

IN THE BOARD OF COMMISSIONERS AND LOCAL CONTRACT REVIEW
FOR SUNDOWN SANITARY SEWER DISTRICT

ADOPTING LOCAL CONTRACT
REVIEW BOARD RULES

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RESOLUTION AND ORDER
No. 2006-01-2

WHEREAS, Oregon Public Contracting Law was revised by Oregon Laws 2003, Chapter 794 (HB 2341). The new laws and supporting administrative rules were effective March 1, 2005 and most existing laws and all administrative rules and Ordinances and Resolutions of local governments and Local Contract Review Boards are void as of that date and the new laws are applicable to all contracts entered into after that date; and

WHEREAS, the Sundown Sanitary Sewer District ("District") is an Oregon special district which is subject to Oregon's Public Contracting Rules; and

WHEREAS, the District is required to adopt new public contracting rules consistent with the revised Public Contracting Code or by default apply the Model Public Contracting Rules prepared by the Oregon Attorney General's Office; and

WHEREAS, ORS 279A 065(5) provides that a local contracting agency may adopt its own rules of procedure for a public contract that:

A. Specifically state that the Model Rules adopted by the Attorney General do not apply to the contracting agencies; and

B. Prescribe the rules of procedure that the contracting agency will follow for public contracts, which may include portions of the Model Rules adopted by the Attorney General;

NOW THEREFORE, IT IS HEREBY RESOLVED AND ORDERED:

The following revised Local Contract Review Board Rules are hereby adopted for Sundown Sanitary Sewer District:

LOCAL CONTRACT REVIEW BOARD RULES

1. ADOPTION OF ATTORNEY GENERAL'S MODEL RULES:

The Attorney General's Model Public Contract Rules, entitled Oregon Administrative Rules, Chapter 137, Division 46 (General Provisions Related to Public Contracting), Division 47 (Public Procurements for Good or Services), Division 48 (Consultant Selection: Architectural, Engineering, Land Surveying and Related Services Contracts), and Division 49 (Public Contracts for Construction Services) as the same may be amended, are adopted as the Public Contracting Rules for the Sundown Sanitary Sewer District, subject to the following additions and clarifications set forth hereinbelow:

2. DEFINITIONS

In addition to the words and phrases defined in OAR 137-046-0110, the following words and phrases mean:

2.1 Board. The Board of Commissioners of the Sundown Sanitary Sewer District, both as that body and as the Local Contract Review Board for the Sundown Sanitary Sewer District.

2.2 Personal Service Contract. A contract that's primary purpose is to acquire specialized skills, knowledge or resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment, including without limitation, a contract for the services of an accountant, attorney, computer programmer, designer, insurance agent, information technologist or other consultant, broadcaster or artist. The District's Secretary acting as the Executive Director of the District pursuant to ORS 450.065, shall have the authority to determine whether a particular service is a "personal service" under this definition.

3. SUPPLEMENTAL PROCUREMENT RULES:

3.1 Small Procurements: Pursuant to ORS 279B.065 procurements of goods or services not exceeding \$5,000 may be obtained by direct hire and are exempt from any competitive process. Provided, however, if more than one source is feasibly available, competitive quotes shall be obtained from the maximum sources available (up to three) and noted in the procurement file.

3.2 Amendments. A contract may be amended to extend the time of completion of performance for up to one year without additional competition.

3.3 Written Responses. All quotations given in response to an intermediate procurement solicited under OAR 137-047-0270 shall be in writing.

3.4 Exemptions: The following classes of contracts are exempt from competitive bidding pursuant to ORS 279B.085:

A. Copyrighted Materials. Contracts for the purchase of copyrighted material, including non-mass marketed software, where there is only one supplier available for such goods.

B. Equipment Repair and Overhaul.

1. Contracts for equipment, maintenance, repair and overhaul may be let without competitive bidding and subject to the following conditions:

(a) The service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or

(b) The service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source.

(c) The repair is necessary to be done immediately for the health, safety or security of the District.

2. The District shall document in its procurement file why competitive bids would be impractical.

D. Hazmat/Environmental Cleanup. For cleaning up or restoring a contaminated site where the Oregon Department of Environmental Quality (DEQ) has issued an order that the site be cleaned up within a time limitation or an environmental site where a state or federal environmental regulator has required immediate remediation. A copy of the state or federal order shall be placed in the procurement file and the measures taken to encourage competition under the circumstances shall be noted.

E. Laboratory Supplies. Contracts for the purchase of laboratory supplies, including but not limited to those used in the operation of the District relating to the testing, collection or transmission of sewage, may be made without competitive bidding.

F. Office Equipment Contracts. Contracts for purchase or acquisition of data processing (hardware, software, training or maintenance and repair), telecommunications equipment, photocopy equipment and the like, provided if there are more than one supplier with similar equipment available, quotes from those suppliers, up to three quotes, shall be obtained and noted in the procurement file.

G. Periodicals. Purchasing periodicals, magazines, journals and similar publications.

H. Petroleum Products. Contracts for the purchase of gasoline, diesel fuel, heating oil and lubricants, if competitive quotes from at least three (3) vendors in the area are sought, purchase is from the least expensive source and written justification for the purchase made is retained in the procurement file.

I. Used Equipment. Contracts for the purchase of used equipment, provided if there is more than one supplier with similar equipment available, quotes from those suppliers, up to three (3), shall be obtained and written justification for the company selected shall be retained in the procurement file.

J. Temporary Employment Service Providers. Contracts for the provision of temporary workers, provided if there is more than one feasible source providing workers with the training and experience needed, then competitive quotes shall be obtained from such suppliers, up to a maximum of three (3), and written justification for the company selected shall be retained in the procurement file.

K. Federal Programs. Purchases may be made from federal programs pursuant to 10 USC 381 without competition.

4. **DISPOSAL OF SURPLUS PROPERTY:**

4.1 Declaration of Surplus Property:

A. The Secretary of the District acting as the Executive Officer of the District or his/her designee, may declare surplus any District item of personal property deemed to have a current net value to the District of \$2,500 or less, per item.

B. Any items with a current net value exceeding \$2,500 per item may only be declared surplus by the Board of Commissioners of the District.

4.2 Disposal of Items. Items declared surplus that are worth less than \$2,500 may be sold in a manner that will yield the greatest return to the District. Items worth less than \$2,500 may be transferred without remuneration to other public agencies and any non-profit corporations certified to receive state or federal surplus property.

4.3 Items declared by the Board of Commissioners to be surplus and worth more than \$2,500 shall be auctioned unless the Board of Commissioners by Order determines another means of disposition would best serve the interest of the District.

4.4 Trade-Ins. Items declared surplus may be traded in on other equipment for a reduction in purchase price on the new equipment without auction and without seeking other offers.

4.5 Disposition of Non-Auctionable Items. Items declared surplus that are worth less than \$2,500 and that are found to be not suitable for auction may be disposed of in a manner that will yield the greatest return to the District as determined by the Secretary of the District acting as the Executive Officer of the District. The reasons for not auctioning the item will be documented in the documentation file or declaration of surplus property. For items declared surplus that are worth more than \$2,500 and not suitable for auction, the Board of Commissioners shall, by Order, determine the best means for disposal.

5. SUPPLEMENTAL CONSTRUCTION CONTRACT RULES:

5.1 Small and Intermediate Projects. A construction contract estimated not be exceed \$100,000 (\$50,000 for road construction) may be awarded by obtaining at least three (3) written competitive quotes from prospective contractors. The contract shall be awarded to the prospective contractor whose quote best serves the District's interest, taking into account price as well as any other applicable factors such as, but not limited to, experience, specific expertise, availability, project understanding, contractor capacity and responsibility. If an award is not made to the contractor offering the lowest price quote, then a written record of the basis for award shall be made and maintained in the procurement file.

5.2 Amendment. A construction contract may be amended to extend the completion date of a project for up to one year without additional competition.

6. CONTRACTING AUTHORITY

6.1 Authority. Only those persons authorized to do so pursuant to these Rules may enter into a binding agreement or contract, including a purchase order, for the purchase of goods or services on the part of the District. All persons doing business with the District shall be responsible for being familiar with these Rules and for ensuring that the person purporting to act for the District has been duly authorized.

6.2 Employees. All District employees are authorized to incur expenses for authorized travel and training while on official District business in accordance with the District's Personnel Policy or past practices pertaining thereto.

6.3 Administration. The District's Secretary, when acting as the Executive Officer, or his/her designee, may award bids and may enter into contracts or agreements to purchase goods and services and may enter into intergovernmental agreements, provided the amount of the bid, contract or agreement does not exceed \$5,000 and is a budgeted item. The District's Secretary or his/her designee, may also sign contracts for the purchase of non-budgeted items not exceeding \$2,500. The District's Secretary, or his/her designee, may execute any amendment extending the contract period or changing terms other than compensation and may execute an amendment or change order, provided the greater of the following is not exceeded:

1. \$5,000 based on the aggregate amount of the contract, plus all change orders and extra work;
2. The amount expressly authorized by the Board at the time the contract or agreement is approved. If this subparagraph is used, the person delegating the authority to authorize the amendments or change order(s) shall formally advise the Board of all change order(s) made prior to completion of the project or within 30 days of the effective date of the amendment or change order, whichever occurs first.

6.4 Board. The Board of Commissioners must approve any bid award, contract or agreement for the purchase of goods or services, or intergovernmental agreement for an amount exceeding \$2,500. The Board President and the District Secretary, or such other person designated by the Board, may sign contracts, agreements, deeds and other documents on behalf of the District after the Board has approved such document.

6.5 Leases. The District's Secretary, or his/her designee, may enter into rental agreements or purchases with a term of less than one year.

6.6 Purchase Orders. All purchase orders must be signed by the District's Secretary or his/her designee. Those requiring Board approval (over \$2,500) may be signed and issued only after the appropriate Board action.

6.7 Written Contracts. All contracts and agreements for purchase of goods and services must be written documents, however, the District Secretary, or his/her designee, may waive the requirements for a written document for contracts in agreement of less than \$2,500 in value.

7. AMENDMENT OF PRIOR ORDINANCES

7.1 All prior Ordinance provisions pertaining to Contract Review Board and rules and procedures for District procurement are hereby declared void.

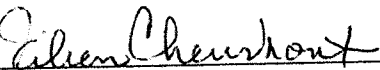
8. EFFECTIVE DATE

8.1 These rules and regulations adopted pursuant to this Resolution and Order shall become effective immediately upon adoption by the Board.

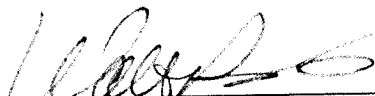
Passed by unanimous consent of the Board of Commissioners for Sundown Sanitary Sewer District this 18thth day of January, 2006.

SUNDOWN SANITARY SEWER
DISTRICT

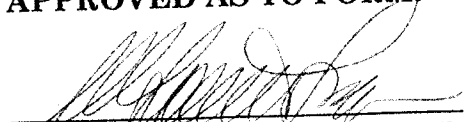
By: 
Steve McNulty, Board President

By: 
Eileen Chevront, Board Secretary

ATTEST:

By: 
Walt Postlewait, Board Member

APPROVED AS TO FORM:



W. Louis Larson, Attorney for District