the exercise of all of the duties and authority of a contract review board and a contracting agency under state law, including, but not limited to, the power and authority to:

- A. Solicitation Methods Applicable to Contracts. Approve the use of one or more exemptions from solicitation methods for a specific contract or certain classes of contracts;
- B. Brand Name Specifications. Exempt the use of brand name specifications for public improvement contracts;
- C. Waive Performance and Payment Bonds. Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;
- D. Electronic Advertisement of Public Improvement Contracts. Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation;
- E. Appeals of Debarment and Prequalification Decisions. Hear properly filed appeals of the purchasing manager’s determination of debarment, or concerning prequalification;
- F. Award. Award all contracts that exceed the authority of the purchasing manager; and
- G. Delegation. Delegate to any employee or agent of the City any of the duties or authority of a contracting agency.

Section 4. Public Contracts - Authority of City Administrator.

- A. General Authority. The city administrator shall be the purchasing manager for the City, subject to Council spending authority delegated to the city administrator and other staff, as set by Council resolution. Subject to the provisions of this Ordinance, the purchasing manager may create and amend all solicitation materials, contracts, and forms required or permitted under the Oregon Public Contracting Code and any City Public Contracting Rules adopted in conformance with Section 2 of this Ordinance. The purchasing manager shall hear all solicitation and award protests.
- B. Solicitation Preferences. When possible, the purchasing manager shall use solicitation documents and evaluation criteria that:
 - (1) Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability and quality are otherwise equal; and
 - (2) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.

- C. Delegation of Purchasing Manager’s Authority. Any of the responsibilities or authorities of the purchasing manager under this Ordinance may be delegated and sub-delegated by written directive.

- D. Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify its Model Rules, the Purchasing Manager or Purchasing Manager’s designee shall review the City’s duly adopted Public Contracting Rules and recommend to the Council any amendments required to ensure compliance with statutory changes.

Section 5. Severability. In the event any section or subsection of this Ordinance is finally adjudged to be legally unenforceable, then such judgment shall only invalidate that section or subsection, and all remaining sections and subsections shall remain in full legal force and effect.

Section 6. Repeal. Ordinance A-91-C , enacted March 1, 2005, and all other previously adopted ordinances, resolutions and enactments establishing public contracting rules or procedures for public contracts for the City of Coburg are hereby repealed.

First Reading on March 12, 2024, by title only. Second Reading on April 9, 2024, by title only. After public notice and hearing, and upon councilor motion and second, this Ordinance was put to a vote, the results of which were:

ADOPTED by the **City Council** of the **City of Coburg** this ___ day of _____, 2024.

APPROVED by the Mayor of the City of Coburg this ___ day of _____, 2024.

Nancy Bell, Mayor

ATTEST: _____
Sammy L. Egbert, City Recorder