

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 376**

4 \_\_\_\_\_  
5  
6 **Relating to public contracting; amending LCC 7.015 and 7.020; and declaring an**  
7 **emergency.**  
8 \_\_\_\_\_

9 WHEREAS Lincoln County Ordinance provides for the forfeiture of vehicles being  
10 driven by persons who are under the influence of intoxicants (DUII) and who have a past  
11 history of DUII (LCC 2.3000 to 2.3005, and ORS Chapter 475A); and

12 WHEREAS Forfeiture Counsel (Assistant County Counsel) has disposed of forfeited  
13 vehicles through public auctions in accordance with LCC 7.005 to 7.055, or by order  
14 pursuant to LCC 7.020(17)(a) and ORS 279.015(3)(b); and

15 WHEREAS Lincoln County Ordinance and Oregon law provide for the disposition  
16 of surplus county property (LCC 7.020(17)(a) and ORS 279.015(3)(b)), which often  
17 includes surplus county vehicles;

18 WHEREAS the Public Works Department has disposed of surplus vehicles through  
19 public auctions in accordance with LCC 7.005 to 7.055, or by surplus order pursuant to LCC  
20 7.020(17)(a) and ORS 279.015(3)(b);

21 WHEREAS those methods alone have proven to be an insufficient and time  
22 consuming mechanism to efficiently dispose of the forfeited and surplus vehicles;

NOTE: Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in boldfaced type.

1           WHEREAS Forfeiture Counsel and the Public Works Department have requested  
2 that the Board exempt the sale of those vehicles from the competitive bidding requirement,  
3 and permit other means of disposal, including sale by newspaper, radio, or television  
4 advertisement, transfer or abandonment to a wrecker or towing company, transfer to another  
5 public agency, or consignment sale through a vehicle dealer; and

6           WHEREAS ORS 279.015(2) permits the Board to exempt certain contracts from  
7 competitive bidding, and the Board has found that:

8           (1) It is unlikely that an exemption for forfeited and surplus vehicles as requested by  
9 Forfeiture Counsel and the Public Works Department will encourage favoritism in the  
10 awarding of public contracts or substantially diminish competition for public contracts; and

11           (2) The awarding of public contracts pursuant to the exemption for forfeited and  
12 surplus vehicles as requested by Forfeiture Counsel and the Public Works Department will  
13 result in substantial cost savings to the County; and

14           WHEREAS the exemption requested by Forfeiture Counsel and the Public Works  
15 Department will require amendment of certain provisions in LCC 7.005 to 7.055; and

16           WHEREAS LCC 7.005 to 7.055 is also in need of some minor technical updating in  
17 order to better fit within the public contracting scheme currently provided in ORS chapter  
18 279; therefore, the Lincoln County Board of Commissioners ordains as follows:

19       /////  
20       /////  
21       /////

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1            **SECTION 1.**

2            LCC 7.015 is amended to read:

3            **7.015 Definitions for LCC 7.005 to 7.055**

4            As used in LCC 7.005 to 7.055:

5            (1) "Competitive bidding" means the solicitation of competitive offers which follow  
6 the formal process for advertising, bid, and bid opening required by ORS chapter 279 and LCC  
7 7.020 to 7.050.

8            (2) "Competitive quotes" means the solicitation of offers from competing vendors.  
9 The solicitation may be by advertisement or a request to vendors to make an offer. The  
10 solicitation and the offer may be in writing or oral.

11            (3) "Public contracting officer" means the person or persons designated by the Board to  
12 negotiate public contracts for the county.

13            (4) "Public contract" means any purchase, lease, or sale **by the County** of personal  
14 property, public improvements, or services other than agreements which are [*exclusively*] for  
15 personal **service** [*services*].

16            ////

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1           **SECTION 2.**

2           LCC 7.020 is amended to read:

3           **7.020 Competitive Bidding; Exceptions; Exemptions**

4           All **public** contracts shall be based upon competitive bids or **proposals** except:

5           **(1) Contracts exempted pursuant to ORS 279.015, LCC 7.025, or LCC 7.030.**

6           **(2) [(1)]** Contracts made with, or the cost of which is provided by, other public  
7 agencies or the federal government.

8           *[(2) Contracts which are exclusively for personal services. Such contracts may include*  
9 *incidental materials such as written reports or opinions, architectural or engineering*  
10 *renderings, and other supplemental materials required for providing the services.]*

11           **(3)** Contracts for purchase of goods, materials, supplies, or services, or for construction,  
12 maintenance, repair, labor and material, or trade related projects, where the amount does not  
13 exceed \$25,000, **subject to the following:**

14           **(a)** If contracts are for \$15,000 or more, at least three competitive quotes shall be  
15 obtained where practicable. A written record shall be made containing the source and amount  
16 of quotes received. If three quotes are not available, a lesser number will suffice provided that  
17 a written record is made of the effort to obtain the quotes.

18           **(b)** If contracts are for more than \$1,000 but less than \$15,000, competitive quotes may  
19 be obtained where practicable.

20           **(c)** No contractor may be awarded, in the aggregate, within the fiscal year, contracts in  
21 excess of \$25,000 under this subsection without competitive bids. In computing the aggregate

1 under this subsection, awards under \$1,000 need not be included. Other exemptions contained  
2 in LCC 7.020 need not comply with the requirement of this subsection.

3 (4) Contracts for the purchase of goods or services if the rate or price for the goods or  
4 services being purchased is established by federal, state, or local regulatory authority.

5 (5) Contracts for the purchase of petroleum products if such purchase is required to be  
6 made from a particular supplier as a result of a federal allocation or if purchased from other  
7 than an established supplier could jeopardize an allocation or future supply of such petroleum  
8 products.

9 (6) Contracts for the purchase of copyrighted materials if there is only one supplier  
10 available for such goods.

11 (7) Contracts for the purchase of advertising, including that intended for the purpose of  
12 giving public notice.

13 (8) Contracts for the purpose of investment of public funds or the borrowing of funds.

14 (9) Purchase of goods or services from a supplier if the price of the goods and services  
15 has been established under a previously competitive bid requirements contract whereby it is  
16 agreed to purchase requirements or an anticipated need at a predetermined price.

17 (10) Contracts for purchase if there is only one seller or price of a product of the quality  
18 required available within a reasonable purchase area.

19 (11) Contracts for purchase or acquisition of data processing hardware or software may  
20 be let without competitive bid subject to the following conditions:

1 (a) Prior to selection of the contractor, reasonable efforts have been made to solicit  
2 proposals from all known vendors. If the amount of the contract exceeds \$10,000, written  
3 proposals shall be solicited from the appropriate vendors appearing on the list composed by the  
4 Data Systems Division of the Oregon Executive Department or by publication of an  
5 advertisement in a major trade publication of general circulation.

6 (b) The contractor is selected on the basis of the most competitive offer in both the cost  
7 and quality of the product to be purchased or acquired.

8 (c) Whenever a contract for data processing let pursuant to this exception exceeds  
9 \$5,000, a written report shall be submitted to the Board. The report shall include:

10 (A) The name of the company and, if applicable, the name of the retail vendor;

11 (B) The reasons why competitive bidding was not appropriate; and

12 (C) A description of the reasons why the contractor was selected and other proposals  
13 rejected.

14 (12) Contracts for insurance.

15 (13) Any contract amendment, including change orders, extra work, field orders, or  
16 other change in the original specifications which changes the original contract price or alters  
17 the work to be performed, may be made with the contractor subject to the following  
18 conditions:

19 (a) The original contract imposes a binding obligation on the parties covering the terms  
20 and conditions regarding changes in the work;

1 (b) The amended contract does not substantially alter the scope or nature of the project;  
2 and

3 (c) If the amendment has the effect of substantially altering the scope or nature of the  
4 project, the amount of the aggregate cost change resulting from all amendments creating such  
5 new obligations shall not exceed 10 percent of the initial contract.

6 (14) Contracts for the purchase of services, equipment, or supplies for the maintenance,  
7 repair, or conversion of existing equipment are exempt if required for the efficient utilization of  
8 the equipment. Where practicable, competitive quotes shall be obtained.

9 (15) Contracts for the purchase of asphaltic concrete and rock where the material is to  
10 be used for maintenance. If practicable, competitive quotes shall be obtained.

11 (16) Contracts for the purchase of materials if competitive bids for the same materials  
12 have been obtained by the State of Oregon or other public contracting agency or entity, the  
13 contract is awarded to the same party that the State or public agency or entity dealt with, and  
14 the price of the materials is the same or lower than that paid by the State or public agency or  
15 entity.

16 (17)(a) Personal property may be disposed of without competitive bidding under any of  
17 the following conditions:

18 (A) There are specific statutory procedures for the sale of the type of property involved  
19 and the property is disposed of according to those procedures;

20 (B) The property has a value of less than \$500 unless otherwise provided by statute; or

1 (C) The public contracting officer finds that competitive bids would be inappropriate  
2 for the type of property involved.

3 (b) A report of all sales made under this subsection shall be made to the Board and  
4 shall include the reasons that competitive bids were deemed inappropriate.

5 (18) Requirements contracts under which purchase requirements for an anticipated  
6 need at a predetermined price are allowed, provided that the original contract be let by  
7 competitive bid process and that the term of the requirements contract not exceed three years.

8 **(19)(a) Sale or disposal of vehicles forfeited pursuant to LCC 2.3000 to 2.3005, the**  
9 **DUII forfeiture ordinance, and sale or disposal of county vehicles declared as surplus by**  
10 **Board resolution entered pursuant to subsection (17) of this section and ORS**  
11 **279.015(3)(b). Those vehicles may be sold or disposed of at the direction of County**  
12 **Counsel, by any one or more of the following means:**

13 **(A) Displaying a price on the vehicle, and displaying the vehicle on county**  
14 **property in a location within public view, in which case an offer may be accepted for**  
15 **purchase of the vehicle if the offer is within 75% of the price displayed on the vehicle;**

16 **(B) Advertising a price for the vehicle on locally broadcasted radio or television,**  
17 **or in the vehicle sale section of a newspaper of general circulation in Lincoln County, in**  
18 **which case an offer may be accepted for purchase of the vehicle which is within 75% of**  
19 **the price stated in the advertisement;**

20 **(C) Public oral auction, with or without minimum bid;**

21 **(D) Transfer to another public agency;**

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1 (E) Transfer or abandonment to a vehicle wrecker or towing business licensed  
2 under ORS 822.100 to 822.230; or

3 (F) Consignment sale through a vehicle dealer licensed pursuant to ORS 822.005  
4 to 822.080.

5 (b) Purchase of vehicles at auction.

6 (c) For the purpose of facilitating sale, disposal, and purchase of vehicles pursuant  
7 to this subsection, County Counsel may elect to apply for, and obtain, a vehicle dealer  
8 license on behalf of the county in accordance with ORS 822.005 to 822.080.

9 **SECTION 3.**

10 This Ordinance being necessary for the immediate preservation of the public peace,  
11 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon  
12 its passage.

DATED this 25<sup>th</sup> day of March, 1998.

LINCOLN COUNTY BOARD OF COMMISSIONERS

*excused*

\_\_\_\_\_  
Jean Cowan, Chair

*Nancy E. Leonard*  
\_\_\_\_\_  
Nancy E. Leonard, Commissioner

*Don Lindly*  
\_\_\_\_\_  
Don Lindly, Commissioner

ATTESTED TO:

*Judy Eames*  
\_\_\_\_\_  
Judy Eames, Recorder

APPROVED AS TO FORM:

*Wayne Belmont*  
\_\_\_\_\_  
Wayne Belmont, County Counsel

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