

ORDINANCE NO. 2026-01

AN ORDINANCE OF CITY OF PRAIRIE CITY ADOPTING PUBLIC CONTRACTING RULES AND PROCEDURES, APPROVING CERTAIN CLASS SPECIAL PROCUREMENTS, AND REPEALING AND REPLACING CITY ORDINANCE NO. 2018-01.

WHEREAS, City of Prairie City ("City") is a municipality in the State of Oregon subject to Oregon's public contracting laws; and

WHEREAS, the Prairie City Council (the "Council") serves as City's local contract review board ("LCRB"); and

WHEREAS, on or about April 11, 2018, the Council adopted City Ordinance No. 2018-01, which ordinance concerned certain public contracting rules and procedures; and

WHEREAS, the Council has determined it is necessary and appropriate to repeal and replace City Ordinance No. 2018-01; and

WHEREAS, pursuant to ORS 279A.065(6), City may adopt its own rules of procedure for public contracting that (a) specifically state that the model rules adopted by the Oregon Attorney General do not apply to the contracting agency, and (b) prescribe the rules of procedure that the contracting agency will use for public contracts, which may include portions of the model rules adopted by the Oregon Attorney General; and

WHEREAS, the Oregon Public Contracting Code (the "Code") allows City to establish class special procurements and exemptions to provide for the award of one or more contracts for one or more projects within certain classes without following the competitive sealed bidding, competitive sealed proposal, or small or intermediate procurement methods that would otherwise be required under the circumstances; and

WHEREAS, by the passage of this Ordinance No. 2026-01 (this "Ordinance"), City will establish local rules and procedures governing public contracts, and adopt class special procurements and exemptions, subject to the terms and conditions contained in this Ordinance.

NOW, THEREFORE, the City of Prairie City ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance will be known as the "City of Prairie City Public Contracting Ordinance."
3. Adoption. The Council hereby adopts the Oregon Attorney General's Model Public Contracting Rules (the "Model Rules"), Oregon Administrative Rules Chapter 137, Divisions 46, 47, 48, and 49, except for those provisions modified or replaced by the Public Contracting Rules and Procedures attached hereto as Exhibit A (the "Public Contracting Rules"), as the public contracting rules for City, as such Model Rules and Public Contracting Rules presently exist or as they may be amended in the future. If any conflict between the Model Rules and the Public Contracting Rules

should arise, the Public Contracting Rules will control unless otherwise provided by the Code. The Code will control if any conflict between the Public Contracting Rules and the Code should arise. The Model Rules, Public Contracting Rules, and any amendments to the Model Rules or Public Contracting Rules, will collectively be referred to as the City of Prairie City Public Contracting Rules (the "Rules").

4. Repeal. This Ordinance repeals and replaces City Ordinance No. 2018-01 and all other City public contracting regulations, rules, procedures, practices, and/or policies in their entirety. City Ordinance No. 2018-01 and all other City public contracting regulations, rules, procedures, practices, and/or policies will be of no further force and effect as of the effective date of this Ordinance.

5. Class Special Procurements and Exemptions. The Council hereby approves and adopts the Class Special Procurements and Exemptions contained in the attached Exhibit B and the applicable Findings in Support of Adopting Class Special Procurements and Exemptions contained in the attached Exhibit C.

6. Electronic Advertising. The Council hereby finds that electronic publication of notices and/or advertisements concerning (a) class special procurements and exemptions, and (b) solicitations for goods, services, and/or public improvement contracts, in lieu of publication in a newspaper of general circulation, is likely to be cost effective.

7. Amendment; Review. The Council may amend the Public Contracting Rules at any time in the same manner as that required for the Council to adopt an ordinance. City will regularly review the Rules to ensure that the Rules are consistent with applicable law.

8. Interpretation; Severability; Corrections. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected at any time by order of the Council to cure editorial and/or clerical errors.

APPROVED AND ADOPTED by the City Council of the City of Prairie City and signed by the Mayor this ____ day of _____, 2026.

Ayes: _____

Nays: _____

Abstentions: _____

Absent: _____
Vacancies: _____

Colby Bradford, Mayor

ATTEST:

Shonalie Oakes, City Recorder

Exhibit A
Public Contracting Rules and Procedures

A. Delegation.

1. Except as otherwise provided by the Rules, the powers and duties given to the LCRB by the Code and/or the Model Rules must be exercised and performed by the Council.

2. Except as otherwise limited by the Council or the Rules, all powers and duties given or assigned to local contracting agencies by the Rules may be exercised or performed by the mayor, including, without limitation, the authority to enter into emergency contracts pursuant to ORS 279B.080 and 279C.320.

3. All public contracts or amendments to public contracts with an estimated cost that is greater than \$25,000 must be approved by the Council. All public contracts or amendments to public contracts with an estimated cost equal to or less than \$25,000 may be entered into by the mayor without Council approval. The mayor may, by written designation, allow other City staff members to enter into public contracts or amendments to public contracts with an estimated cost of \$5,000 or less without Council approval. However, emergency contracts may be entered into by either the Council or the mayor pursuant to Section F of these Rules, regardless of dollar limits, but subject to ORS 294.481.

4. For purposes of the Rules, the "mayor" means City's then-elected mayor and/or his or her designee. References in the Model Rules to the "contracting officer" will refer to the mayor.

B. Personal Services.

1. Definitions. "Personal Service(s)" is defined to include those services that require specialized technical, creative, professional, or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, without limitation, the following: attorneys, accountants, auditors, and other licensed professionals; information technology service providers/specialists; computer programmers; artists; graphic designers; performers; and consultants. The mayor may determine whether any additional service not specifically mentioned in this Section B.1 is a "Personal Service" under this definition. "Personal Services Contract(s)" means a contract for the provision of Personal Services.

2. Contracts for Personal Services. Except as provided in Section B.3, below, Personal Services Contracts may be directly appointed, or awarded from proposals that are solicited informally, either orally or in writing. When proposals are sought, they will be solicited from a sufficient number of qualified prospective proposers to ensure that no fewer than two qualified proposers submit proposals. If fewer than two qualified proposers submit proposals, the efforts made to solicit proposals will be documented in City's files. The selection may be based on criteria, including, without limitation, each proposer's (a) particular capability to perform the services required, (b) experienced staff available to perform the services required, including each proposer's recent, current, and projected workloads, (c) performance history, (d) approach and philosophy used in providing services, (e) fees and/or costs, and/or (f) ability to provide timely performance in the area where the services are to be performed. Price may be considered but need not be the determining factor. Proposals may also be solicited formally by using a written request for proposals and providing public notice, at City's discretion.

3. Contracts for Architectural, Engineering, Surveying, and Related Services. Personal Services Contracts for architectural, engineering, photogrammetric mapping, transportation planning, land surveying, and/or related services, all as defined by ORS 279C.100, will be awarded in accordance with the source selection procedures set forth in ORS Chapter 279C and Division 48 of the Model Rules (except as otherwise provided in these Rules). Notwithstanding the foregoing, such Personal Services Contracts may be awarded pursuant to ORS 279C.110(10)-(11), ORS 279C.115, or 279C.120 when applicable. When using the informal selection procedure described in OAR 137-048-0210, the mayor will submit a request for proposals to a minimum of three prospective consultants drawn from the following: (a) City's list of consultants that is created and maintained pursuant to OAR 137-048-0120; (b) another contracting agency's list of consultants that is created and maintained pursuant to OAR 137-048-0120; or (c) all consultants that City reasonably can locate under the circumstances that offer the desired architectural, engineering, photogrammetric mapping, transportation planning, land surveying, or related services, or any combination of the foregoing. When the mayor is unable to locate three prospective consultants from the sources listed above, the mayor will submit requests for proposals to those prospective consultants identified from the sources listed above and document efforts to locate a minimum of three prospective consultants.

C. Special Procurements; Exemptions.

1. The Council may exempt certain contracts or classes of contracts for the procurement of goods and/or services from the solicitation and procurement methods that would

otherwise be required under the circumstances according to the procedures described in ORS 279B.085. In accordance with OAR 137-047-0285(2), City will give public notice of the Council's approval of a special procurement for goods and/or services in the same manner as public notice of competitive sealed bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice will describe the goods and/or services or class of goods and/or services to be acquired through the special procurement. City will give affected persons at least seven days from the date of the notice of approval of the special procurement to protest the special procurement.

2. The Council may exempt certain contracts or classes of contracts for public improvements from the solicitation and procurement methods that would otherwise be required under the circumstances according to the procedures described in ORS 279C.335. When exempting a public improvement from competitive bidding, the Council may authorize the contract to be awarded using a request for proposal process for public improvements, according to the processes described in OAR 137-049-0640 through 137-049-0690.

D. Small Procurements.

1. Public contracts for goods and/or services in the amount of \$25,000 or less may be awarded in any manner that City deems practical or convenient, including by direct selection or award. The mayor may make a reasonable effort to obtain competitive quotes in order to ensure the best value for City. City may amend a public contract awarded as a small procurement beyond the \$25,000 limit in accordance with OAR 137-047-0800, provided the cumulative amendments do not increase the total contract price to a sum that is greater than \$31,250.

2. Public contracts for public improvements with a contract price of less than \$25,000 are not subject to competitive bidding requirements. The mayor may make reasonable efforts to obtain competitive quotes to ensure the best value for City.

E. Intermediate Procurements.

1. A public contract for goods and/or services that exceeds \$25,000, but does not exceed \$250,000, may be awarded according to the procedures for intermediate procurements described in ORS 279B.070(4). City may amend a public contract awarded as an intermediate procurement in accordance with OAR 137-047-0800.

2. A public contract for a public improvement estimated by City to not exceed \$100,000 may be awarded according to the procedures for intermediate procurements described in OAR 137-049-0160. City may increase the contract price of a public improvement awarded as an intermediate procurement through change order or amendment pursuant to OAR 137-049-0160.

F. Emergency Contracts.

1. For purposes of this Section F, the term "emergency" is defined as circumstances and/or conditions that (a) could not have reasonably been foreseen, (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare, or safety, and (c) require prompt execution of a contract to remedy the circumstance and/or condition.

2. The mayor has the authority to determine when an emergency exists sufficient to warrant an emergency contract. The nature of the emergency and the method used for the selection of the contractor will be documented.

3. Emergency contracts may be awarded as follows:

a. Goods and Services. Emergency contracts for the procurement of goods, services, and construction services that do not constitute public improvements may be awarded pursuant to ORS 279B.080 and Section A, "Delegation," of these Public Contracting Rules.

b. Construction Services. City hereby adopts the procedures of OAR 137-049-0150 for awarding contracts for construction services under emergency conditions. For emergency contracts awarded under this section, City will ensure competition that is reasonable and appropriate under the emergency circumstances which may include, without limitation, written requests for offers, oral requests for offers, or direct appointment without competition in cases of extreme necessity.

G. Appeals of Prequalification Decisions and Debarment Decisions.

1. An appeal of City's prequalification and debarment decisions regarding bidders or proposers providing goods and/or services will be as set forth in ORS 279B.425. The procedures in ORS 279B.425 will apply to hearings on such decisions.

2. An appeal of City's disqualification or denial, revocation, or revision of a prequalification of any bidder or proposer for public improvement contracts will be as set forth in ORS 279C.445 and 279C.450. The procedures in ORS 279C.450 will apply to hearings on such disqualification or denial, revocation, or revision of a prequalification.

H. Cooperative Purchases. Subject to applicable Council approval requirements stated in the Rules, City may purchase goods under the Oregon Cooperative Procurement Program ("OCP") or from any similar federal or regional program, including, without limitation, programs pursuant to 10 USC 281 and the E-Government Act of 2002 (Public Law 107-347). Purchases under other federal or state programs will be permitted upon a finding by the Council that the program is sufficiently similar to the OCP and/or programs pursuant to the aforementioned federal laws in effectuating or promoting transfers of property between contracting agencies.

I. Electronic Notices and Advertising. Pursuant to ORS 279B.055, 279B.085, and 279C.360, electronic publication of notices and/or advertisements of solicitation documents, public contracts, and/or class special procurements, in lieu of publication in a newspaper of general circulation in the area where the contract is to be performed, is authorized when it is likely to be cost effective to do so. The mayor will have the authority to determine when electronic publication is appropriate and consistent with City's public contracting policies. When electronic publishing, advertising, and/or posting is permitted under the Code and/or the Rules, electronic notices and/or advertisements may be published on City's official website. Notwithstanding the foregoing, a public improvement contract with an estimated cost in excess of \$125,000 will also be advertised in at least one trade newspaper of general statewide circulation.

J. Brand Names or Products, "or Equal." City may only specify brand name products and enter into public contracts for such specified brand name products in accordance with the requirements of this Section J. Solicitation specifications for public contracts must not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in Section J.1 and J.2. City may specify a particular brand name, make, or product suffixed by "or equal," "or approved equal," "or equivalent," "or approved equivalent," or similar language when the use of a brand name or equal specification is advantageous to City, because the brand name describes the standard of quality, performance, functionality, and/or other characteristics of the product needed by City.

1. Specifications for Goods. A brand name specification may be prepared and used by City only if the procurement file is documented with the following written information: (a) a brief description of the solicitation(s) to be covered including volume of contemplated future purchases; (b) the brand name, mark, or product to be specified; and (c) the needs and reasons for seeking this procurement method, including, without limitation, a determination that (i) it is unlikely that specification of the brand name, mark, or product will encourage favoritism in the award of the public contracts or substantially diminish competition, (ii) specification of the brand name, mark, or product would result in substantial cost savings to City, (iii) there is only one manufacturer or seller of the product of the quality, performance, or functionality required, and/or (iv) efficient utilization of existing equipment and/or supplies requires the acquisition of compatible equipment and/or supplies.

City will make reasonable efforts to notify all known suppliers of the specified product and invite such suppliers to submit competitive bids or proposals or document the procurement file with findings of current market research to support the determination that the product is available from only one seller.

2. Specifications for Public Improvements. Specifications for public improvement contracts may not expressly or implicitly require any product by any brand name or mark, nor the product of any particular manufacturer or seller unless the Council exempts certain products or classes of products by making any of the following findings: (a) it is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; (b) the specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to City; (c) there is only one manufacturer or seller of the product of the quality required; and/or (d) efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

K. Single Seller and Sole Source.

1. Sole Source Purchasing. City may purchase a particular product or service available from only one source if City meets the requirements of ORS 279B.075 and OAR 137-047-0275. Prior to purchase and in accordance with ORS 279B.075, City must determine in writing that the product or service is available from only one seller or source. City's single seller/sole source determination (which will be placed in the procurement file) will include the following: (a) a description of the product or service to be purchased; (b) a brief description of the contract or contracts to be covered

including volume of contemplated future purchases; and (c) City's findings in support of a single seller/sole source which may include those items listed in ORS 279B.075(2).

2. Sole Source, Multiple Purchases. If City intends to make several purchases of the product of a particular manufacturer or seller over an extended period, City must so state in the solicitation file, the solicitation document, if any, and the public notice required pursuant to OAR 137-047-0275(2). Such documentation and public notice constitute sufficient notice as to subsequent purchases. Such purchase may not be made for a period in excess of five years without new findings supporting continuation of the sole source procurement.

L. Disposal of Surplus Personal Property.

1. Methods of Disposal. The Council must declare personal property to be surplus prior to disposal. Surplus property may be disposed of by any of the methods described in this Section L.1 upon a determination by the mayor that the method of disposal is in the best interest of City. Factors that may be considered by the mayor include costs of sale, administrative costs, and public benefits to City.

a. Without competition, by transfer or sale to another government department or public agency.

b. By publicly advertised auction to the highest bidder.

c. By publicly advertised invitation to bid to the highest bidder.

d. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with the Code and the Rules.

e. The mayor may establish a fixed selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

f. By trade-in, in conjunction with the acquisition of other price-based items under a competitive solicitation. The solicitation must require the offer to state the total value assigned to the surplus property to be traded.

g. By donation to any organization operating within or providing a service to City's residents, which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

2. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by disposal as waste. Prior to disposing of property pursuant to this Section L.2, the City official proposing to dispose of the property will obtain a written confirmation from another City official determining that the value of the property is less than \$500 or that the cost of selling the property is likely to exceed sale proceeds. The City official making the disposal will make a record of the value of the item and the manner of disposal.

3. Personal-Use Items. An item (or indivisible set) of specialized and personal use with a current value of less than \$150 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the responsible City department head.

4. Restriction on Sale to Employees. City employees may not compete, as members of the public, for the purchase of publicly-sold surplus property.

5. Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, City will make, execute, and deliver a bill of sale or similar instrument signed on behalf of City, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

6. Notice to Finance Department. Notice of any disposal of surplus property should be provided to City's finance department to remove the property from City's asset list and discontinue any applicable insurance coverage.

M. Federal Funding. In compliance with ORS 279A.030, except as otherwise expressly provided in ORS 279C.800 through ORS 279C.870, and notwithstanding ORS Chapters 279A and 279B and ORS 279C.005 through 279C.670, applicable federal statutes and regulations govern when federal funds are involved with a public contract and the federal statutes or regulations conflict with any provision of ORS Chapters 279A or 279B, ORS 279C.005 through 279C.670, or the Rules, or require additional conditions in public contracts not authorized by ORS Chapters 279A or 279B, ORS 279C.005 through 279C.670, or the Rules. Any time federal funding is provided to City that will be used in connection with a public contract, City will comply with the federal procurement standards stated in 2 CFR part 200, subpart D.

N. Conflicts of Interest. All City officials, officers, employees, agents, and volunteers engaged in the selection, award, and/or administration of public contracts must abide by the requirements of ORS 244.120, ORS 244.130, and the Guide for Public Officials published by the Oregon Government Ethics Commission with regard to conflicts of interest. Penalties for violations of ORS Chapter 244 are stated in ORS 244.350 and other discipline for conflict-of-interest violations may be imposed pursuant to City's charter, ordinances, code, regulations, rules, policies, and/or manuals.

Exhibit B
Class Special Procurements and Exemptions

City may award a public contract as a class special procurement pursuant to the requirements of ORS 279B.085. Such procurements allow City to enter into one or more contracts over time without following the requirements of competitive sealed bidding, competitive sealed proposals, and/or small or intermediate procurements. The Council declares the procurements listed below as class special procurements. Unless otherwise specified in a particular class special procurement rule, the goods and services identified below may be procured in any manner that the mayor deems appropriate to City's needs, including, without limitation, by direct appointment. Except as otherwise provided, the mayor will make a record of the method of procurement.

1. Advertising Contracts, Purchase Of. The mayor, acting on behalf of City, may procure media advertising, regardless of dollar value, without competitive bidding.

2. Advertising Contracts, Sale Of. The mayor, acting on behalf of City, may authorize the sale of advertising in City publications and for City activities, regardless of dollar value, without competitive bidding.

3. Equipment Repair and Overhaul.

 a. Conditions. The mayor, acting on behalf of City, may procure equipment repair and/or overhaul without competition, including by direct appointment, if (i) service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing, and/or (ii) 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. City purchases under this rule must be within the limits and pursuant to the methods in Section 3.b of this rule.

 b. Process and Criteria. The mayor will use competitive procurement methods whenever practical to achieve best value and must document in the procurement file the reasons why a competitive process was deemed to be impractical. If the anticipated purchase is more than \$250,000, competitive quotes must be obtained and retained in the procurement file.

4. Purchase of Used Personal Property. If the anticipated purchase does not exceed \$250,000, the mayor, acting on behalf of City, may directly procure used personal property and equipment if such property is suitable for City's needs, can be purchased for a lower cost than substantially similar new property, and such purchase is otherwise cost effective. City's research in determining that the property can be purchased for a lower cost than substantially similar new property must be documented in the procurement file. For the purpose of this rule, the analysis of cost effectiveness will include considerations such as type, quality, quantity, cost, and estimated useful life of the used item.

5. Information Technology Products and Services. The mayor, acting on behalf of City, will procure information technology products and services using competitive procurement methods whenever practical to achieve best value. The reasons why a competitive process was deemed to be impractical must be documented in the procurement file. Unless deemed impractical, information technology products and services will be solicited in accordance with the

following: (a) if the anticipated purchase price is more than \$25,000 but does not exceed \$250,000, competitive quotes or proposals will be obtained and retained in the procurement file pursuant to the Rules governing intermediate procurements; and (b) if the anticipated purchase price exceeds \$250,000, City will solicit written competitive bids or proposals in accordance with the Rules governing invitations to bid or requests for proposals, as applicable.

6. Internet and Telecommunications Systems - Hardware and Software. The mayor, acting on behalf of City, will procure internet and telecommunications systems hardware and software using competitive procurement methods whenever practical to achieve best value. The reasons why a competitive process was deemed to be impractical must be documented in the procurement file. Unless deemed impractical, internet and telecommunications systems hardware and software will be solicited in accordance with the following: (a) if the anticipated purchase is more than \$25,000 but does not exceed \$250,000 competitive quotes or proposals will be obtained and retained in the procurement file pursuant to the Rules governing intermediate procurements; and (b) if the anticipated purchase exceeds \$250,000, City will solicit written competitive bids or proposals in accordance with the Rules governing invitations to bid or requests for proposals, as applicable.

7. Internet and Telecommunications Services. The mayor, acting on behalf of City, may procure internet and telecommunications services without competitive procurement methods if no competition exists within the area for the service required. To determine whether competition exists, the mayor will consider the following factors: (a) determination of alternative providers available within the geographic and service market area; (b) the extent to which alternative services offered are comparable or substitutable in technology, service provided, and performance; and (c) the extent to which alternative providers can respond to City's interest in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management, and limiting City liability. City will use competitive methods whenever possible to achieve best value. If competition exists (as determined herein) and the anticipated purchase is more than \$25,000 but does not exceed \$250,000, competitive quotes or proposals will be obtained and retained in the procurement file pursuant to the Rules governing intermediate procurements. If the anticipated purchase exceeds \$250,000, City will solicit written competitive bids or proposals in accordance with the Rules governing invitations to bid or requests for proposals, as applicable.

8. Copyrighted and Library Materials. The mayor, acting on behalf of City, may procure copyrighted materials when there is only one known supplier available for such goods. This includes, without limitation, new books, periodicals, curriculum materials, reference materials, audio and visual media, and non-mass marketed software from a particular publisher or its designated distributor.

9. Requirements Contracts. The mayor, acting on behalf of City, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of products, securing a source of supply, reducing inventory, combining City requirements for volume discounts, standardization among City departments, and/or reducing lead time for ordering. Purchases under requirements contracts may be utilized in accordance with the following: (a) the requirement contract must have originally been let by competitive procurement procedures unless otherwise allowed by the Rules; (b) City departments may purchase the goods or services from the

awarded contractor without first undertaking additional competitive procurement procedures; and (c) the term of any City requirements contract, including renewals, will not exceed five years unless otherwise exempted pursuant to ORS 279B.085.

10. Purchases under Federal Contracts. When the price of goods and/or services has been established by a contract of the federal government pursuant to a federal contract award, the mayor, acting on behalf of City, may procure the goods and/or services in accordance with the federal contract without undertaking competitive procurement procedures. In exercising its authority under this special procurement, City will obtain and document permission from the appropriate federal agency to purchase under the federal contract and document the cost savings to be gained by City from the anticipated purchases under the federal contract. City will not contract pursuant to this rule in the absence of a cost savings to City by using this method.

11. Hazardous Waste, Material, and Substances Removal and Cleanup. The mayor, acting on behalf of City, may directly procure services to remove and/or clean up hazardous waste, hazardous material, hazardous substances, and/or oil from any vendor in an emergency and/or when ordered to do so by the Oregon Department of Environmental Quality ("DEQ"). In doing so, the following conditions apply:

a. To the extent reasonable under the circumstances, City will encourage competition by attempting to obtain informal price quotations or proposals from potential suppliers of goods and services;

b. The department responsible for managing or coordinating the cleanup will provide a written description of the circumstances that require the cleanup and/or a copy of the DEQ order for the cleanup to the mayor, together with a request for contract authorization;

c. The timeline for cleanup must not permit use of intermediate procurement procedures; and

d. The department responsible for managing or coordinating the cleanup will document whether there was time for a competitive procurement, and, if so, the measures taken to encourage competition, the amount of the price quotations obtained, if any, and the reason for selecting the contractor to whom a contract award is made.

12. Insurance—Employee Benefit and Other. City may purchase employee benefit insurance and other insurance without competitive bidding, regardless of dollar amount, subject to the terms of any collective bargaining agreement between City and represented employee groups.

13. Disposal of Abandoned, Seized, and/or Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned, seized, and/or other personal property not owned by City at the time City obtains possession of such property are not subject to competitive procurement procedures. The mayor may select any method of disposal including, without limitation, donation to a charitable organization.

14. Temporary Extensions or Renewals. City may enter into contracts for a single period of one year or less for the temporary extension or renewal of an expiring and non-

renewable or recently expired contract, other than contracts for public improvements, without undertaking competitive procurement procedures.

15. Temporary Use of City Property. City may negotiate and enter into a license, permit, and/or other contract for the temporary use of City-owned property without using a competitive selection process under the following circumstances: (a) the contract results from an unsolicited proposal to City based on the unique attributes of the property or the unique needs of the proposer; (b) the proposed use of the property is consistent with City's use of the property and the public interest; and (c) City reserves the right to terminate the contract without penalty, in the event that City determines that the contract is no longer consistent with City's present or planned use of the property or the public interest.

16. Sponsorship Agreements. Sponsorship agreements under which City receives or makes a gift, donation, or consideration in exchange for official recognition may be awarded by any method deemed appropriate by City, including, without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.

17. Concession Agreements. City may enter into contracts that grant a franchise or concession to a private entity, individual, or other government to promote or sell, for its own business purposes, specified types of goods or services from City property and under which the concessionaire or promoter makes payments to City based, at least in part, on the concessionaire's revenues from sales or the value of such promotion to the sponsor's business, whether on or off City property. A concession agreement does not include an agreement which represents a rental, lease, license, permit, or other arrangement for the use of public property. Concession agreements may be procured by any method deemed appropriate by the mayor, including, without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.

18. Donated Materials and/or Services. City may accept donated services and/or materials regardless of dollar amount under the following circumstances: (a) the donor has agreed to donate all, or a portion of, the materials and/or services necessary to complete a project; and (b) the donor enters into an agreement with City whereby the donor agrees to comply with public contracting requirements applicable to the particular project and any requirements that City deems necessary or beneficial.

19. Gasoline, Diesel Fuel, Heating Oil, Lubricants, Gravel, and Asphalt. City may enter into contracts for gasoline, diesel fuel, heating oil, lubricants, gravel, and/or asphalt without competitive bidding subject to the following: (a) prior to selection of the contractor, City obtains quotes (written or oral) from at least three vendors; (b) City makes its purchase from the least expensive source of those providing quotes; and (c) the reasons why a formal competitive process was deemed to be impractical must be documented in the procurement file.

20. Use of Existing Contractors. When a public improvement is in need of minor alteration, repair, or maintenance at or near the site of work being performed by a City contractor, City may hire that contractor to perform such work subject to the following: (a) the contractor was hired through a competitive selection process or as otherwise permitted by the Rules; (b) the mayor first obtains a price quotation for the additional work from the contractor that is competitive and reasonable; (c) the total cost of the proposed work will not exceed the threshold specified in ORS

279C.810(2)(a); and (d) the original contract is amended to reflect the new work and is approved by the mayor and/or Council (as applicable) before work begins.

Exhibit C

Findings in Support of Adopting Class Special Procurements and Exemptions

ORS 279B.085 authorizes the LCRB, upon adoption of appropriate findings, to establish special selection, evaluation, and procurement procedures for, or exempt from competition, the award of a specific contract or classes of contracts. Pursuant to that authority, after published notice, the Council approves the specific findings for the establishment of special solicitation

methods for the classes of public contracts described below. The Council finds that the establishment of each class of contract and the methods approved for their award are unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts, and will result in substantial cost savings to City, and/or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, or 279B.070, or under any rules adopted thereunder.

1. Advertising Contracts.

a. Alternate Procurement Process. Method of procurement determined by the mayor at his or her discretion.

b. Cost Savings and Other Benefits. The size and frequency of average advertisement (including all notices required to be published by City by applicable statute or regulation) does not justify the cost of solicitation. The time period between recognition of the need to advertise and the necessary date of advertisement is too short to issue a solicitation, evaluate bids or proposals, and award an advertising contract.

c. Effect on Competition. The potential market is limited because not all advertisers work in all markets. Choice of advertising medium is somewhat price sensitive but is primarily driven by location and size of circulation compared to City's target audience.

d. Effect on Favoritism. Minimal effect on favoritism due to the lack of competitors and specialized contracting needs.

2. Advertising Contracts, Sale of.

a. Alternate Process. The mayor may authorize the sale of advertising in City publications and for City activities, regardless of dollar value, without competitive bidding.

b. Cost Savings and Other Benefits. Avoids an unnecessary solicitation expense.

c. Effect on Competition. The sale of advertising is not generally for the purpose of generating revenue for City but rather is utilized to offset the cost of publication. Businesses generally purchase advertising space in the spirit of goodwill and as a means of supporting community activities.

d. Effect on Favoritism. Minimal since any interested individual or business desiring to advertise may do so by contacting City staff.

3. Equipment Repair and Overhaul.

a. Alternate Procurement Process. Noncompetitive procurement is permitted, including direct appointment; however, competitive methods will be used whenever practical to achieve best value. In situations where a competitive process is deemed to be impractical, the

reasons must be documented in the procurement file. If the anticipated purchase price exceeds \$250,000, competitive quotes must be obtained and retained in the procurement file.

b. Cost Savings and Other Benefits. The need for equipment repair cannot be planned for and often must be executed on an expedited basis to avoid additional expense and adverse impact on the public's ability to utilize City's services. Experience with a single contractor can help improve reliability over the course of several projects.

c. Effect on Competition. Allows a contractor to be selected based on ability to provide accurate, reliable, efficient, and timely service, which encourages competitive contract performance with the option to replace a contractor who does not maintain the aforementioned attributes.

d. Effect on Favoritism. Requirement that City must obtain competitive quotes for purchases anticipated to exceed \$250,000 and otherwise must use competitive methods whenever practical or else document the reasons why a competitive process was deemed impractical will prevent favoritism.

4. Purchase of Used Personal Property.

a. Alternate Procurement Process. Method of procurement determined by the mayor at his or her discretion.

b. Cost Savings and Other Benefits. City is responsible for managing expenditures in the best interests of the public. Cost savings can be achieved through the purchase of used property and equipment in certain instances. City purchases used property and equipment when it meets City's needs and is cost effective. Considerations include type, quality, quantity, cost, and estimated useful life of the used item.

c. Effect on Competition. No impact on competition as this class special procurement allows City to respond to unique opportunities that become available sporadically and without notice. Used equipment and property are usually sold on a first-come, first-served basis. When used equipment or property becomes available, City must be able to respond immediately to obtain the property or equipment.

d. Effect on Favoritism. No impact on favoritism since City is responding to unique opportunities. When a used item is available, there is often little competition available and sources for used items of the type, quality, and quantity required by City are inconsistent.

5. Information Technology Products and Services.

a. Alternate Procurement Process. Competitive methods will be used whenever practical to achieve best value. In situations where a competitive process is deemed to be impractical, the reasons must be documented in the procurement file.

b. Cost Savings and Other Benefits. Rapid changes in technology and technology pricing make it necessary for City to be able to purchase needed information

technology products and services quickly. It is frequently possible to take advantage of lower pricing due to the frequent price changes in the marketplace.

c. Effect on Competition. Generally, there is sufficient competition among information technology vendors and service providers for City to secure competitive quotes or proposals. City is required to make a good-faith effort to secure competitive quotes or proposals when practical under this rule.

d. Effect on Favoritism. Minimal effect on favoritism as City is required to obtain competitive quotes or proposals when practical. As price is the primary factor, it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts.

6. Internet and Telecommunications Systems – Hardware and Software.

a. Alternate Procurement Process. Competitive methods will be used whenever practical to achieve best value. The reasons why a competitive process was deemed to be impractical must be documented in the procurement file.

b. Cost Savings and Other Benefits. Rapid changes in technology and technology pricing make it necessary for City to be able to purchase needed internet and telecommunications hardware and software quickly. It is important that City be able to take advantage of price competition in the marketplace.

c. Effect on Competition. There is generally sufficient competition among vendors of internet and telecommunications hardware and software for City to secure competitive quotes or proposals. City is required to make a good-faith effort to secure competitive quotes or proposals when practical under this rule.

d. Effect on Favoritism. Minimal effect on favoritism as City is required to obtain competitive quotes or proposals when practical. As price is the primary factor, it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts.

7. Internet and Telecommunications Services.

a. Alternate Procurement Process. The mayor may procure internet and telecommunications services without competitive procurement methods if no competition exists within the area for the service required.

b. Cost Savings and Other Benefits. The mayor will use competitive methods wherever possible to achieve best value. If competition exists, competitive quotes or proposals will be obtained.

c. Effect on Competition. It is important that City take advantage of price competition in the marketplace. There may be circumstances, however, where sufficient competition does not exist in the relative geographic and service market area. In such cases, City will follow the rule described in Section 7 of the Class Special Procurements and Exemptions (Exhibit B) in determining whether sufficient competition exists to undertake a competitive procurement.

d. Effect on Favoritism. There is generally sufficient competition among vendors of internet and telecommunications services for City to secure competitive quotes or proposals. Because price is a primary factor, it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts. Further, if no competition exists, there is no favoritism amongst competing vendors.

8. Copyrighted and Library Materials.

a. Alternate Procurement Process. Method of procurement determined by the mayor at his or her discretion.

b. Cost Savings and Other Benefits. This special procurement is necessary to allow City to acquire special needs products that are unique and for which a single copyright owner or licensee is the only source of the material. Eliminates unnecessary competitive solicitation when a competitive market does not exist.

c. Effect on Competition. By their nature, copyrighted materials are protected for the use of a single owner and are often produced by a single supplier who may be the owner of the copyright or its licensee.

d. Effect on Favoritism. No effect on favoritism due to the lack of competitors and specialized contracting needs.

9. Requirements Contracts.

a. Alternate Procurement Process. City initially awards requirements contracts as a result of a competitive procurement or an applicable exemption. This special procurement allows such a contract to be converted into one that will allow City to secure a constant source of supply for the contracted-for goods and/or services.

b. Cost Savings and Other Benefits. Size and frequency of procurements do not justify the cost of solicitation. Period of time from recognition of need until good or service is required is often too short to issue a solicitation. Allows City to reduce inventory, combine City requirements for volume discounts, standardize goods and/or services among City departments, and reduce lead time for ordering.

c. Effect on Competition. It is unlikely that this special procurement will diminish competition for City contracts as City initially enters into such contracts through a competitive process or an applicable exemption and the term of any City requirements contract, including renewals, will not exceed five years unless otherwise exempted pursuant to ORS 276B.085.

d. Effect on Favoritism. Minimal effect on favoritism since City initially enters into such contracts through a competitive process or applicable exemption and the term of any City requirements contract, including renewals, will not exceed five years unless otherwise exempted pursuant to ORS 276B.085.

10. Purchases under Federal Contracts.

a. Alternate Procurement Process. This special procurement allows City to procure goods and services when the price has been established by a federal government contract, which contract was awarded through a competitive procurement process.

b. Cost Savings and Other Benefits. City may use this special procurement method when it determines that there is a cost savings in avoiding the solicitation process and/or through taking advantage of low pricing obtained by the federal government.

c. Effect on Competition. The contracts are awarded through competitive processes and Oregon companies are not excluded or disadvantaged in competing for federal contracts.

d. Effect on Favoritism. Minimal effect on favoritism since the contracts are awarded at the most advantageous price to the federal government. City is required to document the cost savings it will achieve by purchasing pursuant to the federal contract. These facts ensure that City purchases the desired goods and/or services at the best price available, rather than from a preferred contractor.

11. Hazardous Waste, Material, and Substances Removal and Cleanup.

a. Alternate Procurement Process. Method of procurement determined by the mayor at his or her discretion, subject to conditions that provide for competition when circumstances and time allow.

b. Cost Savings and Other Benefits. When City is ordered to remove or clean up hazardous material, it must respond within a very short time period. This time period generally does not allow for City to take the time necessary to solicit written bids or proposals for the work to be performed. The time required to comply with competitive procurement requirements could render City liable for delays in responding to cleanup or removal orders. Such delay might also expose City to potential liability from third parties if the containment, removal, and/or cleanup are not completed quickly.

c. Effect on Competition. This special procurement will only be used in an emergency or in situations where a remedial order is in effect and therefore there is no time to utilize a competitive procurement method. Applicable competitive procurement methods will be used when time permits.

d. Effect on Favoritism. Minimal effect on favoritism since City will follow competitive procurement procedures unless precluded by time constraints.

12. Insurance – Employee Benefit and Other.

a. Alternate Procurement Process. City may purchase employee benefit insurance and other insurance without competitive bidding, regardless of dollar amount subject to the terms of any collective bargaining agreement.

b. Cost Savings and Other Benefits. The nature, type, specific services to be provided and timing of employee benefit insurance may be dictated by collective bargaining

agreements between City and represented labor groups. In that case, City must fulfill its contractual obligations to represented employee groups to provide appropriate employee benefits. City relies on its professional insurance broker or agent-of-record to solicit competitive quotes or proposals from responsible companies to furnish employee benefit coverages and other insurance coverages.

c. Effect on Competition. Minimal effect on competition since City's agent-of-record solicits quotes or proposals from employee benefit insurance providers and other insurance providers under conditions that foster competition among a sufficient number of potential suppliers. City evaluates the quotes or proposals submitted to furnish employee benefit insurance and other insurance coverages for the best value to City, which may require consideration of requirements specified by the employee benefits portions of City's agreements with represented labor groups, if any.

d. Effect on Favoritism. No impact on favoritism as this special procurement responds to unique circumstances and involves choice based on best value.

13. Disposal of Abandoned, Seized, or Non-Owned Property.

a. Alternate Process. Abandoned, seized, or non-owned property may be disposed of at the mayor's discretion.

b. Cost Savings and Other Benefits. Avoids an unnecessary solicitation expense by allowing the mayor to determine whether the cost of solicitation is justified by the value of the property to be disposed. Allows the mayor to establish programs for donation to charitable organizations.

c. Effect on Competition. No impact on competition as this process responds to unique circumstances.

d. Effect on Favoritism. No impact on favoritism as this process responds to unique circumstances.

14. Temporary Extensions or Renewals.

a. Alternate Procurement Process. No competitive selection required.

b. Cost Savings and Other Benefits. Allows City to prepare for competitive solicitation when existing contracts expire without notice due to administrative error.

c. Effect on Competition. Delays competition by not more than one year.

d. Effect on Favoritism. No impact on favoritism. At expiration of the temporary extension, standard competitive procedures will apply.

15. Temporary Use of City Property.

a. Alternate Process. No competitive process required.

b. Cost Savings and Other Benefits. Allows City to respond to unsolicited proposals for unique revenue opportunities.

c. Effect on Competition. No effect on competition as no competitive market exists.

d. Effect on Favoritism. No impact on favoritism as this special procurement responds to unique circumstances.

16. Sponsorship Agreements.

a. Alternate Process. No competitive selection required.

b. Cost Savings and Other Benefits. This special procurement allows City to respond to unsolicited proposals for revenue or marketing opportunities that would otherwise be unknown or unavailable.

c. Effect on Competition. Mandatory open competition would likely discourage creative proposals from sponsors or City participation. Sponsorship often results from the match between a unique attribute of an event or asset and unique characteristics of the sponsor for which no competitive market exists.

d. Effect on Favoritism. Minimal effect on favoritism as this class of special procurement responds to unique opportunities.

17. Concession Agreements.

a. Alternate Process. Selection by any method deemed appropriate by the mayor.

b. Cost Savings and Other Benefits. Allows City to take advantage of unique revenue opportunities. Not a contract for the acquisition or disposal of goods or services. Most similar to personal services contracts because the quality of the concession may be more important than price factors. Allows a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from City property. Concessionaire makes payments to City based, in part, on the concessionaire's revenues from the concession.

c. Effect on Competition. Minimal effect on competition as this special procurement responds to unique opportunities.

d. Effect on Favoritism. Minimal effect on competition as this special procurement responds to unique opportunities.

18. Donated Materials and/or Services.

a. Alternate Process. Subject to the requirements of this special procurement, no competitive selection is required.

b. Cost Savings and Other Benefits. Avoids unnecessary expenditure when services and/or materials are donated to City. Affords City the ability to take advantage of such donated materials and/or services, enables City to use its limited funds in other areas, and may result in materials and/or services City would not otherwise be able to afford.

c. Effect on Competition. No competitive market exists or equivalent vendors will be identified and allowed to compete.

d. Effect on Favoritism. No effect on favoritism since services and/or materials are donated.

19. Gasoline, Diesel Fuel, Heating Oil, Lubricants, Gravel, and Asphalt.

a. Alternate Procurement Process. Procurement may be conducted by written or oral requests for price quotes.

b. Cost Savings and Other Benefits. The purchases under this special procurement are likely to be at levels that qualify as small or intermediate procurements and the process is similar to the process required for intermediate procurements. Allows City to quickly and efficiently obtain necessary goods from the vendor providing the lowest price quote.

c. Effect on Competition. This special procurement encourages competition by requiring an informal competitive process and requiring City to use the least expensive source of those providing quotes.

d. Effect on Favoritism. This special procurement discourages favoritism by requiring an informal competitive process and requiring City to use the least expensive source of those providing quotes.

20. Use of Existing Contractors.

a. Alternate Procurement Process. From time to time, City needs to perform repair or maintenance functions at or near a site where a contractor, already hired by City through a competitive selection process, is performing other work. The mayor may obtain an informal price quotation from the contractor already at or near the site to perform the additional work. If the mayor determines that the informal price quotation is competitive for work of that type, then the contractor may be awarded the additional work without the need for competitive bidding provided that the value of the additional work, as estimated by the contractor, does not exceed \$50,000.

b. Cost Savings and Other Benefits. City will achieve cost savings because the cost of the additional work will be lower than if the work was competitively bid since the contractor is already mobilized at or near the site of the work and will not need to recover the cost of mobilization as would a new contractor.

c. Effect on Competition. It is unlikely that this exemption will substantially diminish competition in the award of City contracts as the contractor was originally selected through a competitive bidding process.

d. Effect on Favoritism. Not applicable where the contractor has already been selected through a competitive procurement process. The occurrence of such additional work is often unforeseen and City is not required to provide the contractor with the work if the price quote is not competitive.