

1. Agenda

Documents:

[2019-06-19 City Council Agenda.pdf](#)

2. Meeting Materials

Documents:

[2019-06-19 Budget Worksheets.pdf](#)

[2019-06-19 City Manager Report.pdf](#)

[2019-06-19 Public Contracting Rules.pdf](#)

[2019-06-19 USDA Grant.pdf](#)

[RES 2019-73 Adopting URA Budget.pdf](#)

[RES 2019-74 Accepting State Revenue.pdf](#)

[RES 2019-75 Adopting CIP Plan.pdf](#)

[RES 2019-76 Adopting The Budget.pdf](#)

[RES 2019-80 Transferring Monies.pdf](#)

[2019-05-01 City Council Minutes DRAFT.pdf](#)

[2019-05-14 City Council Minutes DRAFT.pdf](#)

*Yachats City Council Vision*

*Our village is a place where natural resources are valued and protected, where diversity is celebrated, and where a vibrant economy and sense of community pride create and recreate a living spirit. Yachats cares not just for its citizens' basic needs but also supports them in their efforts to excel mentally, physically, artistically, and spiritually. It is a community with an enduring sense of itself.*



CITY OF YACHATS

CITY COUNCIL MEETING

441 Hwy 101N, Room 1

**Wednesday, June 19, 2019 at 6:00pm**

**AGENDA**

PUBLIC HEARING – 2019/20 Budget

- I. Public Hearing & Comment on 2018/19 URA & City Budget, Shared Revenue Use
- II. Resolution: Declare City's Election to Receive State Revenues
- III. Resolution: Adopt 2019-20 Capital Improvement Plan
- IV. Resolution: Adopt 2019-20 Urban Renewal Agency Budget
- V. Resolution: Adopt 2019-20 City Budget, Make appropriations, Levy Taxes, and Categorize Taxes

PUBLIC HEARING

USDA Rural Development, Water & Environmental Program for grant funding for relocation of City Hall

Regular Council Meeting

- I. Announcements, Correspondence and Proclamations
- II. Public Comment (topics not listed on the agenda: 5-minute limitation per person)
- III. Consent Agenda
  - A. May Minutes
- IV. New Business:
  - A. Resolution: USDA Grant
  - B. Resolution: Transfer Resolution
  - C. Draft Purchasing Policy Update
- V. Reports
  - A. Financial Report
  - B. Council Reports
  - C. City Manager Report
- VI. Other Business
  - A. From Mayor
  - B. From Council
  - C. From Staff

This meeting is open to the public and all interested persons are invited to attend. This meeting will be audio taped. All items to be considered by the Commission must be submitted to City Hall no later than one week prior to the meeting. Minutes of all public meetings are available for review at City Hall, or on the City website at [www.yachatsoregon.org](http://www.yachatsoregon.org). In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance.

**POSTED June 13, 2019**

Fund 100 - General Fund Budget, Department 100 Non-Departmental

| Historical Data                  |                                 |                           |                                  | Budget for Next Year 2019-20                   |                                       |                                         |                                    |                                                                  |
|----------------------------------|---------------------------------|---------------------------|----------------------------------|------------------------------------------------|---------------------------------------|-----------------------------------------|------------------------------------|------------------------------------------------------------------|
| Actual                           |                                 | Adopted Budget<br>2018-19 | Estimated YTD Actuals<br>2018-19 | Resource Description                           | Proposed by Budget Officer<br>2019-20 | Approved by Budget Committee<br>2019-20 | Adopted by City Council<br>2019-20 | Notes                                                            |
| Second Preceding Year<br>2016-17 | First Preceding Year<br>2017-18 |                           |                                  |                                                |                                       |                                         |                                    |                                                                  |
| 2016-17                          | 2017-18                         | 2018-19                   | 2018-19                          |                                                | 2019-20                               | 2019-20                                 | 2019-20                            |                                                                  |
| 412,534                          | 468,845                         | 400,000                   | 693,048                          | Beginning Fund Balance                         | 828,433                               | 828,433                                 |                                    |                                                                  |
| 12,501                           | -                               | -                         | -                                | Interest Earned                                | -                                     | -                                       |                                    |                                                                  |
| 41,171                           | 40,644                          | 50,000                    | 50,000                           | Property Taxes - Current Year                  | 45,000                                | 45,000                                  |                                    | Nov; Feb; May. \$37,780 as of 4/5.                               |
| 2,106                            | 1,213                           | 1,000                     | 1,000                            | Property Taxes - Prior Years                   | 1,000                                 | 1,000                                   |                                    |                                                                  |
| 10,499                           | 10,933                          | 11,000                    | 11,000                           | Business Licenses                              | 11,000                                | 11,000                                  |                                    |                                                                  |
| 14,170                           | 39,004                          | 38,000                    | 38,000                           | Vacation Rental Licenses/Fees                  | 30,000                                | 30,000                                  |                                    | \$31,640 as of 4/5. Need to be cognizant of cap impact on number |
| 18,890                           | 19,858                          | 19,000                    | 21,000                           | Cable TV Franchise Tax                         | 20,000                                | 20,000                                  |                                    | Quarterly                                                        |
| 4,416                            | 4,179                           | 4,000                     | 4,000                            | Telephone Franchise Tax                        | 4,000                                 | 4,000                                   |                                    | Annually                                                         |
| 10,251                           | 14,788                          | 11,000                    | 12,665                           | Disposal Franchise Tax                         | 13,000                                | 13,000                                  |                                    | Quarterly                                                        |
| 45,592                           | 46,879                          | 44,000                    | 44,000                           | Electric Franchise Tax                         | 44,000                                | 44,000                                  |                                    | Monthly                                                          |
| 2,716                            | 3,525                           | 2,000                     | 2,000                            | Permits & Filing Fees                          | 200                                   | 200                                     |                                    | \$175 as of 4/5                                                  |
| 1,696                            | -                               | -                         | -                                | Fines or Liens                                 | -                                     | -                                       |                                    |                                                                  |
| 932,025                          | 1,040,059                       | 950,000                   | 950,000                          | Transient Room Tax                             | 950,000                               | 950,000                                 |                                    | \$897,816 as of 4/5                                              |
| 5,375                            | 23,934                          | 3,000                     | 8,000                            | Other Local Sources                            | 3,000                                 | 3,000                                   |                                    | Safe deposit boxes, fat traps, etc.                              |
| 987                              | 928                             | 1,000                     | 1,000                            | Cigarette Tax                                  | 700                                   | 700                                     |                                    | \$540 as of 4/5                                                  |
| 10,162                           | 11,887                          | 10,000                    | 10,500                           | Liquor Tax                                     | 10,000                                | 10,000                                  |                                    | Monthly                                                          |
|                                  | -                               | 1,200                     | 1,200                            | Marijuana Tax                                  | 3,000                                 | 3,000                                   |                                    | \$505 as of 4/5. Increase due to potential taxes from dispensary |
| 17,138                           | 15,403                          | 8,000                     | 8,600                            | State Revenue Share                            | 9,000                                 | 9,000                                   |                                    | Aug; Nov; Feb. \$8900 as of 4/5                                  |
| 176                              | 6,889                           | -                         | -                                | Other State Sources                            | -                                     | -                                       |                                    |                                                                  |
| -                                | -                               | 13,000                    | 13,000                           | Admin Reimbursement - URD                      | 13,000                                | 13,000                                  |                                    | 900-100                                                          |
| 3,143                            | 26,534                          | -                         | -                                | Earnings from Temporary Investments            | -                                     | -                                       |                                    |                                                                  |
| 1,139,015                        | 1,306,657                       | 1,166,200                 | 1,175,965                        | Total Revenue                                  | 1,156,900                             | 1,156,900                               |                                    |                                                                  |
|                                  |                                 |                           |                                  |                                                |                                       |                                         |                                    |                                                                  |
| 79,777                           | 46,500                          | 35,000                    | 35,000                           | Interfund Transfer - Street Operations         | -                                     | 2,000                                   |                                    | 621-100, previously 600-121                                      |
| -                                | 106,000                         | -                         | -                                | Interfund Transfer - Street Projects           | -                                     | -                                       |                                    | 150-121                                                          |
| 54,248                           | 24,750                          | 20,580                    | 20,580                           | Interfund Transfer - Library Operations        | 27,549                                | 27,549                                  |                                    | 240-122                                                          |
| -                                | -                               | 42,500                    | 42,500                           | Interfund Transfer - Library Projects          | 60,585                                | 60,585                                  |                                    | 150-122                                                          |
| 2,288                            | 38,800                          | 3,225                     | 3,225                            | Interfund Transfer - Museum Operations         | 5,279                                 | 5,279                                   |                                    | 240-123                                                          |
| -                                | -                               | -                         | -                                | Interfund Transfer - Museum Projects           | -                                     | -                                       |                                    | 150-123                                                          |
| 125,437                          | 76,800                          | 93,000                    | 93,000                           | Interfund Transfer - Commons                   | 120,380                               | 120,380                                 |                                    | 240-124                                                          |
| -                                | -                               | -                         | -                                | Interfund Transfer - Commons Projects          | -                                     | -                                       |                                    | 150-124                                                          |
| -                                | 16,600                          | 9,125                     | 9,125                            | Interfund Transfer - Parks & Trails Operations | 5,888                                 | 5,888                                   |                                    | 240-125                                                          |
| 362,315                          | 403,901                         | 369,000                   | 369,000                          | Interfund Transfer - Visitor Amenities         | 370,500                               | 370,500                                 |                                    | 120-100                                                          |
| 23,232                           | -                               | -                         | -                                | Interfund Transfer - Capital Reserve           | -                                     | -                                       |                                    |                                                                  |
| -                                | -                               | -                         | -                                | Interfund Transfer - Pers Xtra Reserve         | -                                     | -                                       |                                    |                                                                  |
| -                                | -                               | -                         | -                                | Interfund Transfer - Sewer Debt Fund           | -                                     | -                                       |                                    | 155-017                                                          |
| -                                | -                               | -                         | -                                | Interfund Transfer - GO Bond Debt Reserve      | -                                     | -                                       |                                    | 155-018                                                          |
| -                                | -                               | 37,000                    | 37,000                           | Interfund Transfer - Storm Drains - Operations | -                                     | -                                       |                                    | 630-100                                                          |
| 30,200                           | 27,800                          | 2,000                     | 2,000                            | Interfund Transfer - Storm Drains - Projects   | 44,663                                | 44,663                                  |                                    | 150-130                                                          |
| -                                | 31,000                          | 40,000                    | 40,000                           | Interfund Transfer - City Hall Projects        | 20,000                                | 20,000                                  |                                    | 150-101                                                          |
| 677,497                          | 772,151                         | 651,430                   | 651,430                          | Total Interfund Transfers                      | 654,844                               | 656,844                                 | -                                  |                                                                  |
|                                  |                                 |                           |                                  |                                                |                                       |                                         |                                    |                                                                  |
| 455,518                          | 594,506                         | 514,770                   | 524,535                          | Available for Department Expenses              | 502,057                               | 500,057                                 | -                                  |                                                                  |
|                                  |                                 |                           |                                  |                                                |                                       |                                         |                                    |                                                                  |
| (399,207)                        | (383,382)                       | (440,000)                 | (361,900)                        | Department 101 - City Hall                     | (454,500)                             | (454,500)                               |                                    | 100-101                                                          |
| -                                | (8,568)                         | (26,200)                  | (15,400)                         | Department 102 - 501 Building                  | (32,727)                              | (32,727)                                |                                    | 100-106                                                          |
| -                                | 21,647                          | -                         | 47,550                           | Department 107 - Amenities/Marketing           | -                                     | -                                       |                                    | 100-107                                                          |
| (399,207)                        | (370,303)                       | (466,200)                 | (329,150)                        | Total Department Expenses                      | (487,227)                             | (487,227)                               | -                                  |                                                                  |
|                                  |                                 |                           |                                  |                                                |                                       |                                         |                                    |                                                                  |
| 468,845                          | 633,048                         | 448,570                   | 828,433                          | Ending Fund Balance                            | 843,263                               | 841,263                                 | -                                  |                                                                  |

Fund 100 - General Fund Budget, Department 101 City Hall

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20         |                            |                              |                         |                                                                                                                                 |
|-----------------------|----------------------|----------------|-----------------------|--------------------------------------|----------------------------|------------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                 | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                           |
| Second Preceding Year | First Preceding Year |                |                       |                                      |                            |                              |                         |                                                                                                                                 |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                      | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                 |
| 174,690               | 103,143              | 115,000        | 106,000               | Allocated Wages, Benefits & PR Taxes | 115,000                    | 115,000                      |                         |                                                                                                                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                 |
| 3,275                 | 3,846                | 10,000         | 7,000                 | Emergency Prep & Public Safety       | 7,000                      | 7,000                        |                         |                                                                                                                                 |
| 5,607                 | 5,457                | 9,000          | 6,000                 | Dues/Memberships/Fees                | 9,000                      | 9,000                        |                         |                                                                                                                                 |
| 22,243                | 33,100               | 80,000         | 25,000                | Code Enforcement                     | 80,000                     | 80,000                       |                         |                                                                                                                                 |
| 1,553                 | 325                  | 2,000          | 2,000                 | Education - Council & Commissions    | 2,000                      | 2,000                        |                         |                                                                                                                                 |
| 5,408                 | 6,272                | 8,000          | 9,000                 | Insurance                            | 9,000                      | 9,000                        |                         |                                                                                                                                 |
| 9,095                 | 13,626               | 10,000         | 6,500                 | Office Materials & Supplies          | 10,000                     | 10,000                       |                         |                                                                                                                                 |
| 2,605                 | 2,997                | 3,000          | 2,800                 | Office Phone/Cell/DSL                | 3,000                      | 3,000                        |                         |                                                                                                                                 |
| 5,156                 | 2,245                | 3,000          | 1,600                 | Office Utilities                     | 2,000                      | 2,000                        |                         |                                                                                                                                 |
| -                     | 60                   | 200            | -                     | Postage                              | 200                        | 200                          |                         |                                                                                                                                 |
| 665                   | 900                  | 5,000          | 6,000                 | Education & Training                 | 7,000                      | 7,000                        |                         |                                                                                                                                 |
| -                     | 11,850               | 10,000         | 8,000                 | IT Vendor Support                    | 18,500                     | 18,500                       |                         | Includes a new server, a third of annual software costs                                                                         |
| 60,910                | 52,601               | 30,000         | 28,000                | Professional Services                | 30,000                     | 30,000                       |                         |                                                                                                                                 |
| 4,303                 | 4,000                | 4,000          | 4,000                 | Auditor                              | 4,000                      | 4,000                        |                         |                                                                                                                                 |
| -                     | 38,566               | 40,000         | 41,000                | City Planner                         | 40,000                     | 40,000                       |                         |                                                                                                                                 |
| 3,292                 | 4,080                | 7,000          | 9,000                 | Travel                               | 10,000                     | 10,000                       |                         |                                                                                                                                 |
| 1,696                 | 1,916                | 2,000          | 2,000                 | Equipment Rental                     | 2,000                      | 2,000                        |                         |                                                                                                                                 |
| 7,140                 | 8,759                | 7,000          | 7,000                 | Yard Debris Dumpster                 | 7,000                      | 7,000                        |                         |                                                                                                                                 |
| 8,726                 | 5,585                | 5,000          | 1,200                 | Building or Land Maintenance         | 5,000                      | 5,000                        |                         |                                                                                                                                 |
| -                     | 1,815                | 2,000          | 1,000                 | Custodial Support/Supplies           | 2,000                      | 2,000                        |                         |                                                                                                                                 |
| 10,841                | 16,603               | -              | -                     | Street Lighting                      | -                          | -                            |                         |                                                                                                                                 |
| 748                   | 4,128                | 1,000          | 800                   | Legal Notices                        | 1,000                      | 1,000                        |                         |                                                                                                                                 |
| 41,050                | 39,400               | 39,000         | 47,000                | Miscellaneous Public Services        | 50,000                     | 50,000                       |                         | Donations to various groups submitted & approved through the budget process                                                     |
| 6,220                 | 2,717                | 6,000          | 1,000                 | Office Expense - Other               | 1,500                      | 1,500                        |                         | \$286 on 4/4. Line Item contain credit card charges. CM advises leaving as is do to changes to Civic Rec software               |
| 17,800                | 17,800               | 17,800         | 17,800                | Rent Allocation - Buildings          | 17,800                     | 17,800                       |                         | Rent City Hall pays to Commons                                                                                                  |
| 1,348                 | -                    | 3,000          | -                     | Equipment Repair/Maintenance         | 500                        | 500                          |                         |                                                                                                                                 |
| 4,838                 | 1,591                | 3,000          | 3,600                 | Materials & Services - Other         | 5,000                      | 5,000                        |                         | \$2,275 as of 4/5. Line Item contains Credit card fees, event hosting meals, GASB 75 Fee, records reports, payment of 1099 & W2 |
| 224,517               | 280,238              | 307,000        | 237,300               | Total Materials & Services           | 323,500                    | 323,500                      |                         |                                                                                                                                 |
| -                     | -                    | -              | -                     | Capital Outlay - Equipment           | -                          | -                            | -                       |                                                                                                                                 |
|                       |                      | 18,000         | 18,000                | Contingencies                        | 16,000                     | 16,000                       | -                       |                                                                                                                                 |
|                       |                      |                |                       | Net Department Revenue (Expense)     |                            |                              |                         |                                                                                                                                 |
| (399,207)             | (383,382)            | (440,000)      | (361,300)             |                                      | (454,500)                  | (454,500)                    |                         |                                                                                                                                 |



Fund 100 - General Fund Budget, Department 102 501 Bldg

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20         |                            |                              |                         |                                                                                                                                                  |
|-----------------------|----------------------|----------------|-----------------------|--------------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                 | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                                            |
| Second Preceding Year | First Preceding Year |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                      | 2019-20                    | 2019-20                      | 2019-20                 | A determination will be made on maintaining the expenses of City Hall when appropriate                                                           |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| -                     | -                    | 11,700         | 6,500                 | Allocated Wages, Benefits & PR Taxes | 11,700                     | 11,700                       |                         |                                                                                                                                                  |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| -                     | 2,277                | 2,500          | 2,500                 | Insurance                            | 2,500                      | 2,500                        |                         |                                                                                                                                                  |
| -                     | -                    | -              | -                     | Office Materials & Supplies          | -                          | -                            |                         |                                                                                                                                                  |
| -                     | -                    | -              | -                     | Office Phone/Cell/DSL                | -                          | -                            |                         |                                                                                                                                                  |
| -                     | 3,242                | 3,000          | 1,200                 | Office Utilities                     | 1,500                      | 1,500                        |                         |                                                                                                                                                  |
|                       |                      |                |                       |                                      |                            |                              |                         | 2017 IFMA \$3.50/sq ft for general maintenance. 501 Bldg 4579 sq ft per insurance. Although currently vacant the bldg is in need of maintenance. |
| -                     | 3,049                | 8,000          | 5,200                 | Building or Land Maintenance         | 16,027                     | 16,027                       |                         |                                                                                                                                                  |
| -                     | -                    | 1,000          | -                     | Custodial Support/Supplies           | 1,000                      | 1,000                        |                         |                                                                                                                                                  |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| -                     | 8,568                | 14,500         | 8,900                 | Total Materials & Services           | 21,027                     | 21,027                       | -                       |                                                                                                                                                  |
| -                     |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| -                     | -                    | -              | -                     | Capital Outlay - Equipment           | -                          | -                            | -                       |                                                                                                                                                  |
| -                     |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| -                     | -                    | -              | -                     | Contingencies                        | -                          | -                            | -                       |                                                                                                                                                  |
| -                     |                      |                |                       |                                      |                            |                              |                         |                                                                                                                                                  |
| -                     | (8,568)              | (26,200)       | (15,400)              | Net Department Revenue (Expense)     | (32,727)                   | (32,727)                     | -                       |                                                                                                                                                  |

Fund 100 - General Fund Budget, Department 107 Marketing & Amenities

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20       |                            |                              |                         |                                                                                                            |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------|----------------------------|------------------------------|-------------------------|------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description               | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                      |
| Second Preceding Year | First Preceding Year |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                    | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 120,130               | 120,000              | 138,000        | 138,000               | OP Transfer - Marketing/Amenities  | 116,600                    | 116,600                      |                         | 120-100                                                                                                    |
| 801                   |                      |                |                       | Other Revenue                      |                            |                              |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 120,931               | 120,000              | 138,000        | 138,000               | Total Revenue                      | 116,600                    | 116,600                      | -                       |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 800                   | -                    | 6,500          | 850                   | Allocated Labor                    | 1,500                      | 1,500                        |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 67,217                | 64,765               | 65,000         | 65,000                | Visitor Center Operations          | 65,000                     | 65,000                       |                         | Contract in place from 1/18 - 6/30/2020                                                                    |
| 750                   | 10,750               | 5,000          | 1,000                 | Marketing Grants; Programs; Events | 5,000                      | 5,000                        |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 12,746                | 10,393               | 16,650         | 8,100                 | Marketing and Website              | 20,250                     | 20,250                       |                         |                                                                                                            |
| 8,939                 | -                    | -              | -                     | Trails                             | -                          | -                            |                         |                                                                                                            |
| 19,389                | -                    | 20,000         | -                     | Professional Services              | -                          | -                            |                         |                                                                                                            |
| 1,750                 | 2,000                | 2,000          | 2,000                 | Fireworks                          | 2,000                      | 2,000                        |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| -                     | -                    | 12,850         | 5,000                 | City Beautification                | 12,850                     | 12,850                       |                         | Due to unexpected circumstances, the City Manager would like to request the same amount of funding as FY19 |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 9,340                 | 10,445               | 5,000          | 3,500                 | Materials & Services - Other       | 5,000                      | 5,000                        |                         | \$2,000 used as of 4/5. Line item contains Mowing, portable toilets, groundskeeping                        |
| -                     | -                    | 5,000          | 5,000                 | Cape Perpetua Support              | 5,000                      | 5,000                        |                         |                                                                                                            |
| 120,131               | 98,353               | 131,500        | 89,600                | Total Materials & Services         | 115,100                    | 115,100                      |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| -                     | -                    | -              | -                     | Visitor Amenities Capital Outlay   | -                          | -                            |                         |                                                                                                            |
|                       |                      |                |                       |                                    |                            |                              |                         |                                                                                                            |
| 120,931               | 98,353               | 138,000        | 90,450                | Total Expenses                     | 116,600                    | 116,600                      |                         |                                                                                                            |
| -                     | 21,647               | -              | 47,550                | Net Department Revenue (Expense)   | -                          | -                            |                         |                                                                                                            |

| City of Yachats Visitor Center Annual Advertising |                              |           |                  |
|---------------------------------------------------|------------------------------|-----------|------------------|
|                                                   | Revised per Budget Committee |           | FY19/20 Proposed |
| Oregon Coast Magazine & Mile-by-                  | \$                           | 3,625.00  | \$ 3,625.00      |
| Oregon Coast Visitors Association                 | \$                           | 3,650.00  | \$ 3,650.00      |
| Travel Oregon:                                    | \$                           | 1,250.00  | \$ 1,250.00      |
| Willamette Living (+ Portland Monthly & Salem     | \$                           | 2,325.00  | \$ 2,325.00      |
| Design:                                           | \$                           | 1,000.00  | \$ 1,000.00      |
| Public Radio Ads Packages:                        | \$                           | 3,000.00  | \$ 3,000.00      |
| Social Media:                                     | \$                           | -         | \$ 3,600.00      |
| Social Media Contest Software:                    | \$                           | 400.00    | \$ 400.00        |
| Photography and Videography:                      | \$                           | 1,400.00  | \$ 1,400.00      |
|                                                   | \$                           | 16,650.00 | \$ 20,250.00     |

Fund 120 - Visitor Amenities Fund, Department 100 Non-Departmental

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20             |                            |                              |                         |                  |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------------|----------------------------|------------------------------|-------------------------|------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                     | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes            |
| Second Preceding Year | First Preceding Year |                |                       |                                          |                            |                              |                         |                  |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                          | 2019-20                    | 2019-20                      | 2019-20                 |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
| 210,031               | 195,095              | 118,000        | 119,446               | Beginning Fund Balance                   | 52,576                     | 52,576                       |                         |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
| 1,128                 | -                    | -              | -                     | Interest Earned                          | -                          | -                            |                         |                  |
| 362,315               | 403,901              | 369,000        | 369,000               | Visitor Share - Transient Rental Tax     | 370,500                    | 370,500                      |                         | 100-100          |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
| 363,443               | 403,901              | 369,000        | 369,000               | Total Revenue                            | 370,500                    | 370,500                      | -                       |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
| (9,573)               | (3,950)              | (8,820)        | (8,820)               | OP Transfer - Library                    | (11,807)                   | (11,807)                     |                         | 240-122          |
| (6,864)               | (7,800)              | (9,675)        | (9,675)               | OP Transfer - Museum                     | (15,836)                   | (15,836)                     |                         | 240-123          |
| -                     | (264,000)            | -              | -                     | OP Transfer - Capital Project            | -                          | -                            |                         | 150-121; 200-100 |
| -                     | -                    | (27,375)       | (27,375)              | OP Transfer - Parks & Trails Operations  | (17,663)                   | (17,663)                     |                         | 240-125          |
| -                     | (60,000)             | (60,000)       | (60,000)              | OP Transfer - Parks & Trails Projects    | (50,000)                   | (50,000)                     |                         | 150-125          |
| (41,812)              | (23,800)             | (30,000)       | (30,000)              | OP Transfer - Commons                    | (40,127)                   | (40,127)                     |                         | 240-124          |
| (120,130)             | (120,000)            | (138,000)      | (138,000)             | OP Transfer - Marketing/Amenities        | (116,600)                  | (116,600)                    |                         | 100-107          |
| (200,000)             | -                    | (50,000)       | (50,000)              | OP Transfer - Capital Projects - Streets | (25,000)                   | (25,000)                     |                         | 150-121          |
| -                     | -                    | (112,000)      | (112,000)             | OP Transfer - Capital Projects - LLCM    | -                          | -                            |                         | 150-123          |
| (378,379)             | (479,550)            | (435,870)      | (435,870)             | Total Interfund Transfers                | (277,033)                  | (277,033)                    | -                       |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
| (14,936)              | (75,649)             | (66,870)       | (66,870)              | Net Fund Revenue (Expense)               | 93,468                     | 93,468                       | -                       |                  |
|                       |                      |                |                       |                                          |                            |                              |                         |                  |
| 195,095               | 119,446              | 51,130         | 52,576                | Ending Fund Balance                      | 146,044                    | 146,044                      | -                       |                  |

Fund 150 - Capital Reserves, Department 100 Non-Departmental

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20 |                                          |                            |                              |                         |         |
|-----------------------|----------------------|----------------|-----------------------|------------------------------|------------------------------------------|----------------------------|------------------------------|-------------------------|---------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Account #                    | Resource Description                     | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes   |
| Second Preceding Year | First Preceding Year |                |                       |                              |                                          |                            |                              |                         |         |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                              |                                          | 2019-20                    | 2019-20                      | 2019-20                 |         |
|                       |                      |                |                       |                              | RECAP                                    |                            |                              |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| 1,443,150             | 1,838,920            | 1,600,000      | 1,535,192             | 3-30-0101                    | Beginning Fund Balance                   | 1,911,622                  | 1,911,622                    |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| 4,180                 | 17,509               | 10,000         | 10,000                | 3-30-1500                    | Interest Earned/LID Interest             | -                          | -                            |                         |         |
| 323,548               | 377,662              | 365,000        | 365,000               | 3-30-4245                    | Food & Beverage Revenue                  | 370,000                    | 370,000                      |                         |         |
| 5,285                 | 11,358               | -              | -                     | 3-30-4430                    | LID Assessments                          | -                          | -                            |                         |         |
| 17,157                | 13,936               | -              | -                     | 3-30-4435                    | LID Installment Payment Invoices         | -                          | -                            |                         |         |
| 15,000                | 15,800               | 15,000         | 15,000                | 3-30-4480                    | Anticipated Grants                       | -                          | -                            |                         |         |
| -                     | -                    | -              | -                     | 3-30-4810                    | Urban Renewal Project Funding            | -                          | -                            |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| 2,853                 | -                    | -              | -                     | 3-30-4852                    | Earnings from Temporary Investments      | -                          | -                            |                         |         |
| 368,023               | 436,264              | 390,000        | 390,000               |                              | Total Revenue                            | 370,000                    | 370,000                      | -                       |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| -                     | -                    | -              | -                     |                              |                                          |                            |                              |                         |         |
| (335,000)             | (374,949)            | (365,000)      | (365,000)             | 5-60-7126                    | Transfer to Debt Service Reserve         | (370,000)                  | (370,000)                    |                         | 155-176 |
|                       |                      | (164,668)      | (164,668)             | 5-60-7177                    | LID Repayments transferred to SDCs       | -                          | (25,294)                     |                         | 160-100 |
| -                     | (650,000)            | -              | -                     | 5-60-7176                    | Interfund Trans Hwy101                   | -                          | -                            |                         | 200-100 |
| (335,000)             | (1,024,949)          | (529,668)      | (529,668)             |                              | Total Transfers                          | (370,000)                  | (395,294)                    | -                       |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| (26,383)              | 63                   | (15,000)       | 3,297                 |                              | Department 101 - City Hall               | (94,000)                   | (94,000)                     |                         |         |
| 20,232                | (7,114)              | -              | 10                    |                              | Department 102 - 501 Building            | -                          | -                            |                         |         |
| 3,867                 | 377,884              | (179,500)      | 58,550                |                              | Department 121 - Streets                 | (247,000)                  | (247,000)                    |                         |         |
| 193,547               | 3,600                | (3,900)        | 32,575                |                              | Department 122 - Library                 | 3,600                      | 3,600                        |                         |         |
| 4,579                 | 39,600               | (33,400)       | 143,502               |                              | Department 123 - LLCM Museum             | (143,400)                  | (143,400)                    |                         |         |
| 116,594               | (1,477)              | (88,000)       | (53,217)              |                              | Department 124 - Commons Bldg            | 27,000                     | 27,000                       |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| -                     | 35,486               | 8,000          | 68,000                |                              | Department 125 - Parks & Trails Projects | -                          | -                            |                         |         |
| -                     | (6,663)              | -              | 2,000                 |                              | Department 130 - Storm Drains            | 4,663                      | 4,663                        |                         |         |
| (38,999)              | (67,308)             | (210,000)      | 76,002                |                              | Department 160 - Water                   | (245,000)                  | (245,000)                    |                         |         |
| 89,310                | (89,114)             | (10,000)       | 185,379               |                              | Department 170 - Sewer Plant             | (258,000)                  | (263,000)                    |                         |         |
| -                     | -                    | -              | -                     |                              |                                          |                            |                              |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| 362,747               | 284,957              | (531,800)      | 516,098               |                              | Total Department Projects                | (952,137)                  | (957,137)                    | -                       |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| 395,770               | (303,728)            | (671,468)      | 376,430               |                              | Net Fund Revenue (Expense)               | (952,137)                  | (982,431)                    | -                       |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
|                       |                      |                |                       |                              |                                          |                            |                              |                         |         |
| 1,838,920             | 1,535,192            | 928,532        | 1,911,622             |                              | Ending Fund Balance                      | 959,485                    | 929,191                      | -                       |         |

Fund 150 - Capital Reserves, Department 101 City Hall

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20           |                            |                              |                         |         |
|-----------------------|----------------------|----------------|-----------------------|----------------------------------------|----------------------------|------------------------------|-------------------------|---------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                   | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes   |
| Second Preceding Year | First Preceding Year |                |                       |                                        |                            |                              |                         |         |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                        | 2019-20                    | 2019-20                      | 2019-20                 |         |
|                       |                      |                |                       |                                        |                            |                              |                         |         |
| 50,000                | 45,650               | 45,000         | 79,022                | Share of Beginning Balance (MEMO)      | 97,319                     | 97,319                       |                         |         |
|                       |                      |                |                       |                                        |                            |                              |                         |         |
| 3,000                 | 31,000               | 40,000         | 40,000                | Transfer from General Fund             | 20,000                     | 20,000                       |                         | 100-100 |
|                       |                      |                |                       |                                        |                            |                              |                         |         |
| 3,000                 | 31,000               | 40,000         | 40,000                | Total Revenue                          | 20,000                     | 20,000                       |                         |         |
|                       |                      |                |                       |                                        |                            |                              |                         |         |
| 29,383                | 30,937               | 55,000         | 36,703                | Capital Outlay - Equipment/IT Projects | 114,000                    | 114,000                      |                         |         |
|                       |                      |                |                       |                                        |                            |                              |                         |         |
| (26,383)              | 63                   | (15,000)       | 3,297                 | Net Department Revenue (Expense)       | (94,000)                   | (94,000)                     |                         |         |
|                       |                      |                |                       |                                        |                            |                              |                         |         |
| 23,617                | 45,713               | 30,000         | 82,319                | Ending balance prior to 150-100        | 3,319                      | 3,319                        |                         |         |

|        |        |        |                                |
|--------|--------|--------|--------------------------------|
| 15000  | 15800  | 15000  | Grant is in Department 100     |
| 7033   | 17509  |        | Interest in 150-100            |
| 45,650 | 79,022 | 97,319 | Share of Ending Balance (MEMO) |

|        |        |                                |         |
|--------|--------|--------------------------------|---------|
|        |        | CIP Projects                   |         |
|        |        | Meter Read Interface           | 10,000  |
| 20,000 |        | Information System Development | 29,000  |
|        | 15,000 | Grant Return                   | -       |
| 10,000 |        | Hardware Upgrade               | -       |
| 20,000 | 24,903 | Web Development                | -       |
| -      | -      | Office upgrade                 | 75,000  |
| 5,000  |        | Upgrade Emergency Plan         | -       |
| 55,000 | 39,903 | total                          | 114,000 |

Fund 150 - Capital Reserves, Department 102 501 Bldg

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20      |                            |                              |                         |                                       |
|-----------------------|----------------------|----------------|-----------------------|-----------------------------------|----------------------------|------------------------------|-------------------------|---------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description              | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                 |
| Second Preceding Year | First Preceding Year |                |                       |                                   |                            |                              |                         |                                       |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                   | 2019-20                    | 2019-20                      | 2019-20                 |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | -                    | (20,000)       | (7,114)               | Share of Beginning Balance (MEMO) | (7,104)                    | (7,104)                      |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | -                    | -              | -                     | Bank Purchase Loan Repayment      | -                          | -                            |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | -                    | -              | -                     | Total Revenue                     | -                          | -                            |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | 7,114                | -              | (10)                  | Capital Outlay -Engineering/etc.  | -                          | -                            | -                       | FY20 Capital Accounted for in 150-101 |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | 7,114                | -              | (10)                  | Total Capital Outlay              | -                          | -                            | -                       |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | (7,114)              | -              | 10                    | Net Department Revenue (Expense)  | -                          | -                            | -                       |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
|                       |                      |                |                       |                                   |                            |                              |                         |                                       |
| -                     | (7,114)              | (20,000)       | (7,104)               | Share of Ending Balance (MEMO)    | (7,104)                    | (7,104)                      | -                       |                                       |

20,23220,23220,232

Bank Purchase Loan Repayment 2016-2017

20,232

Finance Committee will review 501 Loan Repayment Strategy



Fund 150 - Capital Reserves, Department 121 Streets

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20             |                            |                              |                         |                         |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------------|----------------------------|------------------------------|-------------------------|-------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                     | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                   |
| Second Preceding Year | First Preceding Year |                |                       |                                          |                            |                              |                         |                         |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                          | 2019-20                    | 2019-20                      | 2019-20                 |                         |
|                       |                      |                |                       |                                          |                            |                              |                         |                         |
| 13,763                | 17,630               | 370,000        | 395,514               | Share of Beginning Balance (MEMO)        | 454,064                    | 454,064                      |                         |                         |
|                       |                      |                |                       |                                          |                            |                              |                         |                         |
| -                     | -                    | -              | -                     | Grant                                    | 100,000                    | 100,000                      |                         | Small Cities Grant      |
| 3,867                 | -                    | 4,000          | 4,000                 | Street Reserves Generated                | 3,000                      | 3,000                        |                         | 621-100 Ops to Reserves |
| -                     | -                    | -              | -                     | Transfer from the General Fund           | -                          | -                            |                         | 100-100                 |
| -                     | 105,900              | 10,000         | 10,000                | Transfer from URD                        | -                          | -                            |                         | 900-100                 |
| -                     | 264,000              | 50,000         | 50,000                | Transfer from the Visitor Amenities Fund | 25,000                     | 25,000                       |                         | 120-100                 |
| -                     | 4,000                | 5,000          | 5,000                 | 50 Cents per Meter Water                 | 5,000                      | 5,000                        |                         | 660-100                 |
| -                     | 5,000                | -              | -                     | Transfer from Sewer                      | -                          | -                            |                         |                         |
| -                     | 5,000                | 5,000          | 5,000                 | 50 Cents per Meter Sewer                 | 5,000                      | 5,000                        |                         | 670-100                 |
| 3,867                 | 383,900              | 74,000         | 74,000                | Total Revenue                            | 138,000                    | 138,000                      | -                       |                         |
|                       |                      |                |                       |                                          |                            |                              |                         |                         |
| -                     | -                    | 15,000         | 120                   | Capitalized Labor                        | 60,000                     | 60,000                       |                         |                         |
| -                     | -                    | -              | -                     | Capital Outlay - Equipment               | -                          | -                            |                         |                         |
| -                     | -                    | -              | -                     | Capital Outlay - Parking                 | -                          | -                            | -                       |                         |
| -                     | -                    | -              | 275                   | Capital Outlay - Gateway Sign            | -                          | -                            |                         |                         |
| -                     | -                    | 50,000         | -                     | Capital Outlay - Parking; Paving         | 25,000                     | 25,000                       |                         |                         |
|                       | 6,016                | 188,500        | 15,055                | Capital Outlay - Street Projects         | 300,000                    | 300,000                      |                         |                         |
| -                     | 6,016                | 253,500        | 15,450                | Total Outlay                             | 385,000                    | 385,000                      | -                       |                         |
|                       |                      |                |                       |                                          |                            |                              |                         |                         |
| 3,867                 | 377,884              | (179,500)      | 58,550                | Net Department Revenue (Expense)         | (247,000)                  | (247,000)                    | -                       |                         |

17,630    395,514    190,500    454,064    Share of Ending Balance (MEMO)    207,064    207,064    -

|         |        |                    |         |
|---------|--------|--------------------|---------|
|         |        | CIP Projects       |         |
| 188,500 | 15,055 | Street Projects    | 300,000 |
| 15,000  | 120    | City Crew Labor    | 60,000  |
| 14,000  | 275    | South Gateway Sign | -       |
| 50,000  | -      | Parking/Paving     | 25,000  |
| 267,500 | 15,450 | Total              | 385,000 |

Fund 150 - Capital Reserves, Department 122 Library

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20      |                            |                              |                         |                                                             |
|-----------------------|----------------------|----------------|-----------------------|-----------------------------------|----------------------------|------------------------------|-------------------------|-------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description              | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                       |
| Second Preceding Year | First Preceding Year |                |                       |                                   |                            |                              |                         |                                                             |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                   | 2019-20                    | 2019-20                      | 2019-20                 |                                                             |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                             |
| 16,771                | 210,318              | 213,918        | 213,918               | Share of Beginning Balance (MEMO) | 246,493                    | 246,493                      |                         | This full amount is inclusive of the \$150,000 Hall Bequest |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                             |
| 193,547               | 3,600                | 3,600          | 3,600                 | Library Reserves                  | 3,600                      | 3,600                        |                         | 240-122 From Operations to reserves                         |
|                       |                      |                | 890                   | Grant Received                    | -                          | -                            |                         |                                                             |
|                       |                      | 42,500         | 42,500                | Transfer from General Fund        | 60,585                     | 60,585                       |                         | 100-100                                                     |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                             |
| 193,547               | 3,600                | 46,100         | 46,990                | Total Revenue                     | 64,185                     | 64,185                       | -                       |                                                             |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                             |
|                       |                      | 6,000          | 0                     | Capitalized Labor                 | 8,000                      | 8,000                        |                         |                                                             |
| -                     | -                    | 44,000         | 14,415                | Capital Outlay - City Amenities   | 52,585                     | 52,585                       |                         |                                                             |
| -                     | -                    | 50,000         | 14,415                | Total Outlay                      | 60,585                     | 60,585                       |                         |                                                             |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                             |
| 193,547               | 3,600                | (3,900)        | 32,575                | Net Department Revenue (Expense)  | 3,600                      | 3,600                        | -                       |                                                             |

210,318213,918210,018246,493Share of Ending Balance (MEMO)250,093250,093-

|              |        |                                     |        |
|--------------|--------|-------------------------------------|--------|
| CIP Projects |        |                                     |        |
| 44,000       | 14,415 | Relocation/Renovation/Configuration | 52,585 |
| 6,000        | -      | City Crew Labor                     | 8,000  |
| 50,000       | 14,415 | Total                               | 60,585 |



Fund 150 - Capital Reserves, Department 123 LLCM

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20           |                            |                              |                         |                                     |
|-----------------------|----------------------|----------------|-----------------------|----------------------------------------|----------------------------|------------------------------|-------------------------|-------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                   | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                               |
| Second Preceding Year | First Preceding Year |                |                       |                                        |                            |                              |                         |                                     |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                        | 2019-20                    | 2019-20                      | 2019-20                 |                                     |
|                       |                      |                |                       |                                        |                            |                              |                         |                                     |
| 30,146                | 34,725               | 74,000         | 74,325                | Share of Beginning Balance (MEMO)      | 217,827                    | 217,827                      |                         |                                     |
|                       |                      |                |                       |                                        |                            |                              |                         |                                     |
| 4,579                 | 4,600                | 4,600          | 4,600                 | LLMC Reserves                          | 4,600                      | 4,600                        |                         | 240-123 From Operations to Reserves |
| -                     | -                    | -              | 27,000                | Commons Reserves                       | -                          | -                            |                         | 240-124                             |
| -                     | 35,000               | -              | -                     | Project transfer from the General Fund | -                          | -                            |                         | 100-100                             |
| -                     | -                    | 112,000        | 112,000               | Trans From Visitor Amenities           | -                          | -                            |                         | 120-100                             |
| 4,579                 | 39,600               | 116,600        | 143,600               | Total Revenue                          | 4,600                      | 4,600                        | -                       |                                     |
|                       |                      |                |                       |                                        |                            |                              |                         |                                     |
| -                     | -                    | 1,000          | -                     | Capitalized Labor                      | 5,000                      | 5,000                        |                         |                                     |
| -                     | -                    | 149,000        | 98                    | Capital Outlay - City Amenities        | 143,000                    | 143,000                      |                         |                                     |
| -                     | -                    | 150,000        | 98                    | Total Outlay                           | 148,000                    | 148,000                      | -                       |                                     |
|                       |                      |                |                       |                                        |                            |                              |                         |                                     |
| 4,579                 | 39,600               | (33,400)       | 143,502               | Net Department Revenue (Expense)       | (143,400)                  | (143,400)                    | -                       |                                     |
|                       |                      |                |                       |                                        |                            |                              |                         |                                     |
| 34,725                | 74,325               | 40,600         | 217,827               | Share of Ending Balance (MEMO)         | 74,427                     | 74,427                       | 0                       |                                     |
|                       |                      |                |                       |                                        |                            |                              |                         |                                     |
|                       |                      |                |                       | CIP Projects                           |                            |                              |                         |                                     |
|                       |                      | 149,000        | 98                    | Museum Rebuild/Repair                  | 143,000                    |                              |                         |                                     |
|                       |                      | 1,000          | -                     | City Crew Labor                        | 5,000                      |                              |                         |                                     |
|                       |                      | 150,000        | 98                    | total                                  | 148,000                    |                              |                         |                                     |

Fund 150 - Capital Reserves, Department 124 Commons

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20       |                            |                              |                         |                                     |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------|----------------------------|------------------------------|-------------------------|-------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description               | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                               |
| Second Preceding Year | First Preceding Year |                |                       |                                    |                            |                              |                         |                                     |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               | New Chaves System                  | 2019-20                    | 2019-20                      | 2019-20                 |                                     |
|                       |                      |                |                       |                                    |                            |                              |                         |                                     |
|                       |                      |                |                       |                                    |                            |                              |                         |                                     |
| 70,000                | 186,594              | 190,000        | 185,117               | Share of Beginning Balance (MEMO)  | 131,900                    | 131,900                      |                         |                                     |
|                       |                      |                |                       |                                    |                            |                              |                         |                                     |
| 116,594               | 27,000               | 27,000         | 8,500                 | Parks and Commons Reserves         | 27,000                     | 27,000                       |                         | 240-124 From Operations to Reserves |
| -                     | -                    | -              | -                     | Project transfer from General Fund | -                          | -                            |                         | 100-100                             |
| -                     | -                    | -              | 40,000                | Grant                              | -                          | -                            |                         |                                     |
| 116,594               | 27,000               | 27,000         | 48,500                | Total Revenue                      | 27,000                     | 27,000                       | -                       |                                     |
|                       |                      |                |                       |                                    |                            |                              |                         |                                     |
| -                     | -                    | 1,500          | -                     | Capitalized Labor                  | -                          | -                            |                         |                                     |
| -                     | 28,477               | 113,500        | 101,717               | Capital Outlay - City Amenities    | -                          | -                            |                         |                                     |
|                       |                      |                |                       |                                    |                            |                              |                         |                                     |
| -                     | 28,477               | 115,000        | 101,717               | Total Outlay                       | -                          | -                            | -                       |                                     |
|                       |                      |                |                       |                                    |                            |                              |                         |                                     |
| 116,594               | (1,477)              | (88,000)       | (53,217)              | Net Department Revenue (Expense)   | 27,000                     | 27,000                       | -                       |                                     |

186,594185,117102,000131,900Share of Ending Balance (MEMO)158,900158,900

|  |         |         |                       |   |
|--|---------|---------|-----------------------|---|
|  |         |         | CIP Projects          |   |
|  | 79,500  | 79,785  | New Roof              |   |
|  | 34,000  | 21,932  | New Floor             |   |
|  |         |         | Upgrades to Equipment | - |
|  | 1,500   | -       | City Crew Labor       | - |
|  | 115,000 | 101,717 | total                 | - |

Fund 150 - Capital Reserves, Department 125 Parks & Trails

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20                    |                            |                              |                         |                             |
|-----------------------|----------------------|----------------|-----------------------|-------------------------------------------------|----------------------------|------------------------------|-------------------------|-----------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                            | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                       |
| Second Preceding Year | First Preceding Year |                |                       |                                                 |                            |                              |                         |                             |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                                 | 2019-20                    | 2019-20                      | 2019-20                 |                             |
| -                     | -                    | 40,000         | 35,486                | Share of Beginning Balance (MEMO)               | 103,486                    | 103,486                      |                         |                             |
| -                     | 40,000               | 60,000         | 60,000                | Visitor Amenities                               | 50,000                     | 50,000                       |                         | 120-100                     |
| -                     | 0                    | 8,000          | 8,000                 | Transfer from URD                               | -                          |                              |                         | 900-100                     |
| -                     | 40,000               | 68,000         | 68,000                | Total Revenues                                  | 50,000                     | 50,000                       | -                       |                             |
| -                     | -                    | 2,650          | -                     | Capitalized Labor                               | 5,000                      | 5,000                        |                         |                             |
| -                     | 4,514                | 9,850          | -                     | Capital Outlay - City Amenities                 | -                          | -                            |                         |                             |
| -                     | -                    | -              |                       | Ridge Trail                                     | -                          | -                            |                         |                             |
| -                     | -                    | 47,500         | -                     | Capital Outlay - Yachats Ocean View Drive Trail | 45,000                     | 45,000                       |                         |                             |
| -                     | -                    | -              | -                     | Parking Improvements                            | -                          | -                            |                         |                             |
| -                     | 4,514                | 60,000         | -                     | Total Capital Outlay                            | 50,000                     | 50,000                       | -                       | Funded by Visitor Amenities |
| -                     | 35,486               | 8,000          | 68,000                | Net Department Revenue (Expense)                | -                          | -                            | -                       |                             |
| -                     | 35,486               | 48,000         | 103,486               | Share of Ending Balance (MEMO)                  | 103,486                    |                              |                         |                             |

Fund 150 - Capital Reserves, Department 130 Storm Drains

| Historical Data       |                      | Budget for Next Year 2019-20 |                       |                                   |                            |                              |                         |         |
|-----------------------|----------------------|------------------------------|-----------------------|-----------------------------------|----------------------------|------------------------------|-------------------------|---------|
| Actual                |                      | Adopted Budget               | Estimated YTD Actuals | Resource Description              | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes   |
| Second Preceding Year | First Preceding Year |                              |                       |                                   |                            |                              |                         |         |
| 2016-17               | 2017-18              | 2018-19                      | 2018-19               |                                   | 2019-20                    | 2019-20                      | 2019-20                 |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
| -                     | -                    | (7,000)                      | (6,663)               | Share of Beginning Balance (MEMO) | (4,663)                    | (4,663)                      |                         |         |
|                       |                      | 2,000                        | 2,000                 | Transfer from General Fund        | 44,663                     | 44,663                       |                         | 100-100 |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
|                       |                      | 2,000                        | 2,000                 | Total Revenues                    | 44,663                     | 44,663                       |                         |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
| -                     | 6,663                | 2,000                        | -                     | Capital Outlay - Hanley Culvert   | 40,000                     | -                            | -                       |         |
| -                     | -                    | -                            | -                     | Ridge Trail                       | -                          | -                            |                         |         |
|                       |                      |                              |                       | Build Out/Improvements            | -                          | 40,000                       |                         |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
| -                     | 6,663                | 2,000                        | -                     | Total Capital Outlay              | 40,000                     | 40,000                       |                         |         |
|                       |                      |                              |                       |                                   |                            |                              |                         |         |
| -                     | (6,663)              | -                            | 2,000                 | Net Department Revenue (Expense)  | 4,663                      | 4,663                        | -                       |         |

|   |         |         |         |                                |   |
|---|---------|---------|---------|--------------------------------|---|
|   |         |         |         | Share of Ending Balance (MEMO) |   |
| - | (6,663) | (7,000) | (4,663) |                                | - |

Fund 150 - Capital Reserves, Department 160 Water Plant

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20      |                            |                              |                         |                                                                                                                          |
|-----------------------|----------------------|----------------|-----------------------|-----------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description              | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                    |
| Second Preceding Year | First Preceding Year |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                   | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 396,623               | 353,755              | 290,000        | 86,448                | Share of Beginning Balance (MEMO) | 162,450                    | 162,450                      |                         | Beginning 18/19 Cap Reserve share balance is the net of the Highway 101 as reflected in the Capital Reserve Spreadsheets |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 133,032               | 78,000               | 100,000        | 100,000               | Water Reserves                    | 100,000                    | 100,000                      |                         | 660-100                                                                                                                  |
|                       |                      |                |                       | Transfer from SDC                 | 45,000                     | 45,000                       |                         | Backwash per Water Lead; 160-100                                                                                         |
| 133,032               | 78,000               | 100,000        | 100,000               | Total Revenues                    | 145,000                    | 145,000                      | -                       |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
|                       |                      | 45,250         | 10,560                | Capitalized Labor                 | 3,000                      | 3,000                        |                         |                                                                                                                          |
|                       |                      |                |                       | Capital Outlay - Equipment        |                            |                              |                         |                                                                                                                          |
| 8,964                 | 69,776               | 89,000         | -                     |                                   | 114,000                    | 114,000                      |                         |                                                                                                                          |
|                       |                      |                |                       | Capital Outlay - Water System     |                            |                              |                         |                                                                                                                          |
| 166,936               | 75,532               | 175,750        | 13,438                |                                   | 273,000                    | 273,000                      |                         |                                                                                                                          |
| 175,900               | 145,308              | 310,000        | 23,998                | Total Capital Outlay              | 390,000                    | 390,000                      | -                       |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| (42,868)              | (67,308)             | (210,000)      | 76,002                | Net Department Revenue (Expense)  | (245,000)                  | (245,000)                    | -                       |                                                                                                                          |

|         |           |         |         |                                    |          |          |   |
|---------|-----------|---------|---------|------------------------------------|----------|----------|---|
| 353,755 | 286,448   | 80,000  | 162,450 | Share of Ending Balance (MEMO)     | (82,551) | (82,550) | 0 |
|         | (200,000) |         |         | Transfer to Highway 101            |          |          |   |
|         | 86,448    |         | 162,450 | Share of Ending Balance (MEMO)     | (82,551) |          |   |
|         |           |         |         | CIP Projects                       |          |          |   |
|         |           | 65,000  | 3,938   | W. 3rd Street Waterline            |          |          |   |
|         |           |         |         | Upgrade Water Masterplan           | 60,000   |          |   |
|         |           | 14,250  | 9,500   | Enclose Blackstone Booster Station |          |          |   |
|         |           | 13,500  |         | Radio Read Meter Replacement       |          |          |   |
|         |           |         |         | Shop Doors                         | 30,000   |          |   |
|         |           |         |         | Backwash Plumbing                  | 45,000   |          |   |
|         |           |         |         | Earthquake Valves                  | 60,000   |          |   |
|         |           |         |         | Water Rate Study                   | 20,000   |          |   |
|         |           |         |         | Water Plant Systems                | 48,000   |          |   |
|         |           |         |         | SCADA System                       | 10,000   |          |   |
|         |           | 44,250  | 10,560  | City Crew Labor                    | 2000     |          |   |
|         |           | 220,000 | 23,998  | Total                              | 275,000  |          |   |
|         |           |         |         | Equipment                          |          |          |   |
|         |           | 89,000  |         | Vac Truck - share with WW          | 89,000   |          |   |
|         |           |         |         | Truck                              | 25,000   |          |   |
|         |           | 1,000   |         | City Crew Labor                    | 1,000    |          |   |
|         |           | 90,000  |         | Total                              | 115,000  |          |   |
|         |           | 310,000 | 23,998  | Total                              | 390,000  |          |   |

Fund 150 - Capital Reserves, Department 170 Wastewater Plant

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20      |                            |                              |                         |                                                                                                                          |
|-----------------------|----------------------|----------------|-----------------------|-----------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description              | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                    |
| Second Preceding Year | First Preceding Year |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                   | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 723,621               | 816,800              | 720,000        | 277,686               | Share of Beginning Balance (MEMO) | 463,065                    | 463,065                      |                         | Beginning 18/19 Cap Reserve share balance is the net of the Highway 101 as reflected in the Capital Reserve Spreadsheets |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 154,501               | 80,400               | 80,000         | 80,000                | Sewer Reserves                    | 80,000                     | 80,000                       |                         | 670-100                                                                                                                  |
| -                     | -                    | 150,000        | 170,000               | Transfer from SDC Fund W/W        | -                          | -                            |                         | 160-100                                                                                                                  |
| -                     | -                    | -              | -                     | Transfer from URD                 | -                          | 25,000                       |                         | 900-100                                                                                                                  |
| 154,501               | 80,400               | 230,000        | 250,000               | Total Revenue                     | 80,000                     | 105,000                      | -                       |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
|                       |                      | 12,750         | 1,226                 | Capitalized Labor                 | 3,000                      | 3,000                        |                         |                                                                                                                          |
| 1,463                 | 69,776               | 113,000        | -                     | Capital Outlay - Equipment        | 89,000                     | 89,000                       |                         |                                                                                                                          |
| 59,859                | 99,739               | 114,250        | 63,395                | Capital Outlay - Infrastructure   | 246,000                    | 276,000                      |                         |                                                                                                                          |
|                       |                      |                |                       | Capital Outlay - Crestview Sewer  | -                          | -                            | -                       |                                                                                                                          |
| 61,322                | 169,514              | 240,000        | 64,621                | Total Capital Outlay              | 338,000                    | 368,000                      | -                       |                                                                                                                          |
|                       |                      |                |                       |                                   |                            |                              |                         |                                                                                                                          |
| 93,179                | (89,114)             | (10,000)       | 185,379               | Net Department Revenue (Expense)  | (258,000)                  | (263,000)                    | -                       |                                                                                                                          |

|         |           |         |         |                                |         |         |
|---------|-----------|---------|---------|--------------------------------|---------|---------|
| 816,800 | 727,686   | 710,000 | 463,065 | Share of Ending Balance (MEMO) | 205,065 | 200,065 |
|         | (450,000) |         |         | Transfer to Highway 101        |         |         |

|         |  |  |  |                                |         |         |
|---------|--|--|--|--------------------------------|---------|---------|
| 277,686 |  |  |  | Share of Ending Balance (MEMO) | 205,065 | 200,065 |
|---------|--|--|--|--------------------------------|---------|---------|

| CIP Projects |        |                              |         |
|--------------|--------|------------------------------|---------|
| 45,000       | 62,195 | Crestview Wastewater Line    |         |
| 55,250       | 1,200  | Pole Building for Equip      | 80000   |
|              |        | Sliding Doors UV Bldg        | 15,000  |
|              |        | Roll-up Doors                | 30,000  |
|              |        | Air Valve Acuator            | 6,000   |
|              |        | Slide Gate                   | 5,000   |
| 14,000       |        | Radio Read Meter Replacement | -       |
|              |        | I&I Basin Rehab              | 30,000  |
|              |        | Wastewater Rate Study        | 20,000  |
|              |        | Waste Water Plan             | 90,000  |
| 10,750       | 1,226  | City Crew Labor              | 2,000   |
| 125,000      | 64,621 | Total                        | 278,000 |
|              |        | Equipment                    |         |
| 24,000       |        | 2,000 Gallon Water Truck     |         |
| 89,000       |        | Vac Truck                    | 89,000  |
| 2,000        | -      | City Crew Labor              | 1,000   |
| 115,000      | -      | Total                        | 90,000  |
| 240,000      | 64,621 | Total                        | 368,000 |



Fund 155 - Restricted Reserves Department 100 Non-Departmental

| Historical Data                        |                                       |                              |                                     | RECAP                               |                                             |                                               |                                          |       |
|----------------------------------------|---------------------------------------|------------------------------|-------------------------------------|-------------------------------------|---------------------------------------------|-----------------------------------------------|------------------------------------------|-------|
| Actual                                 |                                       |                              |                                     |                                     | Budget for Next Year 2019-20                |                                               |                                          |       |
| Second<br>Preceding<br>Year<br>2016-17 | First<br>Preceding<br>Year<br>2017-18 | Adopted<br>Budget<br>2018-19 | Estimated<br>YTD Actuals<br>2018-19 | Account Name                        | Proposed<br>by Budget<br>Officer<br>2019-20 | Approved by<br>Budget<br>Committee<br>2019-20 | Adopted<br>by City<br>Council<br>2019-20 | Notes |
| 471,487                                | 464,872                               | 450,000                      | 521,356                             | Beginning Fund Balance              | 914,283                                     | 914,283                                       | 914,283                                  |       |
| 2,013                                  | -                                     | 2,000                        | -                                   | Interest Income                     | -                                           | -                                             |                                          |       |
| 1,889                                  | -                                     | -                            | -                                   | Earnings from Temporary Investments | -                                           | -                                             |                                          |       |
| 3,902                                  | -                                     | 2,000                        | -                                   | Total Revenue                       | -                                           | -                                             | -                                        |       |
|                                        |                                       |                              |                                     | Department 017 - Revenue            |                                             |                                               |                                          |       |
| -                                      | (2,459)                               | 150                          | 150                                 | Bonds                               | 150                                         | 150                                           | -                                        |       |
| (4,853)                                | (1,427)                               | (670)                        | (5,310)                             | Department 018 - GO Bonds           | 245                                         | 245                                           | -                                        |       |
|                                        |                                       |                              |                                     | Department 176 - Sewer Plant        |                                             |                                               |                                          |       |
| (1,762)                                | 60,370                                | 50,267                       | 298,087                             | Loans                               | 59,147                                      | 59,147                                        | -                                        |       |
|                                        |                                       |                              |                                     | From Fund 60                        | -                                           | -                                             | -                                        |       |
|                                        |                                       |                              |                                     | Department 168 - South Tank         |                                             |                                               |                                          |       |
|                                        |                                       | 60,000                       | 100,000                             | Total Department Revenue            | 60,089                                      | 60,089                                        | -                                        |       |
| (6,615)                                | 56,484                                | 109,747                      | 392,927                             | (Expense)                           | 119,631                                     | 119,631                                       | -                                        |       |
|                                        |                                       |                              |                                     |                                     |                                             |                                               |                                          |       |
| (2,713)                                | 56,484                                | 111,747                      | 392,927                             | Net Fund Revenue (Expense)          | 119,631                                     | 119,631                                       | -                                        |       |
|                                        |                                       |                              |                                     |                                     |                                             |                                               |                                          |       |
| 464,872                                | 521,356                               | 559,747                      | 914,283                             | Ending Fund Balance                 | 1,033,914                                   | 1,033,914                                     | 914,283                                  |       |

**Fund 155 - Restricted Reserves, Department 017 Water Revenue Bond**

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20                                                                                                                                                                                                                                                                |                            |                              |                         |                                                  |
|-----------------------|----------------------|----------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                                                                                                                                                                                                                                                                        | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                            |
| Second Preceding Year | First Preceding Year |                |                       |                                                                                                                                                                                                                                                                                             |                            |                              |                         |                                                  |
| 2016-17               | 2017-18              |                |                       |                                                                                                                                                                                                                                                                                             |                            |                              |                         |                                                  |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                                                                                                                                                                                                                                                                             | 2019-20                    | 2019-20                      | 2019-20                 |                                                  |
|                       |                      |                |                       | 3.07% Interest, Payoff 3/2032, 2 payments/year. Net Revenues are required to be 1.2x total debt service (gross revenues after expenses - Does not include South Tank Loan per conversation on 4/5/19). <b>\$42,000 required to be set aside in reserve in a Washington Federal Account.</b> |                            |                              |                         |                                                  |
| 0                     | 43,000               | 43,000         | 43,000                | Transfer from Water System                                                                                                                                                                                                                                                                  | 43,000                     | 43,000                       |                         | 660-100. Budgeted Fund 60 in the old system.     |
| -                     | 43,000               | 43,000         | 43,000                | Total Revenue                                                                                                                                                                                                                                                                               | 43,000                     | 43,000                       |                         |                                                  |
| 0                     | 26,565               | 14,664         | 14,664                | Interest Payments                                                                                                                                                                                                                                                                           | 13,792                     | 13,792                       |                         | FY20 Interest \$13,792 per amortization schedule |
| 0                     | 18,894               | 28,186         | 28,186                | Principal Payments                                                                                                                                                                                                                                                                          | 29,058                     | 29,058                       |                         | FY20 Principle \$29,058                          |
| 0                     | 45,459               | 42,850         | 42,850                | Total Expenses                                                                                                                                                                                                                                                                              | 42,850                     | 42,850                       |                         |                                                  |
| 0                     | (2,459)              | 150            | 150                   | Net Department Revenue(Expense)                                                                                                                                                                                                                                                             | 150                        | 150                          |                         |                                                  |

**Fund 155 - Restricted Reserves, Department 018 GO Water Bond**

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20                               |                            |                              |                         |                                                         |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------------------------------|----------------------------|------------------------------|-------------------------|---------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                                       | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                   |
| Second Preceding Year | First Preceding Year |                |                       |                                                            |                            |                              |                         |                                                         |
| 2016-17               | 2017-18              |                |                       |                                                            |                            |                              |                         |                                                         |
| 39,473                | 42,061               | 43,000         | 38,554                | Property Taxes - Current Year                              | 44,000                     | 44,000                       |                         | 3.0% Interest, Payoff 12/2031, 2 payments/year          |
| 1,133                 | 950                  | 1,000          | 806                   | Property Taxes - Prior Year Transfer from the General Fund | 1,000                      | 1,000                        |                         | 1st payment in Dec is P&I, 2nd Payment is interest only |
| -                     | -                    | -              | -                     | Interest Earned                                            | -                          | -                            |                         |                                                         |
| 40,606                | 43,011               | 44,000         | 39,360                | Total Revenue                                              | 45,000                     | 45,000                       |                         |                                                         |
| 28,321                | 15,438               | 14,670         | 14,670                | Interest Payments                                          | 13,755                     | 13,755                       |                         | FY20 Interest \$13,755 per amortization schedule        |
| 17,138                | 29,000               | 30,000         | 30,000                | Principal Payments                                         | 31,000                     | 31,000                       |                         | FY20 Principle \$31,000                                 |
| 45,459                | 44,438               | 44,670         | 44,670                | Total Debt Service                                         | 44,755                     | 44,755                       |                         |                                                         |
| (4,853)               | (1,427)              | (670)          | (5,310)               | Net Department Revenue(Expense)                            | 245                        | 245                          |                         |                                                         |



Fund 155 - Restricted Reserves, Department 168 South Tank Loan

Budget for Next Year 2019-20

| Historical Data       |                      | Budget for Next Year 2019-20 |                       |                                 |                            |                              |                         |                                                                                                                                                                                     |
|-----------------------|----------------------|------------------------------|-----------------------|---------------------------------|----------------------------|------------------------------|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget               | Estimated YTD Actuals | Resource Description            | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                                                                               |
| Second Preceding Year | First Preceding Year |                              |                       |                                 |                            |                              |                         |                                                                                                                                                                                     |
| 2016-17               | 2017-18              |                              |                       |                                 |                            |                              |                         |                                                                                                                                                                                     |
|                       |                      |                              |                       |                                 | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                                                                                                     |
|                       |                      |                              |                       |                                 |                            |                              |                         | 1.0% Interest, Payoff 12/2048, 1 payment/year                                                                                                                                       |
|                       |                      | 100,000                      | 100,000               | Urban Renewal Contribution      | 100,000                    | 100,000                      |                         | 900-100                                                                                                                                                                             |
|                       |                      |                              |                       |                                 |                            |                              |                         | 7/3/18 IGA requires a \$100,000 payment from the URD to the City to repay the South Tank Loan. This is in effect despite the lower amortization payment. First payment due 12/2019. |
| -                     | -                    | 100,000                      | 100,000               | Total Revenue                   | 100,000                    | 100,000                      | -                       |                                                                                                                                                                                     |
| -                     | -                    | 5,600                        | -                     | Interest Payments               | 15,409                     | 15,409                       |                         | \$15,408.64 is FY20 Interest payment per amortization                                                                                                                               |
| -                     | -                    | 34,400                       | -                     | Principal Payments              | 24,502                     | 24,502                       |                         | \$24,501.92 is FY20 Principal payment per amortization                                                                                                                              |
| -                     | -                    | 40,000                       | -                     | Total Debt Service              | 39,911                     | 39,911                       | -                       |                                                                                                                                                                                     |
| -                     | -                    | 60,000                       | 100,000               | Net Department Revenue(Expense) | 60,089                     | 60,089                       | -                       | Finance Committee to review if excess contribution can be applied to early payoff of City loans                                                                                     |

Fund 155 - Restricted Reserves, Department 176 Wastewater Plant Loan

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20        |                            |                              |                         |                                                                                                                          |
|-----------------------|----------------------|----------------|-----------------------|-------------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                    |
| Second Preceding Year | First Preceding Year |                |                       |                                     |                            |                              |                         |                                                                                                                          |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                     | 2019-20                    | 2019-20                      | 2019-20                 | DEQ - 2.90% Interest, 0.5% Annual fee Payoff 4/2029, 2 payments/year. A required reserve of \$225,687 is required.       |
|                       |                      |                |                       |                                     |                            |                              |                         | IFA - Variable Interest ~5.0% Payoff 12/2033, 1 payment/year                                                             |
| 95,000                | 95,000               | 95,000         | 95,000                | Urban Renewal Contribution          | 95,000                     | 95,000                       |                         | 900-100                                                                                                                  |
| -                     | -                    | -              | -                     | Interest Earned                     | -                          | -                            |                         |                                                                                                                          |
| -                     | -                    | -              | -                     | Earnings from Temporary Investments | -                          | -                            |                         |                                                                                                                          |
| 80,000                | 40,000               | 40,000         | 40,000                | Sewer SDC Transfers                 | 40,000                     | 40,000                       |                         | 160-100                                                                                                                  |
|                       |                      |                |                       | Capital Reserve Transfers (F&B      |                            |                              |                         |                                                                                                                          |
| 335,000               | 374,949              | 365,000        | 365,000               | Tax)                                | 370,000                    | 370,000                      |                         | 150-100                                                                                                                  |
| -                     | 60,000               | 60,000         | 60,000                | Transfer from Sewer Fund            | 60,000                     | 60,000                       |                         | 670-100                                                                                                                  |
| -                     | -                    | -              | -                     | Transfer from Sewer Debt Fund       | -                          | -                            |                         |                                                                                                                          |
| -                     | -                    | -              | -                     | Transfer from General Fund          | -                          | -                            |                         |                                                                                                                          |
| 510,000               | 569,949              | 560,000        | 560,000               | Total Revenue                       | 565,000                    | 565,000                      |                         |                                                                                                                          |
| 138,367               | 129,254              | 120,000        | 61,127                | Interest Payments - DEQ             | 110,221                    | 110,221                      |                         | FY20 Interest payment per amoritization                                                                                  |
| 311,993               | 321,106              | 331,000        | 164,053               | Principal Payments - DEQ            | 340,139                    | 340,139                      |                         | FY20 Principal payment per amoritization                                                                                 |
| 23,469                | 21,887               | 22,000         | -                     | DEQ Fees                            | 18,581                     | 18,581                       |                         | FY20 Fee payment per amoritization                                                                                       |
| 17,706                | 19,518               | 18,806         | 18,806                | Interest Payments - IFA             | 18,986                     | 18,986                       |                         | FY20 Interest payment per amoritization                                                                                  |
| 20,227                | 17,814               | 17,927         | 17,927                | Principal Payments - IFA            | 17,926                     | 17,926                       |                         | FY20 Principal payment per amoritization                                                                                 |
| 511,762               | 509,579              | 509,733        | 261,913               | Total Debt Service                  | 505,853                    | 505,853                      |                         |                                                                                                                          |
|                       |                      |                |                       |                                     |                            |                              |                         |                                                                                                                          |
| (1,762)               | 60,370               | 50,267         | 298,087               | Net Department Revenue(Expense)     | 59,147                     | 59,147                       |                         | Finance Committee to review loans and determine whether early payoff of the IFA loan is in the best interst of the City. |

Budgeted in Fund 76 in the old system

Fund 160 - System Development Charges, Department 100 Non-Departmental

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20             |                            |                              |                         |                                            |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                     | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                      |
| Second Preceding Year | First Preceding Year |                |                       |                                          |                            |                              |                         |                                            |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               | New Chaves System                        | 2019-20                    | 2019-20                      | 2019-20                 |                                            |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
| 219,810               | 149,074              | 185,000        | 236,321               | Beginning Fund Balance                   | 355,332                    | 355,332                      |                         |                                            |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
| -                     | -                    | -              | -                     | Interest Earned                          | -                          | -                            |                         |                                            |
| 14,719                | 15,776               | 7,000          | 20,000                | Water Improvements                       | 15,000                     | 15,000                       |                         | \$20,553 as of 4/4, 3 year avg is \$16,800 |
| 12,206                | 21,432               | 10,000         | 32,000                | Water Reimbursements                     | 20,000                     | 20,000                       |                         | \$33,163 as of 4/4, 3 year avg is \$21,879 |
| 42,766                | 61,922               | 30,000         | 81,029                | Sewer Reimbursements                     | 60,000                     | 60,000                       |                         | \$83,139 as of 4/4, 3 year avg is \$61,906 |
| 13,442                | 28,119               | 10,000         | 18,513                | Storm Drain Improvements                 | 19,000                     | 19,000                       |                         | \$18,838 as of 4/4, 3 year avg is \$20,025 |
| 1,129                 | -                    | -              | -                     | Earnings on Temporary Investments        | -                          | -                            |                         |                                            |
| -                     | -                    | 10,000         | 10,000                | CY LID Repayments - Principal            | 10,000                     | 10,000                       |                         | \$14,946 as of 4/4, no avg                 |
| -                     | -                    | 4,000          | 2,800                 | CY LID Repayments - Interest             | -                          | -                            |                         | \$2,814 as of 4/4, no avg                  |
| -                     | -                    | 164,668        | 164,668               | LID repayments transferred from Reserves | -                          | 25,294                       |                         | 150-100                                    |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
| 84,263                | 127,248              | 235,668        | 329,010               | Total Revenue                            | 124,000                    | 149,294                      |                         |                                            |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
| -                     | -                    | -              | -                     | Reserved for Future Expenditures         | -                          | -                            |                         |                                            |
| (75,000)              | -                    | -              | -                     | Transfer to Highway 101 Project          | -                          | -                            |                         |                                            |
| (80,000)              | (40,000)             | (40,000)       | (40,000)              | Transfer to Debt Reserves                | (40,000)                   | (40,000)                     |                         | 155-176                                    |
|                       |                      |                |                       | Transfer to Capital Reserves Water       | (45,000)                   | (45,000)                     |                         | 150-160                                    |
| -                     | -                    | (150,000)      | (170,000)             | Transfer to Capital Reserves WW          | -                          | -                            |                         | 150-170                                    |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
| (70,737)              | 87,248               | 45,668         | 119,010               | Net Fund Revenue (Expense)               | 39,000                     | 64,294                       |                         |                                            |
|                       |                      |                |                       |                                          |                            |                              |                         |                                            |
| 149,074               | 236,321              | 230,668        | 355,332               | Ending Fund Balance                      | 394,332                    | 419,626                      |                         |                                            |

**Fund 200 - Highway 101 Construction, Department 100 Non-Departmental  
Budget for Next Year 2019-20**

| Historical Data       |                      |                |                       |                                        |                            |                              |                         |                                                               |
|-----------------------|----------------------|----------------|-----------------------|----------------------------------------|----------------------------|------------------------------|-------------------------|---------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                   | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                         |
| Second Preceding Year | First Preceding Year |                |                       |                                        |                            |                              |                         |                                                               |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                        | 2019-20                    | 2019-20                      | 2019-20                 |                                                               |
| 435,221               | (499,559)            | (75,000)       | 2,950                 | Beginning Fund Balance                 | 2,950                      | 2,950                        |                         | Finance Committee will research where funds should be placed. |
| 1,336                 | -                    | -              | -                     | Interest Earned                        | -                          | -                            |                         |                                                               |
| 913                   | -                    | -              | -                     | Earnings from Temporary Investments    | -                          | -                            |                         |                                                               |
| 1,000,000             | -                    | 20,000         | -                     | 2nd ODOT Grant Highway 101             | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Additional ODOT Grant                  | -                          | -                            |                         |                                                               |
| -                     | 490,144              | 365,000        | -                     | ODOT Storm Drain Funding               | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Earnings from Temporary Investments    | -                          | -                            |                         |                                                               |
| 75,000                | -                    | -              | -                     | Operating Transfer from SDC's          | -                          | -                            |                         |                                                               |
| 146,000               | 46,000               | 46,000         | -                     | Urban Renewal Contribution             | -                          | -                            |                         | 900-100                                                       |
| -                     | 650,000              | 650,000        | -                     | Transfers from Capital Reserve Fund    | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Transfer from Streets Fund             | -                          | -                            |                         | 150-100                                                       |
| -                     | -                    | -              | -                     | Transfer from Storm Drain Fund         | -                          | -                            |                         |                                                               |
| 200,000               | -                    | -              | -                     | Transfer from Visitor Amenities        | -                          | -                            |                         |                                                               |
| 1,423,249             | 1,186,144            | 1,081,000      | -                     | Total Revenue                          | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Underground Utility Transfer - TBD     | -                          | -                            |                         |                                                               |
| 1,423,249             | 1,186,144            | 1,081,000      | -                     | Total Revenue                          | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Allocated Labor                        | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Personnel Services                     | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Capital Outlay                         | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | OP Transfer to Reserves                | -                          | -                            |                         |                                                               |
| (1,617,832)           | (683,635)            | (356,000)      | -                     | Capital Outlay - Streets/Sidewalks     | -                          | -                            |                         |                                                               |
| (546,636)             | -                    | -              | -                     | Capital Outlay - Underground Utilities | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Capital Outlay - Underground Utilities | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Capital Outlay - Sewer Line            | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Capital Outlay - Waterlines            | -                          | -                            |                         |                                                               |
| (193,561)             | -                    | -              | -                     | Capital Outlay - Storm Drains          | -                          | -                            |                         |                                                               |
| -                     | -                    | -              | -                     | Reserved for Future Expenditures       | -                          | -                            |                         |                                                               |
| (2,358,029)           | (683,635)            | (356,000)      | -                     | Total Expenditures                     | -                          | -                            |                         |                                                               |
| (934,780)             | 502,509              | 725,000        | -                     | Net Fund Revenue (Expense)             | -                          | -                            |                         |                                                               |
| (499,559)             | 2,950                | 650,000        | 2,950                 | Ending Fund Balance                    | 2,950                      | 2,950                        |                         |                                                               |

Fund 240 - City Amenities, Departments 100-125 Library, LLCM, Commons, Parks & Trails

Fund 240 City Amenities 2018-2019 Fiscal Budget      **RECAP**  
Department 100 Non-Departmental

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20 |                                |                            |                              |                         |       |
|-----------------------|----------------------|----------------|-----------------------|------------------------------|--------------------------------|----------------------------|------------------------------|-------------------------|-------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Account #                    | Resource Description           | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes |
| Second Preceding Year | First Preceding Year |                |                       |                              |                                |                            |                              |                         |       |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                              |                                | 2019-20                    | 2019-20                      | 2019-20                 |       |
| 5,527                 | (15,519)             | 5,000          | 500                   | 3-30-0101                    | Beginning Fund Balance         | 55,411                     | 55,411                       |                         |       |
| 451                   | 3,009                | -              | 6,450                 |                              | Department 122 - Library       | -                          | -                            |                         |       |
| 842                   | 1,557                | -              | 4,547                 |                              | Department 123- LLCM           | -                          | -                            |                         |       |
| (22,339)              | 2,967                | -              | 26,414                |                              | Department 124- Commons        | -                          | -                            |                         |       |
| -                     | 8,486                | -              | 17,500                |                              | Department 125- Parks & Trails | -                          | -                            |                         |       |
| (15,519)              | 500                  | 5,000          | 55,411                |                              | Ending Fund Balance            | 55,411                     | 55,411                       |                         |       |

Fund 240 - City Amenities, Department 122 Library

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20                               |                            |                              |                         |                                                                                           |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------------------------------|----------------------------|------------------------------|-------------------------|-------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                                       | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                     |
| Second Preceding Year | First Preceding Year |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                                            | 2019-20                    | 2019-20                      | 2019-20                 | Submitted by Library w/input from City Manager on Maintenance                             |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 151,562               | 2,121                | 2,000          | 2,200                 | Gifts and Donations                                        | 2,000                      | 2,000                        |                         |                                                                                           |
| 1,050                 | 1,000                | 1,000          | 1,000                 | Other State Sources                                        | 1,000                      | 1,000                        |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 152,612               | 3,121                | 3,000          | 3,200                 | Total External Revenue                                     | 3,000                      | 3,000                        |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 54,248                | 24,750               | 20,580         | 20,580                | General Fund Support (85%) 70% per Budget Committee        | 27,549                     | 27,549                       |                         | 100-100                                                                                   |
| 9,573                 | 3,950                | 8,820          | 8,820                 | Visitor Amenities Support (15%) (30% per Budget Committee) | 11,807                     | 11,807                       |                         | 120-100                                                                                   |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 63,821                | 28,700               | 29,400         | 29,400                | Total Internal Support                                     | 39,356                     | 39,356                       |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 216,433               | 31,821               | 32,400         | 32,600                | Total Resources                                            | 42,356                     | 42,356                       |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 243                   | 488                  | 2,000          | 1,000                 | Allocated Labor                                            | 2,000                      | 2,000                        |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 789                   | 981                  | 1,000          | 1,200                 | Insurance                                                  | 1,500                      | 1,500                        |                         |                                                                                           |
| 1,503                 | 1,531                | 1,400          | 1,500                 | Office Phone/Cell/DSL                                      | 1,500                      | 1,500                        |                         |                                                                                           |
| 1,678                 | 1,795                | 1,600          | 1,300                 | Office Utilities                                           | 1,400                      | 1,400                        |                         |                                                                                           |
| -                     | -                    | 1,500          | 400                   | Software/Hardware                                          | 3,500                      | 3,500                        |                         | Includes cost of Firewall                                                                 |
| 2,681                 | 1,719                | 4,000          | 750                   | Equipment Repair                                           | 5,000                      | 5,000                        |                         |                                                                                           |
| 2,772                 | 2,969                | 4,000          | 3,000                 | Children's Books/Programs                                  | 4,000                      | 4,000                        |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 2,291                 | 5,629                | 2,500          | 3,800                 | Building or Land Maintenance                               | 7,056                      | 7,056                        |                         | 2017 IFMA \$3.50/sq ft budget for general maintenance. Library 2016 sq feet per insurance |
|                       | 1,433                | 1,500          | 1,100                 | Operating Materials and Supplies                           | 1,500                      | 1,500                        |                         |                                                                                           |
| 7,744                 | 7,780                | 7,500          | 8,000                 | Books and Periodicals                                      | 8,000                      | 8,000                        |                         |                                                                                           |
| 2,733                 | 887                  | 1,800          | 500                   | Materials and Services Other                               | 3,300                      | 3,300                        |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 22,193                | 24,724               | 26,800         | 21,550                | Total Materials and Services                               | 36,756                     | 36,756                       |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 193,547               | 3,600                | 3,600          | 3,600                 | Interfund Transfer - Capital Reserve                       | 3,600                      | 3,600                        |                         | 150-122                                                                                   |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 216,433               | 31,821               | 32,400         | 32,600                | Total Resources                                            | 42,356                     |                              |                         |                                                                                           |
| 243                   | 488                  | 2,000          | 1,000                 | Total Personnel Services                                   | 2,000                      |                              |                         |                                                                                           |
| 22,193                | 24,724               | 26,800         | 21,550                | Total Material & Services                                  | 36,756                     |                              |                         |                                                                                           |
| 193,547               | 3,600                | 3,600          | 3,600                 | Total Capital Reserve Transfers                            | 3,600                      |                              |                         |                                                                                           |
| 215,982               | 28,812               | 32,400         | 26,150                | Total Expenditures                                         | 42,356                     |                              |                         |                                                                                           |
|                       |                      |                |                       |                                                            |                            |                              |                         |                                                                                           |
| 451                   | 3,009                | -              | 6,450                 | Total Department Revenue (Expense)                         | -                          | -                            |                         |                                                                                           |



Fund 240 - City Amenities, Department 123 LLCM

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20         |                            |                              |                         |                                                                                        |
|-----------------------|----------------------|----------------|-----------------------|--------------------------------------|----------------------------|------------------------------|-------------------------|----------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                 | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                  |
| Second Preceding Year | First Preceding Year |                |                       |                                      |                            |                              |                         |                                                                                        |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                      | 2019-20                    | 2019-20                      | 2019-20                 | Submitted by LLC&M w/input from City Manager on Maintenance                            |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 2,024                 | 1,961                | 2,000          | 1,500                 | Rents or Fees                        | 1,500                      | 1,500                        |                         |                                                                                        |
| 260                   | 293                  | -              | 148                   | Inventory Sale                       | -                          | -                            |                         |                                                                                        |
| 1,296                 | 1,317                | 1,000          | 1,600                 | Gifts and Donations                  | 1,400                      | 1,400                        |                         |                                                                                        |
| -                     | -                    | -              | -                     | Other State Sources                  | -                          | -                            |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 3,580                 | 3,571                | 3,000          | 3,248                 | Total External Revenue               | 2,900                      | 2,900                        |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 2,288                 | 3,800                | 3,225          | 3,225                 | General Fund Support (25%)           | 5,279                      | 5,279                        |                         | 100-100                                                                                |
| 6,864                 | 7,800                | 9,675          | 9,675                 | Visitor Amenitites Support (75%)     | 15,836                     | 15,836                       |                         | 120-100                                                                                |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 9,152                 | 11,600               | 12,900         | 12,900                | Total Internal Support               | 21,114                     | 21,114                       |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 12,732                | 15,171               | 15,900         | 16,148                | Total Resources                      | 24,014                     | 24,014                       |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| -                     | 1,459                | 2,500          | 612                   | Allocated Labor                      | 2,500                      | 2,500                        |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 172                   | 178                  | 200            | 178                   | Marketing/Road Sign                  | 200                        | 200                          |                         |                                                                                        |
| 928                   | 925                  | 1,000          | 925                   | Insurance                            | 1,100                      | 1,100                        |                         |                                                                                        |
| 652                   | 553                  | 700            | 443                   | Office Phone/Cell/DSL                | 600                        | 600                          |                         |                                                                                        |
| 1,545                 | 1,675                | 1,400          | 1,387                 | Office Utilities                     | 1,400                      | 1,400                        |                         |                                                                                        |
| -                     | -                    | -              | -                     | Equipment Repair                     | -                          | -                            |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 794                   | 903                  | 500            | 556                   | Building or Land Maintenance         | 9,114                      | 9,114                        |                         | 2017 IFMA \$3.50/sq ft budget for general maintenance. LLCM 2604 sq feet per insurance |
| 149                   | -                    | 1,000          | -                     | Inventory Purchases                  | 1,000                      | 1,000                        |                         |                                                                                        |
| 2,996                 | 2,938                | 3,000          | 2,518                 | Parks/Grounds Maintenance            | 3,000                      | 3,000                        |                         |                                                                                        |
| -                     | 50                   | 500            | 50                    | Equipment & Furnishings              | 100                        | 100                          |                         |                                                                                        |
| 75                    | 332                  | 500            | 332                   | Materials and Services Other         | 400                        | 400                          |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 7,311                 | 7,555                | 8,800          | 6,389                 | Total Materials and Services         | 16,914                     | 16,914                       |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 4,579                 | 4,600                | 4,600          | 4,600                 | Interfund Transfer - Capital Reserve | 4,600                      | 4,600                        |                         | 150-123                                                                                |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 12,732                | 15,171               | 15,900         | 16,148                | Total Resources                      | 24,014                     |                              |                         |                                                                                        |
| -                     | 1,459                | 2,500          | 612                   | Total Personnel Services             | 2,500                      |                              |                         |                                                                                        |
| 7,311                 | 7,555                | 8,800          | 6,389                 | Total Material & Services            | 16,914                     |                              |                         |                                                                                        |
| 4,579                 | 4,600                | 4,600          | 4,600                 | Total Capital Reserve Transfers      | 4,600                      |                              |                         |                                                                                        |
| 11,890                | 13,614               | 15,900         | 11,601                | Total Expenditures                   | 24,014                     |                              |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
|                       |                      |                |                       |                                      |                            |                              |                         |                                                                                        |
| 842                   | 1,557                | -              | 4,547                 | Total Department Revenue (Expense)   | -                          | -                            |                         |                                                                                        |

Fund 240 - City Amenities, Department 124 Commons Building

| Historical Data                        |                                       |                           |                                     | Budget for Next Year 2019-20         |                                             |                                               |                                          |                                                                                                                                |
|----------------------------------------|---------------------------------------|---------------------------|-------------------------------------|--------------------------------------|---------------------------------------------|-----------------------------------------------|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Actual                                 |                                       | Adopted Budget<br>2018-19 | Estimated YTD<br>Actuals<br>2018-19 | Resource Description                 | Proposed<br>by Budget<br>Officer<br>2019-20 | Approved<br>by Budget<br>Committee<br>2019-20 | Adopted<br>by City<br>Council<br>2019-20 | Notes                                                                                                                          |
| Second<br>Preceding<br>Year<br>2016-17 | First<br>Preceding<br>Year<br>2017-18 |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 2016-17                                | 2017-18                               |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 25,721                                 | 28,462                                | 22,000                    | 25,500                              | Rents or Fees                        | 26,000                                      | 26,000                                        |                                          |                                                                                                                                |
| 17,800                                 | 17,800                                | 17,800                    | 17,800                              | City Hall Rental Income              | 17,800                                      | 17,800                                        |                                          |                                                                                                                                |
| 391                                    | -                                     | -                         | -                                   | Gifts and Donations                  | -                                           | -                                             |                                          |                                                                                                                                |
| -                                      | -                                     | -                         | -                                   | Other State Sources                  | -                                           | -                                             |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 43,912                                 | 46,262                                | 39,800                    | 43,300                              | Total External Revenue               | 43,800                                      | 43,800                                        |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 125,437                                | 76,800                                | 93,000                    | 93,000                              | General Fund Support (75%)           | 120,380                                     | 120,380                                       |                                          | 100-100                                                                                                                        |
| 41,812                                 | 23,800                                | 30,000                    | 30,000                              | Visitor Amenities Support (25%)      | 40,127                                      | 40,127                                        |                                          | 120-100                                                                                                                        |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 167,249                                | 100,600                               | 123,000                   | 123,000                             | Total Internal Support               | 160,506                                     | 160,506                                       |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 211,161                                | 146,862                               | 162,800                   | 166,300                             | Total Resources                      | 204,306                                     | 204,306                                       |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 18,623                                 | 39,766                                | 40,000                    | 32,000                              | Allocated Labor                      | 40,000                                      | 40,000                                        |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 4,484                                  | 5,509                                 | 5,500                     | 5,000                               | Insurance                            | 6,000                                       | 6,000                                         |                                          |                                                                                                                                |
| 253                                    | 309                                   | 250                       | 276                                 | Office Materials/Supplies            | 500                                         | 500                                           |                                          |                                                                                                                                |
| 2,576                                  | 849                                   | 1,500                     | 310                                 | Office Phone/Cell/DSL                | 1,000                                       | 1,000                                         |                                          |                                                                                                                                |
| 5,927                                  | 5,655                                 | 5,000                     | 5,000                               | Office Utilities                     | 5,000                                       | 5,000                                         |                                          |                                                                                                                                |
| 36,000                                 | 37,300                                | 38,000                    | 36,000                              | Professional Services                | 38,000                                      | 38,000                                        |                                          |                                                                                                                                |
| 413                                    | 526                                   | 550                       | -                                   | Tools & Small Equipment              | 500                                         | 500                                           |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 30,917                                 | 15,564                                | 20,000                    | 15,000                              | Building or Land Maintenance         | 50,806                                      | 50,806                                        |                                          | 2017 IFMA \$3.50/sq. ft budget for general<br>maintenance. Commons 14516 sq. feet per insurance<br>Increased Custodial Service |
| 12,309                                 | 11,061                                | 14,500                    | 19,000                              | Custodial Support/Supply             | 25,000                                      | 25,000                                        |                                          |                                                                                                                                |
| 4,025                                  | -                                     | -                         | -                                   | Parks/Grounds Maintenance            | -                                           | -                                             |                                          |                                                                                                                                |
|                                        | -                                     | -                         | -                                   | Equipment & Furnishings              | -                                           | -                                             |                                          |                                                                                                                                |
| 1,379                                  | 356                                   | 500                       | 300                                 | Materials and Services Other         | 500                                         | 500                                           |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 98,282                                 | 77,130                                | 85,800                    | 80,886                              | Total Materials and Services         | 127,306                                     | 127,306                                       |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| -                                      | -                                     | -                         | -                                   | Capital Outlay City Amenities        | -                                           | -                                             |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| -                                      | -                                     | 10,000                    | -                                   | Contingencies                        | 10,000                                      | 10,000                                        |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| 116,594                                | 27,000                                | 27,000                    | 27,000                              | Interfund Transfer - Capital Reserve | 27,000                                      | 27,000                                        |                                          | 150-124                                                                                                                        |
| 211,161                                | 146,862                               | 162,800                   | 166,300                             | Total Resources                      | 204,306                                     |                                               |                                          |                                                                                                                                |
| 18,623                                 | 39,766                                | 40,000                    | 32,000                              | Total Personnel Services             | 40,000                                      |                                               |                                          |                                                                                                                                |
| 98,282                                 | 77,130                                | 85,800                    | 80,886                              | Total Material & Services/Conting.   | 137,306                                     |                                               |                                          |                                                                                                                                |
|                                        | -                                     | -                         | -                                   | Total Capital Reserves Transfers     | 27,000                                      |                                               |                                          |                                                                                                                                |
| 116,906                                | 116,895                               | 125,800                   | 112,886                             | Total Expenditures                   | 204,306                                     |                                               |                                          |                                                                                                                                |
|                                        |                                       |                           |                                     |                                      |                                             |                                               |                                          |                                                                                                                                |
| (22,339)                               | 2,967                                 | -                         | 26,414                              | Total Department Revenue (Expense)   | -                                           | -                                             | -                                        |                                                                                                                                |



Fund 240 - City Amenities, Department 125 Parks & Trails

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20       |                            |                              |                         |                                                                                                                       |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------|----------------------------|------------------------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description               | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                                 |
| Second Preceding Year | First Preceding Year |                |                       |                                    |                            |                              |                         |                                                                                                                       |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                    | 2019-20                    | 2019-20                      | 2019-20                 | Submitted by Trails Committee                                                                                         |
| -                     | 87                   | 500            | -                     | Rents or Fees                      | -                          | -                            |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Gifts and Donations                | -                          | -                            |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Other State Sources                | -                          | -                            |                         |                                                                                                                       |
| -                     | 87                   | 500            | -                     | Total External Revenue             | -                          | -                            |                         |                                                                                                                       |
| -                     | 16,600               | 9,125          | 9,125                 | General Fund Support (25%)         | 5,888                      | 5,888                        |                         | 100-100                                                                                                               |
| -                     | 20,000               | 27,375         | 27,375                | Visitor Amenitites Support (75%)   | 17,663                     | 17,663                       |                         | 120-100                                                                                                               |
| -                     | 36,600               | 36,500         | 36,500                | Total Internal Support             | 23,550                     | 23,550                       |                         |                                                                                                                       |
| -                     | 36,687               | 37,000         | 36,500                | Total Resources                    | 23,550                     | 23,550                       |                         |                                                                                                                       |
| -                     | 1,845                | 6,000          | 3,000                 | Allocated Labor                    | 3,000                      | 3,000                        |                         | City labor to pick up weed piles                                                                                      |
| -                     | -                    | -              | -                     | Insurance                          | 3,000                      | 3,000                        |                         | Gerdemann Trail, volunteer coverage                                                                                   |
| -                     | -                    | -              | -                     | Dues/Memberships/fees              | 3,000                      | 3,000                        |                         | Trail Conferences, Training Registration, Training Accomadation - Acct: 5-20-5210 - outlined FY20                     |
| -                     | -                    | -              | -                     | Travel                             | 1,500                      | 1,500                        |                         | Conferences, Training Travel, Loal road travel for trail needs - Acct: 5-20-5270 - outlined FY20                      |
| -                     | 9,755                | 20,000         | 8,000                 | Trails Supplies/Services           | 2,000                      | 2,000                        |                         | Evacuation trail to new fire station. The route, cost, & timeline are all unknown at present.                         |
| -                     | -                    | -              | -                     | Office Materials/Supplies          | -                          | -                            |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Office Phone/Cell/DSL              | -                          | -                            |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Office Utilities                   | 3,250                      | 3,250                        |                         | Pr-Printing, Etc., permanent outdoor trail maps/signs                                                                 |
| -                     | -                    | -              | -                     | Professional Services              | 300                        | 300                          |                         | Safety/First Aid equipment & training                                                                                 |
| -                     | -                    | -              | -                     | Tools & Smail Equipment            | 1,500                      | 1,500                        |                         |                                                                                                                       |
| -                     | -                    | 1,000          | 1,500                 | Building or Land Maintenance       | 4,500                      | 4,500                        |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Custodial Support/Supply           | -                          | -                            |                         |                                                                                                                       |
| -                     | 16,601               | 10,000         | 6,500                 | Parks/Grounds Maintenance          | -                          | -                            |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Equipment & Furnishings            | 500                        | 500                          |                         | NYD Peace Hike Buttons                                                                                                |
| -                     | -                    | -              | -                     | Materials and Services Other       | 1,000                      | 1,000                        |                         | Food & non-alcoholic refreshments for trail volunteers - approxiately 25 events annually, often with 20+ participants |
| -                     | 26,356               | 31,000         | 16,000                | Total Materials and Services       | 20,550                     | 20,550                       |                         |                                                                                                                       |
| -                     | 36,687               | 37,000         | 36,500                | Total Resources                    | 23,550                     |                              |                         |                                                                                                                       |
| -                     | 1,845                | 6,000          | 3,000                 | Total Personnel Services           | 3,000                      |                              |                         |                                                                                                                       |
| -                     | 26,356               | 31,000         | 16,000                | Total Material & Services          | 20,550                     |                              |                         |                                                                                                                       |
| -                     | -                    | -              | -                     | Total Capital Reserves Transfers   | -                          |                              |                         |                                                                                                                       |
| -                     | 28,201               | 37,000         | 19,000                | Total Expenditures                 | 23,550                     |                              |                         |                                                                                                                       |
| -                     | 8,486                | -              | 17,500                | Total Department Revenue (Expense) | -                          | -                            |                         |                                                                                                                       |

Fund 621 - City Infrastructure, Department 100 Streets

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20         |                            |                              |                         |                                 |
|-----------------------|----------------------|----------------|-----------------------|--------------------------------------|----------------------------|------------------------------|-------------------------|---------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                 | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                           |
| Second Preceding Year | First Preceding Year |                |                       |                                      |                            |                              |                         |                                 |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                      | 2019-20                    | 2019-20                      | 2019-20                 |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 39,599                | 71,533               | 42,000         | 77,630                | Beginning Fund Balance               | 70,356                     | 70,356                       |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 43,875                | 46,969               | 44,000         | 41,717                | State Highway Allocation             | 44,000                     | 44,000                       |                         |                                 |
| -                     | -                    | -              | -                     | Gifts and Donations                  | -                          | -                            |                         |                                 |
| 173                   | -                    | -              | -                     | Earnings from Temporary Investments  | -                          | -                            |                         |                                 |
| -                     | -                    | -              | -                     | Urban Renewal Contribution           | -                          | -                            |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| -                     | -                    | -              | -                     | Other State Sources                  | -                          | -                            |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 44,048                | 46,969               | 44,000         | 41,717                | Total External Revenue               | 44,000                     | 44,000                       | -                       |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 79,777                | 46,600               | 35,000         | 35,000                | General Fund Support                 | -                          | 2,000                        |                         | 100-100                         |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 79,777                | 46,600               | 35,000         | 35,000                | Total Internal Support               | -                          | 2,000                        | -                       |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 123,825               | 93,569               | 79,000         | 76,717                | Total Revenue                        | 44,000                     | 46,000                       | -                       |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 54,333                | 37,812               | 33,000         | 34,500                | Allocated Labor                      | 40,000                     | 40,000                       |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 1,268                 | 4,076                | 4,500          | 2,200                 | Insurance                            | 4,500                      | 4,500                        |                         |                                 |
| -                     |                      | 1,500          | 220                   | Equipment Lease                      | 1,500                      | 1,500                        |                         | tool rentals if our equip fails |
| 3,799                 | 2,839                | 4,200          | 4,700                 | Equip - Fuel/Tires/Parts             | 4,500                      | 6,500                        |                         |                                 |
| 1,438                 | 1,934                | 2,000          | 31                    | Equipment Repair                     | 2,000                      | 2,000                        |                         |                                 |
| 609                   | 1,033                | 1,500          | -                     | Tools & Small Equipment              | 1,500                      | 1,500                        |                         | saw blades & small tools        |
| -                     | -                    | 14,000         | 18,500                | Street Lighting                      | 18,500                     | 18,500                       |                         |                                 |
| -                     | -                    | 3,000          | 2,300                 | Engineering                          | 4,000                      | 4,000                        |                         |                                 |
| 430                   | 2,413                | -              |                       | Plant/System Operations              | -                          | -                            |                         |                                 |
| -                     | -                    | 2,500          | 2,000                 | System Parts                         | 3,500                      | 3,500                        |                         | replacement signs & coldpatch   |
| -                     | -                    | 500            | 40                    | System Consumables                   | 500                        | 500                          |                         | Cones                           |
| 26,147                | 33,365               | 2,000          | -                     | Outside Services                     | 5,000                      | 5,000                        |                         | street sweeper                  |
| -                     | -                    | 20,000         | 15,500                | Mow & Trimming                       | 20,000                     | 20,000                       |                         | Mowing side of streets          |
| -                     | -                    | 5,000          | -                     | Tree Trimming/Removal                | 5,000                      | 5,000                        |                         |                                 |
| 33,691                | 45,660               | 60,700         | 45,491                | Total Materials and Services         | 70,500                     | 72,500                       | -                       |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| -                     | -                    | -              | -                     | Capital Outlay City Amenities        | -                          | -                            |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
|                       |                      |                |                       | Transfer to Highway 101 Fund         | -                          | -                            |                         |                                 |
| 3,867                 | 4,000                | 4,000          | 4,000                 | Interfund Transfer - Capital Reserve | 3,000                      | 3,000                        |                         | 150-121                         |
| 3,867                 | 4,000                | 4,000          | 4,000                 | Total Transfers                      | 3,000                      | 3,000                        | -                       |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 31,934                | 6,097                | (18,700)       | (7,274)               | Net Fund Revenue (Expense)           | (69,500)                   | (69,500)                     | -                       |                                 |
|                       |                      |                |                       |                                      |                            |                              |                         |                                 |
| 71,533                | 77,630               | 23,300         | 70,356                | Ending Fund Balance                  | 856                        | 856                          | -                       |                                 |

Fund 630 - City Infrastructure, Department 100 Storm Drains

| Historical Data       |                      | Budget for Next Year 2019-20 |                       |                                      |                            |                              |                         |                               |
|-----------------------|----------------------|------------------------------|-----------------------|--------------------------------------|----------------------------|------------------------------|-------------------------|-------------------------------|
| Actual                |                      | Adopted Budget               | Estimated YTD Actuals | Resource Description                 | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                         |
| Second Preceding Year | First Preceding Year |                              |                       |                                      |                            |                              |                         |                               |
| 2016-17               | 2017-18              | 2018-19                      | 2018-19               |                                      | 2019-20                    | 2019-20                      | 2019-20                 |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| 57,139                | 80,252               | 75,000                       | 86,393                | Beginning Fund Balance               | 101,393                    | 101,393                      |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| -                     | -                    | -                            | -                     | Earnings from Temporary Investments  | -                          | -                            |                         |                               |
| 30,200                | 27,800               | 37,000                       | 37,000                | General Fund Support                 | -                          | -                            |                         | 100-100                       |
| -                     | -                    | -                            | -                     | Urban Renewal Support                | -                          | -                            |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| 30,200                | 27,800               | 37,000                       | 37,000                | Total Internal Support               | -                          | -                            |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| 1,632                 | 14,546               | 25,000                       | 21,000                | Allocated Labor                      | 30,000                     | 30,000                       |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| -                     | -                    | -                            | -                     | Insurance                            | -                          | -                            |                         |                               |
| -                     | -                    | -                            | -                     | Equipment Lease                      | -                          | -                            |                         |                               |
| -                     | -                    | -                            | -                     | Equip - Fuel/Tires/Parts             | -                          | -                            |                         |                               |
| -                     | -                    | 1,500                        | 1,000                 | Equipment Repair                     | 1,500                      | 1,500                        |                         |                               |
| -                     | 894                  | 1,500                        | -                     | Tools & Small Equipment              | 1,500                      | 1,500                        |                         |                               |
| 5,456                 | 6,218                | -                            | -                     | System Operations                    | -                          | -                            |                         |                               |
| -                     | -                    | 6,000                        | -                     | Storm Drain Parts                    | 6,000                      | 6,000                        |                         | culverts, catch basins, misc. |
| -                     | -                    | 500                          | -                     | Storm Drain Consumables              | 500                        | 500                          |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| -                     | -                    | 2,500                        | -                     | Storm Drain Outside Services         | 2,500                      | 2,500                        |                         | contractor services           |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| 5,456                 | 7,113                | 12,000                       | 1,000                 | Total Materials and Services         | 12,000                     | 12,000                       |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| -                     | -                    | -                            | -                     | Capital Outlay City Amenities        | -                          | -                            |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| -                     | -                    | -                            | -                     | Transfer to Highway 101 Fund         | -                          | -                            |                         |                               |
| -                     | -                    | -                            | -                     | Interfund Transfer - Capital Reserve | -                          | -                            |                         |                               |
| -                     | -                    | -                            | -                     | Total Transfers                      | -                          | -                            | -                       |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| 23,112                | 6,141                | -                            | 15,000                | Net Fund Revenue(Expense)            | (42,000)                   | (42,000)                     | -                       |                               |
|                       |                      |                              |                       |                                      |                            |                              |                         |                               |
| 80,252                | 86,393               | 75,000                       | 101,393               | Ending Fund Balance                  | 59,393                     | 59,393                       | -                       |                               |

Fund 660 - City Infrastructure, Department 100 Water System

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20             |                            |                              |                         |                                                                                              |
|-----------------------|----------------------|----------------|-----------------------|------------------------------------------|----------------------------|------------------------------|-------------------------|----------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                     | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                        |
| Second Preceding Year | First Preceding Year |                |                       |                                          |                            |                              |                         |                                                                                              |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                          | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                              |
| 101,599               | 19,333               | 17,000         | 142,422               | Beginning Fund Balance                   | 248,072                    | 248,072                      |                         |                                                                                              |
|                       |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| 54                    | -                    | -              | -                     | Interest Earned                          | -                          | -                            |                         |                                                                                              |
| 566,083               | 617,693              | 606,000        | 687,000               | Water Service                            | 606,000                    | 606,000                      |                         | Water Revenues                                                                               |
| 37,756                | 39,123               | 37,000         | 45,500                | Capital Reserve Fee                      | 37,000                     | 37,000                       |                         |                                                                                              |
| (4,456)               | (4,856)              | (3,500)        | (2,000)               | Credit Card Fees                         | (3,500)                    | (3,500)                      |                         |                                                                                              |
| 3,200                 | 6,008                | 3,000          | 12,000                | Installation Fees                        | 3,000                      | 3,000                        |                         |                                                                                              |
| -                     | -                    | -              | -                     | Earnings from Temporary Investments      | -                          | -                            |                         |                                                                                              |
| 602,637               | 657,968              | 642,500        | 742,500               | Total Revenues                           | 642,500                    | 642,500                      |                         |                                                                                              |
|                       |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| 314,153               | 249,942              | 285,000        | 278,500               | Allocated Labor; PR Taxes and Benefits   | 300,000                    | 300,000                      |                         | Includes OT & Oncall                                                                         |
| 1,070                 | 1,995                | 2,000          | 2,100                 | Dues/Memberships/Fees                    | 2,100                      | 2,100                        |                         |                                                                                              |
| 9,491                 | 12,595               | 15,000         | 15,000                | Insurance                                | 21,000                     | 21,000                       |                         |                                                                                              |
| 4,827                 | 8,256                | 6,000          | 5,850                 | Office Materials/Supplies                | 7,000                      | 7,000                        |                         |                                                                                              |
| 9,386                 | 10,315               | 9,500          | 1,000                 | Office Phone/DSL/Ceil                    | 10,000                     | 10,000                       |                         |                                                                                              |
| 3,857                 | 3,317                | 3,000          | 2,900                 | Postage                                  | 3,300                      | 3,300                        |                         |                                                                                              |
| 468                   | 945                  | 3,000          | -                     | Education and Training                   | 3,500                      | 3,500                        |                         |                                                                                              |
| 875                   | 513                  | 7,000          | -                     | Engineering Services                     | 7,000                      | 7,000                        |                         |                                                                                              |
| 4,280                 | 2,629                | 4,000          | 4,000                 | IT Vendor Support                        | 11,000                     | 11,000                       |                         | Includes a half of a firewall cost for public Works files & a third of annual software costs |
| 36,511                |                      | 10,000         | 14,100                | Professional Services                    | 15,000                     | 15,000                       |                         |                                                                                              |
| 8,540                 | 6,000                | 6,000          | 3,600                 | Auditor                                  | 7,000                      | 7,000                        |                         |                                                                                              |
| 998                   | 805                  | 3,000          | -                     | Travel                                   | 3,000                      | 3,000                        |                         |                                                                                              |
| 1,521                 | 1,946                | 3,000          | 2,100                 | Equipment Lease                          | 3,000                      | 3,000                        |                         |                                                                                              |
| 2,013                 | 4,438                | 4,000          | 6,100                 | Equip Fuel/Tires/Parts                   | 5,500                      | 5,500                        |                         |                                                                                              |
| 3,487                 | 7,375                | 4,000          | 900                   | Equipment Repair                         | 5,000                      | 5,000                        |                         |                                                                                              |
| 1,334                 | 3,411                | 3,500          | 700                   | Tools and Small Equipment                | 3,500                      | 3,500                        |                         |                                                                                              |
| 3,072                 | 3,217                | 2,000          | 3,500                 | Building or Land Maintenance             | 4,000                      | 4,000                        |                         | floor in control room                                                                        |
| 350                   | 480                  | 500            | 300                   | Custodial Services                       | 500                        | 500                          |                         |                                                                                              |
| 35,066                | -                    | -              | -                     | Plant/System Operations                  | -                          | -                            |                         |                                                                                              |
| 22,639                | 24,252               | 23,000         | 23,000                | Plant Utilities                          | 23,000                     | 23,000                       |                         |                                                                                              |
| 7,552                 | -                    | -              | -                     | Plant & System Maintenance               | -                          | -                            |                         |                                                                                              |
| 6,165                 | 7,132                | 7,000          | 34,400                | Main Plant Parts                         | 10,000                     | 10,000                       |                         | Clarifier drive work, SCADA                                                                  |
| 8,917                 | 6,241                | 10,000         | 5,900                 | Main Plant Consumables                   | 10,000                     | 10,000                       |                         |                                                                                              |
| 34,624                | 21,198               | 40,000         | 40,000                | Main Plant Outside Services              | 40,000                     | 40,000                       |                         |                                                                                              |
| 11,773                | 14,871               | 14,000         | 27,000                | Distribution System Parts                | 14,000                     | 14,000                       |                         |                                                                                              |
| 1,180                 | 1,809                | 2,000          | 900                   | Distribution System Consumables          | 2,000                      | 2,000                        |                         |                                                                                              |
| 5,125                 | 14,061               | 2,000          | 9,700                 | Distribution System Outside Services     | 6,500                      | 6,500                        |                         |                                                                                              |
| 2,408                 | 971                  | 500            | 300                   | Office Expense - Other                   | 500                        | 500                          |                         |                                                                                              |
| 100                   | 762                  | 1,500          | -                     | Equipment Maintenance                    | 1,500                      | 1,500                        |                         |                                                                                              |
| -                     | -                    | 9,000          | 7,000                 | Mowing/Trimming                          | 9,000                      | 9,000                        |                         |                                                                                              |
| 227,567               | 159,536              | 194,500        | 210,350               | Total Materials & Services               | 227,900                    | 227,900                      |                         |                                                                                              |
| -                     | -                    | 15,000         |                       | Contingencies                            | 60,000                     | 60,000                       |                         |                                                                                              |
| 133,032               | 78,000               | 100,000        | 100,000               | Interfund Transfer - Capital Reserve     | 100,000                    | 100,000                      |                         | 150-160                                                                                      |
| -                     | 43,000               | 43,000         | 43,000                | Interfund Transfer - Restricted Reserves | 43,000                     | 43,000                       |                         | 155-017                                                                                      |
| -                     | 5,000                | 5,000          | 5,000                 | Interfund Transfer - Street Capital Fund | 5,000                      | 5,000                        |                         | 150-121. Reflected as 50 cents per Meter Sewer Account 3-60-4864                             |
| 133,032               | 126,000              | 148,000        | 148,000               | Total Transfers                          | 148,000                    | 148,000                      |                         |                                                                                              |
| 18,629                | -                    | -              | -                     | Interest Payments                        | -                          | -                            |                         | moved to Debt Service                                                                        |
| 13,589                | -                    | -              | -                     | Principal Payments                       | -                          | -                            |                         |                                                                                              |
| -                     | -                    | -              | -                     | Debt Service Fees                        | -                          | -                            |                         |                                                                                              |
| (22,066)              | -                    | -              | -                     | refi loan proceeds                       | -                          | -                            |                         |                                                                                              |
| 10,152                | -                    | -              | -                     | Total Debt Service                       | -                          | -                            |                         |                                                                                              |
| 684,903               | 534,878              | 642,500        | 696,850               | Total Expenses                           | 735,900                    | 735,900                      |                         |                                                                                              |
| (82,266)              | 123,090              | -              | 105,650               | Net Fund Revenue(Expense)                | (93,400)                   | (93,400)                     |                         |                                                                                              |
| 19,333                | 142,422              | 17,000         | 248,072               | Ending Fund Balance                      | 154,672                    | 154,672                      |                         |                                                                                              |

Fund 668 - City Infrastructure, Department 100 Water Construction - South Tank

| Historical Data       |                      | Budget for Next Year 2019-20 |                       |                           |                            |                              |                         | Notes                                                                                                                                                                                  |
|-----------------------|----------------------|------------------------------|-----------------------|---------------------------|----------------------------|------------------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget               | Estimated YTD Actuals | Resource Description      | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council |                                                                                                                                                                                        |
| Second Preceding Year | First Preceding Year |                              |                       |                           | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                                                                                                        |
| 2016-17               | 2017-18              | 2018-19                      | 2018-19               |                           | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| -                     | 211,843              | 200,000                      | (35,442)              | Beginning Fund Balance    | 211,412                    | 211,412                      |                         | Balance reflected in ledger. Research reveals these are funds expended prior to Business Oregon Loan. Further research will be conducted to determine where funds needs to be located. |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 296,619               | 994,780              | 138,500                      | 438,601               | Government Sources        | -                          | -                            |                         |                                                                                                                                                                                        |
| 4,000                 | -                    | -                            | -                     | Urban Renewal Transfer    | -                          | -                            |                         | 900-190                                                                                                                                                                                |
| -                     | -                    | -                            | -                     | Interest Earned           | -                          | -                            |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 300,619               | 994,780              | 138,500                      | 438,601               | Total Revenue             | -                          | -                            |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 2,572                 | 22,245               | 7,500                        | 9,448                 | Allocated Labor           | -                          | -                            |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 80,883                | 51,329               | 20,000                       | 14,892                | Design & Engineering      | -                          | -                            |                         |                                                                                                                                                                                        |
| -                     | -                    | 6,000                        | 6,000                 | Audit                     | -                          | -                            |                         |                                                                                                                                                                                        |
| 4,614                 | -                    | 10,000                       | 3,412                 | Additional Services       | -                          | -                            |                         |                                                                                                                                                                                        |
| -                     | -                    | 60,000                       | 110,910               | Collection Line           | -                          | -                            |                         |                                                                                                                                                                                        |
| -                     | -                    | 10,000                       | -                     | Contingencies             | -                          | -                            |                         |                                                                                                                                                                                        |
| 708                   | 1,168,491            | 225,000                      | 47,084                | Capital Outlay            | -                          | -                            |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 88,776                | 1,242,065            | 338,500                      | 191,747               | Total Project             | -                          | -                            |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 211,843               | (247,285)            | (200,000)                    | 246,854               | Net Fund Revenue(Expense) | -                          | -                            |                         |                                                                                                                                                                                        |
|                       |                      |                              |                       |                           |                            |                              |                         |                                                                                                                                                                                        |
| 211,843               | (35,442)             | -                            | 211,412               | Ending Fund Balance       | 211,412                    | 211,412                      |                         |                                                                                                                                                                                        |

| Fund 670 - City Infrastructure, Department 100 Wastewater Systems |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
|-------------------------------------------------------------------|----------------------|----------------|-----------------------|------------------------------------------|----------------------------|------------------------------|-------------------------|----------------------------------------------------------------------------------------------|
| Historical Data                                                   |                      |                |                       | Budget for Next Year 2019-20             |                            |                              |                         |                                                                                              |
| Actual                                                            |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| Second Preceding Year                                             | First Preceding Year | Adopted Budget | Estimated YTD Actuals | Resource Description                     | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                        |
| 2016-17                                                           | 2017-18              | 2018-19        | 2018-19               |                                          | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                              |
| 131,918                                                           | 126,059              | 120,000        | 186,508               | Beginning Fund Balance                   | 226,078                    | 226,078                      |                         |                                                                                              |
|                                                                   |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| -                                                                 | -                    | -              | -                     | Interest Earned                          | -                          | -                            |                         |                                                                                              |
| 539,676                                                           | 592,555              | 590,000        | 590,000               | Sewer Service                            | 590,000                    | 590,000                      |                         | WW Fees. On track for current budget as of 4/8.                                              |
| 37,060                                                            | 37,254               | 40,000         | 43,000                | Capital Reserve Fee                      | 43,000                     | 43,000                       |                         |                                                                                              |
| 59                                                                | -                    | -              | -                     | Temp Investment Earnings                 | -                          | -                            |                         |                                                                                              |
| 108                                                               | -                    | -              | -                     | Financial Sources - Other                | -                          | -                            |                         |                                                                                              |
| (4,420)                                                           | (4,856)              | (4,500)        | (4,000)               | Credit Card Fees                         | (4,500)                    | (4,500)                      |                         |                                                                                              |
| 510                                                               | 1,927                | 2,500          | 5,300                 | Installation Fees                        | 2,500                      | 2,500                        |                         |                                                                                              |
| 572,994                                                           | 626,880              | 628,000        | 634,300               | Total Revenues                           | 631,000                    | 631,000                      |                         |                                                                                              |
|                                                                   |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| 259,033                                                           | 274,257              | 265,000        | 304,000               | Allocated Labor, PR Taxes and Benefits   | 340,000                    | 340,000                      |                         | Increased operational time and I&I repair. Includes OT & On Call                             |
|                                                                   |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| 1,836                                                             | 743                  | 750            | 900                   | Dues/Memberships/Fees                    | 900                        | 900                          |                         | WWTP now a class III plant. Expect higher fees.                                              |
| 2,191                                                             | 2,601                | 3,500          | 4,500                 | DEQ Fees                                 | 4,500                      | 4,500                        |                         | At 85% as of 2/15/19                                                                         |
| 12,640                                                            | 16,552               | 18,000         | 18,000                | Insurance                                | 18,000                     | 18,000                       |                         |                                                                                              |
| 5,260                                                             | 8,911                | 7,200          | 6,000                 | Office Materials/Supplies                | 7,200                      | 7,200                        |                         |                                                                                              |
| 6,140                                                             | 6,247                | 6,000          | 6,000                 | Office Phone/DSL/Cell                    | 6,000                      | 6,000                        |                         |                                                                                              |
| 3,893                                                             | 3,331                | 3,000          | 3,000                 | Postage                                  | 3,300                      | 3,300                        |                         |                                                                                              |
| 628                                                               | 640                  | 1,100          | 2,500                 | Education and Training                   | 5,000                      | 5,000                        |                         | Four operators need wastewater certifications this year                                      |
|                                                                   | 376                  | 5,000          | -                     | Engineering Services                     | 5,000                      | 5,000                        |                         |                                                                                              |
|                                                                   |                      |                |                       |                                          |                            |                              |                         |                                                                                              |
| 5,824                                                             | 2,529                | 4,000          | 4,300                 | IT Vendor Support                        | 11,000                     | 11,000                       |                         | Includes a half of a firewall cost for public Works files & a third of annual software costs |
| 13,497                                                            |                      | 7,000          | 14,000                | Professional Services                    | 10,000                     | 10,000                       |                         |                                                                                              |
| 8,540                                                             | 6,000                | 6,000          | 1,800                 | Auditor                                  | 7,000                      | 7,000                        |                         |                                                                                              |
| 938                                                               | 297                  | 1,000          | 60                    | Travel                                   | 3,000                      | 3,000                        |                         | Travel for education and training.                                                           |
| 1,450                                                             | 1,894                | 2,000          | 2,300                 | Equipment Lease                          | 2,000                      | 2,000                        |                         |                                                                                              |
| 2,486                                                             | 4,427                | 5,000          | 6,000                 | Equip Fuel/Tires/Parts                   | 6,000                      | 6,000                        |                         |                                                                                              |
| 7,337                                                             | 14,809               | 9,000          | 1,000                 | Equipment Repair                         | 9,000                      | 9,000                        |                         |                                                                                              |
| 1,219                                                             | 622                  | 1,000          | 1,050                 | Tools and Small Equipment                | 1,000                      | 1,000                        |                         |                                                                                              |
| 2,898                                                             | 1,435                | 1,500          | 850                   | Building or Land Maintenance             | 2,500                      | 2,500                        |                         | Painting and corrosion control.                                                              |
| 350                                                               | 546                  | 600            | 300                   | Custodial Services                       | 600                        | 600                          |                         |                                                                                              |
| 3,399                                                             | -                    | -              | -                     | Plant/System Operations                  |                            |                              |                         |                                                                                              |
| 28,309                                                            | 30,297               | 30,000         | 26,000                | Plant Utilities                          | 30,000                     | 30,000                       |                         |                                                                                              |
| 14,482                                                            | 6,569                | 20,000         | 21,300                | Main Plant Parts                         | 20,000                     | 20,000                       |                         | Includes UV light sleeves and UV Sensor \$5000.                                              |
| 6,158                                                             | 8,539                | 10,000         | 11,500                | Main Plant Consumables                   | 12,000                     | 12,000                       |                         | Cost of polymer has increased and increased lab testing.                                     |
| 8,664                                                             | 12,558               | 12,000         | 6,000                 | Main Plant Outside Services              | 12,000                     | 12,000                       |                         | Restarting outside lab split testing.                                                        |
| 14,568                                                            | 6,826                | 5,000          | 2,100                 | Collection System Parts                  | 5,000                      | 5,000                        |                         |                                                                                              |
| 2,072                                                             | 794                  | 2,500          | 1,500                 | Collection System Consumables            | 2,500                      | 2,500                        |                         |                                                                                              |
| 10,600                                                            | 8,469                | 5,000          | 100                   | Collection System Outside Services       | 20,000                     | 20,000                       |                         |                                                                                              |
|                                                                   |                      | 500            | 270                   | Office Expense - Other                   | 500                        | 500                          |                         |                                                                                              |
| -                                                                 | 762                  | 1,500          | -                     | Equipment Maintenance                    | 1,500                      | 1,500                        |                         | Lift station pump maintenance, three pumps per year for the next 2.5 years                   |
| -                                                                 | -                    | 20,000         | 4,400                 | Collection, I & I                        | 5,000                      | 5,000                        |                         | Inflow & Infiltration CCTV and repair of manholes.                                           |
| -                                                                 | -                    | 2,000          | 2,000                 | Mowing & trimming                        | 2,000                      | 2,000                        |                         |                                                                                              |
| 165,319                                                           | 246,775              | 190,150        | 145,790               | Total Materials & Services               | 212,500                    | 212,500                      |                         |                                                                                              |
| -                                                                 | -                    | 15,000         | -                     | Contingencies                            | 60,000                     | 60,000                       |                         |                                                                                              |
| -                                                                 | -                    | -              | -                     | Capital Outlay - Equip & Furnish         | -                          | -                            |                         |                                                                                              |
| 154,501                                                           | 80,400               | 80,000         | 80,000                | Interfund Transfer - Capital Reserve     | 80,000                     | 80,000                       |                         | 150-170                                                                                      |
|                                                                   | 60,000               | 60,000         | 60,000                | Interfund Transfer - Debt Service        | 60,000                     | 60,000                       |                         | 155-176                                                                                      |
|                                                                   | 5,000                | 5,000          | 5,000                 | Interfund Transfer - Street Capital Fund | 5,000                      | 5,000                        |                         | 150-121. Reflected as 50 cents per Meter Sewer Account 3-60-4866                             |
| 154,501                                                           | 145,400              | 145,000        | 145,000               | Total Transfers                          | 145,000                    | 145,000                      |                         |                                                                                              |
| 578,852                                                           | 566,432              | 615,150        | 594,730               | Total Expenses                           | 757,500                    | 757,500                      |                         |                                                                                              |
| (5,859)                                                           | 60,449               | 12,850         | 39,570                | Net Fund Revenue/Expense                 | (126,500)                  | (126,500)                    |                         |                                                                                              |
| 126,059                                                           | 186,508              | 132,850        | 226,078               | Ending Fund Balance                      | 99,578                     | 99,578                       |                         |                                                                                              |



Fund 900 - Urban Renewal District, Department 100 Urban Renewal District

| Historical Data       |                      | Budget for Next Year 2019-20 |                       |                                              |                            |                              |                         |                                                                                                              |
|-----------------------|----------------------|------------------------------|-----------------------|----------------------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget               | Estimated YTD Actuals | Resource Description                         | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council | Notes                                                                                                        |
| Second Preceding Year | First Preceding Year |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 2016-17               | 2017-18              | 2018-19                      | 2018-19               |                                              | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                              |
| 62,003                | 68,236               | 185,000                      | 207,433               | Beginning Fund Balance                       | 274,756                    | 274,756                      |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 672                   | -                    | -                            | -                     | Interest Earned                              | -                          | -                            |                         |                                                                                                              |
| 242,691               | 271,473              | 265,000                      | 290,200               | Property Taxes - Current Year                | 268,000                    | 303,000                      |                         | Taxes July - Dec                                                                                             |
| 8,752                 | 6,845                | 6,000                        | 5,400                 | Property Taxes - Prior Year                  | 5,000                      | 5,000                        |                         | Prior yr Taxes July - Dec                                                                                    |
| 137                   | 3,417                | -                            | -                     | Earnings from Temporary Investments          | -                          | -                            |                         | The \$3,417 is actually an adjustment from the audit & not an earnings from a temporary investment for 17/18 |
| -                     | -                    | -                            | -                     | Other Local Sources                          | -                          | -                            |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 252,253               | 281,735              | 271,000                      | 295,600               | Total Revenue                                | 273,000                    | 308,000                      |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| -                     | -                    | 13,000                       | 13,000                | Admin Fee                                    | 13,000                     | 13,000                       |                         | 100-100                                                                                                      |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 20                    | -                    | 1,000                        | 277                   | Dues/Memberships/Fees                        | 300                        | 300                          |                         |                                                                                                              |
| -                     | -                    | -                            | -                     | Insurance                                    | -                          | -                            |                         |                                                                                                              |
| 1,000                 | 1,538                | 2,000                        | 2,000                 | Auditor                                      | 2,000                      | 2,000                        |                         |                                                                                                              |
| -                     | -                    | -                            | -                     | Legal Notices                                | -                          | -                            |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 1,020                 | 1,538                | 3,000                        | 2,277                 | Total Materials and Services                 | 2,300                      | 2,300                        |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| -                     | -                    | -                            | -                     | Reserved for Future Exenditures              | -                          | -                            |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 95,000                | 95,000               | 95,000                       | 95,000                | Interfund Transfer - Sewer Plant Debt        | 95,000                     | 95,000                       |                         | 155-176                                                                                                      |
| 150,000               | 46,000               | 10,000                       | 10,000                | Interfund Transfer - Capital Reserve Streets | -                          | -                            |                         | 150-121                                                                                                      |
| -                     | -                    | 8,000                        | 8,000                 | Interfund Transfer - Capital Reserve Parks   | -                          | -                            |                         | 150-125                                                                                                      |
| -                     | -                    | 100,000                      | 100,000               | Interfund Transfer - South Tank Debt         | 100,000                    | 100,000                      |                         | 155-168                                                                                                      |
| -                     | -                    | -                            | -                     | Interfund Transfer - Wastewater              | -                          | 25,000                       |                         | 150-170                                                                                                      |
| 245,000               | 141,000              | 213,000                      | 213,000               | Total Transfers                              | 195,000                    | 220,000                      |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 6,233                 | 139,196              | 42,000                       | 67,323                | Net Fund Revenue(Expense)                    | 62,700                     | 72,700                       |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
|                       | -                    | 100,000                      | -                     | Reserved for Contingencies                   | -                          | -                            |                         |                                                                                                              |
|                       |                      |                              |                       |                                              |                            |                              |                         |                                                                                                              |
| 68,236                | 207,433              | 227,000                      | 274,756               | Ending Fund Balance                          | 337,456                    | 347,456                      |                         |                                                                                                              |

50,000 less  
4,000  
overfunded in  
16/17



## City Manager's Report June 19, 2019

Dear Mayor Moore and Councilors,

It is my pleasure to update you on some of our current project highlights.

- **City Entrance Signs: PROJECT COMPLETED JUNE 11, 2019**

- Updates to the North and South City entrance signs were approved in the FY19 City capital improvement plan. The artwork, and \$8,625.00 quote (which is less than the budgeted figure), were approved by the Parks & Commons Commission and City Council. The quote is attached to the December 12, 2018 City Manager report. Pictures are attached to the April 2019 Manager's report. Dahl Disposal donated equipment for the installation of the signs.

- **Lincoln County Partnerships:**

- In subsequent conversations it appears that the County is willing to partner with Yachats and Waldport for code enforcement services in fiscal year 20-21. We will be continuing to work out details and I will update the Council accordingly for their review and decision among multiple items related to the vacation rental discussion.

- **Finance:**

- **Auditors:** I've met with the auditors and gone over their initial checklist of items they wish to see. They will be onsite July 29, 30, 31.
- **COG:** The clerk position that will be in Yachats 2-3 days/week to an individual out of Newport is currently at the Springbrook conference and will have orientation June 17 at COG. We still will have the involvement of all of COG's finance team from the director and more.

- **CIS Facility Reviews & Updates:**

- We are awaiting facility review reports and will recommend next steps as those reports are received.

- **Insurance Rates:**

- Our insurance rates have remained stable this fiscal year. Please see attachment at the end of this report. I have been advised to anticipate an increase of 10-12% across the board next year.
- There are additional coverages that have been recommended 1) an increase from \$5million to \$10 million for general liability (breach of duty, employment, or auto claims); 2) an increase in crime coverage (embezzlement, social engineering); and 3) cyber crime. I will review the pros and cons with Council about additional coverage to make an informed decision about whether to increase coverages in any of these areas.

- **City Manager Time:**

- Paragraph 5 of the Manager's contract states, in part, "Vacation leave must be used by June 30 of the respective fiscal year and is not carried forward, unless otherwise approved by Yachats City Council."





## City Manager's Report June 19, 2019

- The Manager is requesting carry over of the 154 hours into the next fiscal year. The Manager has planned annual family leave in August and planned leave in July.

- **Lincoln County Housing Strategy Implementation Plans:**

The final report is pending and may be available by the July work session.

- **Background:** The signed MOU is in the document library attached to the December 12, 2018 City Manager Report & January 16, 2019 Council Packet. The MOU memorializes a no-cost working relationship between the Oregon Department of Land Conservation and Development and Lincoln County. The goal is to develop a regional housing implementation strategy for Lincoln County. The final report is to be completed on or before June 30, 2019.

On January 16, 2019 Wayne Belmont spoke to Council to discuss 2 opportunities for Yachats to participate. Planner Dave Mattison has been appointed to the technical advisory committee (TAC), which will identify existing reports, data, codes, fees, and similar housing related materials that will be analyzed to see what gaps exist.

Councilor Max Glenn has been appointed to the policy advisory committee (PAC) which will review the gap analysis, and the goals and strategies and implementation of the regional plan.

Planner Dave Mattison participated in the TAC Committee meeting on April 9, 2019. The meeting was facilitated by the Angelo Planning Group, was broken down into a number of different pieces.

The Facilitators began by discussing the progress which includes:

- 1) Telephone interviews were conducted with over a dozen different organizations and stakeholders that provided an understanding of affordable housing and rehabilitation Loan programs and future steps for the County.
- 2) Advice for steps to revive City partnerships with the Home Rehab Loan program.
- 3) The need to speak to the Community Services Consortium.
- 4) Completion of a memo in a couple weeks addressing the rehab loan program.

A list of the stakeholders was presented to the Committee. It identified the key themes such as a need for all types and prices of housing in the County; and a response to each stakeholder's interest in and/or experience with housing within the County and its communities. A list of programs to support affordable housing and struggles with the programs was discussed. Once the consultants have completed the interviews, they will be able to draft a preliminary set of recommendations related to resuming the home loan rehab program in a couple weeks. Please refer to the attachments in the May 2019 Managers Report



## City Manager's Report June 19, 2019

- **Ocean View Drive:**

We are working on multiple methods of notification – website, Facebook, door hangers – as the project begins moving. Trail work, paving prep, and culvert work is being completed. We are waiting on when paving will begin.

- **Background:** In October 2001, the City of Yachats entered into a settlement agreement. One of the items in the settlement agreement was for the County to transfer Marine and Ocean View Drive, and the trail to the City for transportation and pedestrian usage and to implement the Village Circulation Plan adopted by the City. This agreement is in the document library.

Work on this project paused around April 2017 due to attention required on other City and County projects. However, at the City Manager's request, monthly meetings to resume progress on this project began in October 2017. If weather conditions permit, it is the goal to complete this long outstanding project by June 30, 2019.

- **Property Easements:** Easement language has been drafted and approved by the City Attorney. The Planner is working with the 5 impacted property owners to finalize the easements. The County has offered to cover the costs of recording the easements.
- **Archeologist:** The State Archeologist was supposed to deliver a scope of work for the identified areas for the City and County to review by February 15, 2019. This did not occur. Upon acceptance of the scope of work, the archeological study will begin. Delays here will impact the goal date to complete this project.
- **Guardrails:** Subsequent to the Archeological Study findings, new guardrails will be installed before the overlay is completed. The original Mid-March timeline is delayed until the archeological study can be completed.
- **Culverts:** Yachats PWD identified 9 culverts running under Oceanview Drive. One of the culverts runs underneath Highway 101. The City and County have identified culverts that have the most wear and will work on placing inserts in those culverts to extend the life of the culverts. These inserts can be installed around the end of March.
- **804 Trail Improvements:**
  - The County, City, and Trails Committee discussed, and agreed, to find and compact a better material to provide greater stability on the Trail.
  - The County, City, and Trails Committee discussed improving signage along the trail and including educational, wayfinding, and distance signage. Additional meetings are occurring to discuss these items and develop a signage plan.
  - The County, City, and Trails Committee discussed the Boardwalk that was taken to Council in 2018. The archeological study noted above will review this area.
  - The County, City, and Trails Committee discussed the possibility of having viewing decks at the park at 7<sup>th</sup> and Oceanview Drive and the property towards the end of Oceanview Drive where the pump house is located. A member of the Trails Committee



## City Manager's Report June 19, 2019

will draw a rendering of the decks and the City and County will work together utilizing mitigation funds.

- Property Connection between Marine Drive: The 804 Trail is connected from Aqua Vista to Marine/Oceanview Drive through a property that links the 2 streets. The County has asked the City for input on ideas for the Property. The trail easement would be maintained; however, the question is what ideas would look like for the remainder of the property. Ideas ranged from affordable housing to selling the properties (retaining the trail easement) for development and placing those funds into the mitigation account.
- City Planner, Larry Lewis provided renderings about what could be built on each lot with current code setback requirements. The lot on Marine Drive could do a footprint of approximately 1800 square foot building footprint and the lot on Aqua Vista could hold a 2450 square foot building footprint (document located in the December 12, 2018 City Manager's Report)
- Street Condition/Paving:
  - On December 13, 2018 the City's Engineer of Record (Westech), County, and City Representatives met to discuss the condition of Oceanview/Marine upon transfer. These discussions will continue as we develop more information from the archeological studies and warmer paving conditions develop.
- Website Redesign:
  - Background: In July 2017 the City issued an RFP for a website re-design. The background leading up to the issuance of the RFP is in the document library labeled *Council IT Memo*. Throughout an extensive process, the City decided to sign a contract with Civic Plus to redesign the City's website and provide a robust integrated reservation system. Civic Plus ([www.civicplus.com](http://www.civicplus.com)) specializes in municipal web design and software. The Civic Plus contract is in the document library. The goal is to complete the redesign and reservation system on, or around, June 30, 2019.
  - Implementation will require 2 processes. First for the Reservation system *CivicRec*. The second for the remainder of the website redesign *CivicEngage*. CivicEngage has a launch date of June 24, 2019.
  - CivicRec launched May 10, 2019. This is the reservation component of the website. A link is located on the City's current homepage. This module is robust enough to tell us which rooms are rented out the most frequently, how much revenue is generated per room, and much more.
  - Updates attached to previous reports:
    - Timelines: February City Manager Report
    - Updates: April City Manager Report (2 Memos)
  - Other IT Items:



## City Manager's Report June 19, 2019

- Financial/Utility Billing Services: Conversion work with Springbrook is underway. Our systems will be shutdown on June 28 for final data pulls and conversion. Kimmie was able to attend the Springbrook conference June 12-14 in Portland.
- Host Compliance: I've met with the CEO and I will be providing Council with options regarding code enforcement and vacation rentals.
- **City Hall Proposal:**
  - **Background:** At the direction of Council, the City Manager presented a proposal for architectural work to develop a conceptual design for City Hall at the 501 Building. The City Manager eliminated the multiple designs and 2 in-person trips by the architect, reducing the initial proposal by \$3400. We received designs from the architect.
  - A Grant proposal public hearing will be held June 19
  - **Library Expansion/Remodel:**
    - An RFP is being drafted. A cost plan and timeline will be brought to Council prior to issuance of the RFP.
  - **Little Log Church and Museum Repairs:**
    - **Background:** The Little Log Church walls are made from natural logs, setting on a post and beam foundation system. The original log structure was completed in 1930. Modifications to the exterior church walls were made in the mid 1990's, which consisted of replacing selected wall logs with new peeled logs. The attached museum structure has walls made from log siding material. The museum foundation has a concrete stem wall and footing around the perimeter, and interior post and beam floor support. There is a crawl space access on one side of the building, with a narrow opening for access. The full engineer's analysis is in the document library labeled *LLC&M Engineers Analysis*. We had been utilizing Red Hat Construction to narrow down options for the LLC&M, but due to the demands of the Contractor and concerns about the continued deterioration of the LLC&M, we moved forward with the Engineer's Analysis.
    - Work with Parks & Commons and the Little Log Church & Museum Board to develop funding plans and a strategy for the preservation of our historical property.
- **FY19 Accomplishments:**
  - The City was awarded \$100,000 ODOT Small City Allotment grant towards the East 2<sup>nd</sup> Street Improvement Project. A copy of the grant is in the document library attached to the December 12, 2018 City Manager Report.
  - The City was awarded a \$20,000 grant for our Water Master Plan update by the Oregon Infrastructure Finance Authority.
  - Multi-purpose room flooring completed (April 2019).



**City Manager's Report  
June 19, 2019**

**Public Works Report:**

**Date:** June 3, 2019

**To:** Shannon Beaucaire, City Manager

**From:** Public Works Department

**Re:** May 2019 Public Works Report

Rain fall at Yachats Public Works:

|                           | <u>Inches</u> |             |             |             |
|---------------------------|---------------|-------------|-------------|-------------|
| <b>Year</b>               | <b>2019</b>   | <b>2018</b> | <b>2017</b> | <b>2016</b> |
| May                       | 1.92          | 0.45        | 3.49        | 0.70        |
| <b>Rain year to date:</b> | 32.53         | 34.59       | 49.64       | 27.98       |

Total water production: **4,038,100** gallons    Water loss efficiency: **8.9 %**

Total wastewater treated: **3,480,000** gallons

The following is a list of what was done by Public Works staff outside of normal operations:

**Streets:**

- Pot-holes filled on E. 2<sup>nd</sup> Street.
- Side-arm moving on Green Hill, E.3<sup>rd</sup>, 2<sup>nd</sup> and W. 7<sup>th</sup> St.
- Trimmed tall grass for safe visibility at Yachats River Rd. & Hwy 101 N, and Green Hill & Hwy 101 S.
- Installed four fiberglass posts on E2nd St. to help with visibility.

**Drainage:**

- Re-established ditch line on Horizon Hill.
- Repaired culvert at W.6<sup>th</sup> & Oceanview Drive.

**Water:**

- Plant maintenance.
- Repaired filter #2 leak.



**City Manager's Report  
June 19, 2019**

**Distribution Sys:**

- Water service disconnected on King St.
- Meter maintc.
- Repaired water service break on Windsong.
- Installed new meter on Radar Rd.

**Sewer:**

- Plant maintc.
- Replaced screw press pump shaft and stator.

**Collection Sys:**

- CCTV'd 104 feet on Radar Rd.
- Sewer main cleaning 180 feet, on 1<sup>st</sup> St.
- CCTV'd 40 feet of sewer main at 10<sup>th</sup> & Hanley.

**Public Works:**

- Shop maintc. for CIS inspection.
- Small equipment maintc. and repair.
- Equipment and generator fueling.
- Storage yard clean-up.
- City Hall work orders and customer complaints.
- Fleet maintc.
- 10-yard dump truck to Florence and back for ram-cylinder replacement.
- U.S. Flags up.
- Public Works and City Hall staff took a sewer backflow training class presented by CIS.
- CIS building inspections at Public Works and the water plant.

**Commons & City Hall**

- Repaired basketball hoop in the Common gym.

**501 Bldg.:**

- Washed exterior walls of building.

**Parks & Trails:**

- Picked up piles x2.
- Repaired North entry sign light.
- Working to repair Whale Park spray system.



**City Manager's Report  
June 19, 2019**

**Emergency Planning:**

- Installed "Assembly Area" tsunami signs.

**Sewer & Water CIP:**

- Tanker truck licensing and small additions.

**City Beautification:**

- Curb painting and street striping.

---

**PREMIUM SUMMARY**


---

**POLICY TERM:** 07/01/2019-07/01/2020

| <b>CARRIER &amp; AM BEST RATING</b>        |                                                              | <b>PREMIUM</b>      |
|--------------------------------------------|--------------------------------------------------------------|---------------------|
| Property<br>Including Earthquake and Flood | City County Insurance Services (CIS) – Not Rated<br>Admitted | \$ 28,748.91        |
| Public Entity Liability                    | City County Insurance Services (CIS) – Not Rated<br>Admitted | \$ 13,085.72        |
| Auto Liability                             | City County Insurance Services (CIS) – Not Rated<br>Admitted | \$ 3,367.52         |
| Auto Physical Damage                       | City County Insurance Services (CIS) – Not Rated<br>Admitted | \$ 2,400.36         |
| Multi Line Credit                          | City County Insurance Services (CIS) – Not Rated<br>Admitted | \$ (\$3,570.19)     |
| <b>SUB TOTAL PREMIUM</b>                   |                                                              | <b>\$ 44,032.31</b> |
| Workers Compensation                       | City County Insurance Services (CIS) – Not Rated<br>Admitted | \$ 38,056.46        |
| <b>TOTAL PREMIUM</b>                       |                                                              | <b>\$ 82,088.77</b> |

*The information obtained from A.M. Best's Rating is not in any way a warranty or guaranty by Brown & Brown Northwest of the financial stability of the insurer and this information is current only as of the date of publication.*

Premiums may be subject to audit  
Premiums include Terrorism Coverage

**PAYMENT TERMS**

Premium is due on effective date. Premium can be paid as follows:

- Payment due to CIS by August 15, 2019

**Workers Compensation Quarterly Payment Schedule Option**

**Estimated Annual Contribution: \$38,056.46**

Payment # Date Due Amount Due

|   |                              |            |
|---|------------------------------|------------|
| 1 | August 15 <sup>th</sup> 2019 | \$9,514.12 |
| 2 | October 1 <sup>st</sup> 2019 | \$9,514.12 |
| 3 | January 1 <sup>st</sup> 2020 | \$9,514.12 |
| 4 | April 1 <sup>st</sup> , 2020 | \$9,514.10 |

This is an overview of your insurance program. Policy terms, conditions and exclusions referred to in this Proposal/Summary may be limited, please refer to your policy for all terms, conditions and exclusions that will govern. In the event of a difference, the policy will prevail. Higher limits may be available upon request.



**CIS Member Comparison Report - City of Yachats**  
FY 2019-20 to 2018-19



citycounty insurance services  
cisoregon.org

|                          |                |                |
|--------------------------|----------------|----------------|
| <b>General Liability</b> | <b>2019-20</b> | <b>2018-19</b> |
| Limit:                   | \$5,000,000    | \$5,000,000    |

|                        |                |                |
|------------------------|----------------|----------------|
| <b>Cyber Liability</b> | <b>2019-20</b> | <b>2018-19</b> |
| Population:            |                |                |
| Limit:                 |                |                |

|                     |                |                |
|---------------------|----------------|----------------|
| <b>Excess Crime</b> | <b>2019-20</b> | <b>2018-19</b> |
| Employee Count:     |                |                |
| Limit:              |                |                |

|                     |                |                |
|---------------------|----------------|----------------|
| <b>Excess Flood</b> | <b>2019-20</b> | <b>2018-19</b> |
| Limit:              |                |                |

|                     |                |                |
|---------------------|----------------|----------------|
| <b>Excess Quake</b> | <b>2019-20</b> | <b>2018-19</b> |
| Limit:              |                |                |

|                                 |                |                |
|---------------------------------|----------------|----------------|
| <b>Difference in Conditions</b> | <b>2019-20</b> | <b>2018-19</b> |
| Limit:                          |                |                |

|           |                |                |
|-----------|----------------|----------------|
| <b>WC</b> | <b>2019-20</b> | <b>2018-19</b> |
| Mod:      | 1.59           | 1.84           |

|                       |                |                |                   |                 |
|-----------------------|----------------|----------------|-------------------|-----------------|
| <b>Auto Exposures</b> | <b>2019-20</b> | <b>2018-19</b> | <b>Difference</b> | <b>% Change</b> |
| AL:                   | 11             | 11             | 0                 | 0.00%           |
| APD:                  | 10             | 10             | 0                 | 0.00%           |

|                             |                     |                     |                    |                 |
|-----------------------------|---------------------|---------------------|--------------------|-----------------|
| <b>Property Exposures</b>   | <b>2019-20</b>      | <b>2018-19</b>      | <b>Difference</b>  | <b>% Change</b> |
| Content Value:              | \$1,619,942         | \$1,557,635         | \$62,307           | 4.00%           |
| Equip. Insured Value:       | \$251,730           | \$251,730           | \$0                | 0.00%           |
| PIO:                        | \$212,610           | \$204,434           | \$8,176            | 4.00%           |
| Property Value:             | \$21,332,377        | \$20,316,549        | \$1,015,828        | 5.00%           |
| <b>Total Insured Value:</b> | <b>\$23,416,659</b> | <b>\$22,330,349</b> | <b>\$1,086,310</b> | <b>4.86%</b>    |

|                       |                |                |                   |                 |
|-----------------------|----------------|----------------|-------------------|-----------------|
| <b>WC Exposures</b>   | <b>2019-20</b> | <b>2018-19</b> | <b>Difference</b> | <b>% Change</b> |
| Estimated EE Payroll: | \$553,798      | \$553,798      | \$0               | 0.00%           |

|                             |                 |                 |                   |                 |
|-----------------------------|-----------------|-----------------|-------------------|-----------------|
| <b>P/L Premium Summary*</b> | <b>2019-20</b>  | <b>2018-19</b>  | <b>Difference</b> | <b>% Change</b> |
| General Liability:          | \$13,086        | \$12,878        | \$208             | 1.62%           |
| Cyber Liability:            |                 |                 | \$0               | 0.00%           |
| Excess Liability:           |                 |                 | \$0               | 0.00%           |
| Auto Liability:             | \$3,368         | \$3,396         | (\$29)            | (0.84%)         |
| Auto Physical Damage:       | \$2,400         | \$2,381         | \$19              | 0.81%           |
| Property:                   | \$28,749        | \$28,253        | \$496             | 1.75%           |
| Excess Crime:               |                 |                 | \$0               | 0.00%           |
| Excess Flood:               |                 |                 | \$0               | 0.00%           |
| Excess Quake:               |                 |                 | \$0               | 0.00%           |
| Difference In Conditions:   |                 |                 | \$0               | 0.00%           |
| <b>Total Premium:</b>       | <b>\$47,603</b> | <b>\$46,908</b> | <b>\$695</b>      | <b>1.48%</b>    |

|                               |                 |                 |                   |                 |
|-------------------------------|-----------------|-----------------|-------------------|-----------------|
| <b>Disc/Prem Summary</b>      | <b>2019-20</b>  | <b>2018-19</b>  | <b>Difference</b> | <b>% Change</b> |
| GL Aggregate Credit:          | \$0             | \$0             | \$0               | 0.00%           |
| P/L Direct Discount:          | \$0             | \$0             | \$0               | 0.00%           |
| P/L Multi-Line Discount:      | \$3,570         | \$3,518         | \$52              | 1.48%           |
| <b>Total P/L Premium Due:</b> | <b>\$44,032</b> | <b>\$43,390</b> | <b>\$642</b>      | <b>1.48%</b>    |
| WC State Tax:                 | \$3,029         | \$3,072         | (\$43)            | (1.39%)         |
| WC Multi-Line Discount:       | \$2,840         | \$3,032         | (\$192)           | (6.32%)         |
| WC Direct Discount:           | \$0             | \$0             | \$0               | 0.00%           |
| <b>Total WC Premium Due:</b>  | <b>\$38,056</b> | <b>\$40,462</b> | <b>(\$2,405)</b>  | <b>(5.94%)</b>  |
| <b>Total Premium:</b>         | <b>\$82,089</b> | <b>\$83,852</b> | <b>(\$1,763)</b>  | <b>(2.10%)</b>  |

2019-20: values with a Policy Termination Date equal to 7/1/2020    2018-19: values with a Policy Termination Date equal to 7/1/2019



DATE: June 13, 2019

TO: W. John Moore, Mayor  
Yachats City Council

FROM: Shannon Beaucaire, City Manager

SUBJECT: Public Contracting Rules

---

Attached, please find proposed updates to the City's Public Contracting Rules.

This information is provided for the Council to become familiar with the proposal, submit questions to me for the City Attorney to clarify, and to establish a timeline for bringing the document back to Council.

LOCAL  
GOVERNMENT  
LAW GROUP

A member of Speer Hoyt LLC

Carolyn H. Connelly  
Christy K. Monson  
Ross M. Williamson\*  
Diana Moffat  
Mark A. Wolf  
Dan Lawler  
Jens Schmidt  
Rebekah Dohman, *Of Counsel*\*\*  
\*Also Admitted in Washington  
\*\*Member of American Institute of  
Certified Planners

June 6, 2019

***Via Email Only To: [Shannon@YachatsMail.org](mailto:Shannon@YachatsMail.org)***

Shannon Beaucaire, City Administrator  
City of Yachats  
P.O. Box 345  
Yachats, OR 97498

Re: Public Contracting Rules Packet

Dear Shannon:

Enclosed are a resolution, notice, draft findings and accompanying Public Contracting Rules drafted to replace the Rules the City adopted in 2015 in order to address statutory amendments and the Attorney General's Model Rules adopted in the interim. As you are aware, ORS Chapters 279A, 279B and 279C (the "Public Contracting Code" or "Code") has been in place since March 1, 2005. Since that date, the legislature has amended some aspect of the Code nearly every session. The most recent changes requiring changes to these rules went into effect January 1, 2016. Per ORS 279A.065, the Attorney General's Model Rules govern public contracting. The statute goes on, however, to allow a public entity to adopt its own rules of procedure which may or may not include portions of the Attorney General's Model Rules.

### Rules

To a great extent, the enclosed rules reflect the substance of the Attorney General's Model Rules to ensure compliance with the Code. Rules not dictated by statute have been modified to grant the City the greatest level of flexibility, and to simplify them as much as possible. Additionally, we filled in holes created by the Code and the Model Rules, which otherwise would not have allowed the purchase and surplusing of personal property or the use of requests for proposal for public improvement contracts.

These 2016 rules address legislative amendments adopted through the 2016 legislative session, reflecting the following statutory amendments:

---

LOCAL GOVERNMENT LAW GROUP

975 Oak Street, Suite 700 Eugene, Oregon 97401 P (541) 485-5151 F (541) 485-5168

- 1) The addition of photogrammetric mapping and transportation planning service providers to the professions covered by Division 48. Please note that the only transportation planners subject to these new requirements are those which will perform services on projects subject to the National Environmental Policy Act (NEPA). In other words, Division 48 should only apply to transportation planning services provided on federally funded projects.
- 2) Solicitations for professionals governed by Division 48 must now be based solely upon qualifications, not cost, for contracts with estimated service fees over \$100,000. For such contracts, fee information can be requested and considered after awardee selection.
- 3) Prevailing wage/BOLI statutes now more clearly require the payment of the higher of state or federal prevailing wages, for projects where both apply. These rules reflect that clarification.
- 4) The increase in the small procurement threshold for goods and service contracts from \$5,000 to \$10,000.
- 5) Public entities no longer may undertake Construction Manager/General Contractor (CM/GC) Contracts pursuant to their own Rules. Instead, all public contracting agencies must follow the Attorney General's CM/GC Model Rules.
- 6) The determination of responsibility for goods and service contracts now requires a bidder's or proposer's demonstration of compliance with Oregon tax laws.

The final section of the attached Rules includes a set of exemptions addressing standard purchasing needs not otherwise covered by the Code or the Model Rules. Please review all Rules and the implementing Resolution carefully to ensure the chosen procedures and exemptions meet your City's need. If not, to the extent permitted by the Code, we can tailor them accordingly.

As you can see, the term "Contracting Agency," as used in the Rules and the Resolution, references the City, but also includes the City's chief administrative officer, his or her designee and any other purchasing agent, as identified by City policy. The authority of the Contracting Agency is, however, subject to all other City policies. Therefore, if your City's policies are not clear as to a City officer's authorized level of spending, this is a good time to determine that authority, and what contracting amounts must come back to the City Council. If you wish, we can help in drafting such purchasing authority policies.

### **Adoption Process**

Because the proposed public contracting rules include class exemptions for both the purchase of certain types of goods and services and public improvement contracts, two separate exemption adoption procedures apply. ORS 279B.085 addresses "special procurements" (otherwise known as exemptions for the purchase of goods and services). This provision requires the making of specific findings, which are included in the attached Resolution. Notice of the request for these classes of special procurements must be given at least seven days prior to the approval of the classes. The notice must be published in at least one newspaper of general circulation in the City and in as many additional issues and publications as you may desire. ORS 279B.055(4)(b).

ORS 279C.355 governs the process for granting exemptions to public improvement contracts. It requires a slightly different set of findings, which are also set forth in the enclosed Resolution. Such exemptions require the holding of a public hearing. Notice of the hearing must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the hearing.

As required, the enclosed Notice states that the public hearing is for the purpose of taking comments on the City's draft findings supporting the exemption of certain classes of contracts from competitive bidding requirements. At the time the notice is published, copies of the draft findings must be made available to the public. At the City's option, the notice may describe the process by which the findings will be adopted and may indicate the opportunity for any further public comment. I have omitted this information, but can add it, at your direction.

After filling in the blanks within the enclosed Notice, please publish it in the Daily Journal of Commerce or other trade newspaper of general statewide circulation at least 14 days before the hearing. The same notice must also be published in at least one newspaper of general circulation in the City at least 7 days before the hearing. The notice may also be posted on the door of the building where the meeting will be held, not later than three days prior to the date of meeting.

As indicated on the Notice, the hearing will be at a joint meeting of both the City Council and the Local Contract Review Board (i.e., in the meeting, the Council will be wearing both "hats"). The Resolution and Rules may only be adopted by the Local Contract Review Board after the public hearing (i.e., after the City has provided an opportunity for any interested person to appear and present comment). The Council can conduct other Council business at the meeting as well, so long as this is reflected in the Council agenda.

Note that this Resolution changes your procedural obligations for future public contracting rule updates. Hereinafter, your City will only need to hold a public hearing

Shannon Beaucaire, City Administrator  
June 6, 2019  
Page 4

for rule amendments when required by statute (i.e., when amending City exemptions), not when amending other public contracting rules. Please let me know if the City would instead prefer to retain additional procedural requirements above and beyond those required by statute.

Please call with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Williamson", with a long horizontal flourish extending to the right.

Ross M. Williamson  
[ross@localgovtlaw.com](mailto:ross@localgovtlaw.com)

RMW:kad

Enclosures

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Yachats will hold a joint public hearing of its City Council and its Local Contract Review Board regarding adoption of Public Contracting Rules on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m./p.m. The meeting will be held at \_\_\_\_\_, \_\_\_\_\_, Oregon. The proposed Resolution will replace and update the City's current Public Contracting Rules and exemptions.

The public hearing will be held for the purpose of taking comments on the City's draft findings supporting the exemption of certain classes of special procurements and public improvement contracts from competitive bidding requirements.

PUBLISHED: *Daily Journal of Commerce*  
DATE: \_\_\_\_\_

PUBLISHED: *[Local Newspaper]*  
DATE: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_**

**JOINT RESOLUTION OF THE CITY COUNCIL AND LOCAL CONTRACT  
REVIEW BOARD OPTING OUT OF THE ATTORNEY GENERAL'S MODEL  
PUBLIC CONTRACTING RULES AND AMENDING PUBLIC CONTRACTING  
RULES FOR THE CITY OF YACHATS**

WHEREAS, it is the policy of the City of Yachats (City) that a sound and responsive public contracting system should allow impartial, meaningful, and open competition, preserving formal competitive selection as the standard for public contracts unless otherwise specifically exempted herein, by state law, or by subsequent ordinance or resolutions; and

WHEREAS, the Oregon Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794), which was signed by the Governor, and had an operative date of March 1, 2005. This Act repealed Oregon Revised Statutes ("ORS") Chapter 279 (with minor exceptions) and replaced it with three new subchapters: ORS 279A, 279B, and 279C. These three subchapters, together, constitute the Public Contracting Code (or Code). All City rules and exemptions previously adopted under ORS Chapter 279 expired on March 1, 2005; and

WHEREAS, in 2015, the City opted out of the Public Contracting Model Rules adopted by the Attorney General under ORS subchapters 279A, 279B, and 279C set forth in Oregon Administrative Rules Chapter 137, Divisions 46, 47, 48 and 49 (the "Model Rules") and adopted its own rules; and

WHEREAS, in order to adopt new public contracting rules that differ from the Model Rules, under ORS 279A.065(5), the City Council must specifically state that the Model Rules adopted by the Attorney General do not apply to City and prescribe its own public contracting rules, which may include portions of the Attorney General's Model Rules. The Local Contract Review Board may also adopt rules for public contracting not covered by the Model Rules, as long as they do not conflict with the Public Contracting Code; and

WHEREAS, the Public Contracting Code divides powers and duties for contracting into two categories: those that must be performed by the "Local Contract Review Board"; and those that must be performed by the "Contracting Agency"; and

WHEREAS, pursuant to ORS 279A.060, the City Council is the Local Contract Review Board for City and, as such, is authorized to act on all such matters on behalf of the City, adopt Public Contracting Rules, and establish procedures for amendment of such rules; and

WHEREAS, the Local Contract Review Board may designate certain personal service contracts or classes of service contracts as personal service contracts, which



are not subject to the procedural requirements of the Public Contracting Code or the Model Rules; and

WHEREAS, City recognizes it may exempt certain public improvement contracts or classes of such contracts under ORS 279C.335; and

WHEREAS, the City Council additionally requests that the City's Local Contract Review Board approve the classes of special procurements set forth in the attached rules, based upon the findings set forth in Exhibit A to this Resolution.

NOW, THEREFORE, it is resolved as follows:

1. The City Council (Council) is hereby designated to continue as the Local Contract Review Board of the City and shall have all of the rights, powers and authority necessary to carry out the provisions of Chapters 279A, 279B, and 279C (the "Public Contracting Code") and attached Rules. Except as otherwise provided in this Resolution, the definitions established in the attached Rules apply herein. The term "Contracting Agency" as used in the attached Rules includes Contracting Agency's chief administrative officer, his or her designee, or any other purchasing agent, as designated by City policy. Those individuals are hereby designated as City's Contracting Agency and may exercise all authorities, powers and duties granted to a Contracting Agency under the Public Contracting Code and attached Rules, unless otherwise established by City policy.

2. The above recitals and Exhibit A are hereby adopted by the Council, sitting as the Local Contract Review Board, as findings of fact supporting approval of the Council's request for classes of special procurement and public improvement contract exemptions.

3. The Model Rules adopted by the Attorney General pursuant to ORS 279A.065 do not apply to City. Instead, the City hereby prescribes the following Rules, which include portions of the Attorney General's Model Rules, as the Rules of Procedure that the City will use for its public contracting: Public Contracting Rules Chapter 137, Divisions 46, 47, 48 and 49. While the numbering of these Rules reflects the numbering system of the Attorney General's Model Rules, they incorporate City changes to the Model Rules, and, therefore, are not the Attorney General's promulgated administrative rules. City exemptions are also set forth in these Rules, as numbered Exemptions 1 through 18 (E-1 through E-18). All above-referenced Rules are attached to this Resolution as Exhibit B, and incorporated herein by this reference.

4. In accordance with ORS 279A.065(6)(b), the City shall review its Public Contracting Rules, adopted herein, each time the Attorney General modifies its Model Rules in order to determine whether amendments are required to ensure statutory compliance.

5. Amendments to these Rules and new rules shall be adopted in accordance with this Resolution and the Public Contracting Code. Special procurement

requests and approvals shall be made in accordance with Division 47 of the attached Rules and ORS 279B.085. Public improvement contract exemption procedures, including notice and public hearing requirements, shall be made in accordance with Division 49 of the attached Rules and ORS 279C.335.

6. The Model Cost Accounting Guidelines developed by the Oregon Department of Administrative Services pursuant to Section 3, Chapter 869, Oregon Laws 1979 are hereby adopted as the City's Cost Accounting System to apply to public improvement projects exceeding \$5,000 and constructed with City's own equipment or personnel. ORS 279C.310. For such public improvement projects estimated to cost more than \$200,000, or for certain road maintenance projects exceeding \$125,000, City shall also comply with the requirements of ORS 279C.305.

7. All previously adopted resolutions, including Resolution No. \_\_\_\_\_, establishing public contracting rules for City are hereby repealed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
W. John Moore, Mayor  
City Council

\_\_\_\_\_  
W. John Moore, as President,  
for the Local Contract Review Board

ATTEST:

ATTEST:

\_\_\_\_\_  
Shannon Beaucaire, City Manager

\_\_\_\_\_  
Shannon Beaucaire, City Manager  
as Secretary for the  
Local Contract Review Board

F:\Clients\Muni\Yachats, City of\GENERAL\Public Contracting Rules Update 2016\RES City Resolution Opting Out of AG Model - (2005 to Current).docx



## **EXHIBIT A**

### **FINDINGS IN SUPPORT OF RESOLUTION NO. \_\_\_\_\_ ADOPTING PUBLIC CONTRACTING CODE RULES**

ORS 279B.085 and 279C.335 authorize City of Yachats' (City) City Council, sitting as City's local contract review board, to approve findings submitted and exemptions requested by City Council upon adoption of appropriate findings, to establish special selection, evaluation and award procedures for, or exempt from competition, the award of a specific contract or classes of contracts.

Pursuant to that authority, the Council makes the following findings in support of Resolution No. \_\_\_\_\_, which establishes exempt classes of contracts and the solicitation methods for their award:

#### **No Findings Required**

Pursuant to ORS 279A.025 and 279A.055, the Council is not required to adopt findings with respect to the solicitation methods and awards of the following classes of contracts identified in City's Public Contracting Rules 2016, Class Exemptions:

|      |                                     |
|------|-------------------------------------|
| E-4  | Contracts for Price Regulated Items |
| E-6  | Investment Contracts                |
| E-12 | Insurance, Employee Benefit         |
| E-17 | Personal Service Contracts          |
| E-18 | Liability Insurance Contracts       |

The above Rules govern subjects specifically authorized by state law and, therefore, require no local exemption.

#### **Specific Findings for Public Improvement Class Exemption**

The Council approves the following specific findings for the use of Request for Proposal alternative contracting method for public improvement contracts estimated to cost over \$100,000 and also finds that the establishment of this class of contracts and the method approved for their award:

1. Is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and
2. The awarding of public improvement contracts under each exemption will result in substantial cost savings to City.

These conclusions are based on the following general findings:

- A. Operational, budget, and financial data. Where various criteria, which may or may not include cost, must be weighed in order to select an appropriate contractor for the desired project, the formal competitive bidding process costs of up to \$7,000 are a significant budgetary waste in that the most qualified contractor for the project may not be the lowest responsible bidder;
- B. Public benefits. Exempting contracts from competitive bidding requirements and instead utilizing statutory competitive proposal procedures will protect and preserve public funds, enable greater competition between the most qualified contractors, and result in a better product which meets the public's and City's needs;
- C. Value engineering, Specialized expertise required, Technical complexity. Only through a competitive proposal process can City weigh, evaluate and select the type of expertise needed to address the technical complexities of a particular public improvement project. Competitive proposal allow the City to determine which contractor may best provide such services. These are qualities not reflected in cost, where a determination on cost alone could forfeit these valuable and essential attributes;
- D. Public safety. Utilizing a competitive proposal process as opposed to competitive bidding can ensure high quality, more safely constructed facilities through the construction period, and after completion. Capitalizing upon design and construction planning and compatibility can also allow earlier use of public facilities even while construction continues;
- E. Market conditions. The increased availability of and need for technical expertise, value engineering, or other types of specialized expertise, as well as a need to investigate the compatibility, experience and availability of contractors require that certain public improvement contracts be awarded based upon an evaluation of a number of criteria, rather than simply cost.

**Specific Findings for Special Classes and Methods of Award for Contracts Other Than Public Improvements.**

The Council approves the specific findings for the establishment of special solicitation methods for the classes of public contracts described below and also finds that the establishment of each class of contracts and methods approved for their award:

1. Is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because such exemptions still require alternative contracting procedures, ensuring:

- (1) reasonable competition; (2) the best contract price for the public; and (3) a cost-effective process for both contractors and City;
2. The awarding of public contracts under these exemptions will result in substantial cost savings to City because City will avoid costs associated with unnecessary documentation and procedures, where it is unmerited by the type and/or relatively low cost of the contracts; and
3. The awarding of public contracts pursuant to any of the requested exemptions substantially promotes the public interest in a manner that could not practicably be realized by formal competitive solicitation procedures, given the fact that such exemptions facilitate smooth operation of City's administration and operations, include procedures and mechanisms to ensure the best product, service or outcome is obtained at the least cost to the public and City, and identified classes address areas of public contracting left unresolved by state statute which are essential for City's operations, such as awarding personal service contracts, purchasing used personal property, and disposing of surplus personal property.

Specifically, the Council finds:

#### **E-2 – Advertising Contracts.**

**Alternate Award Process.** In City's discretion. The process selected may be competitive or non-competitive.

**Cost Savings and Other Benefits.** Size of and frequency of average advertisement (including all notices required to be published by City) does not justify the cost of solicitation. Period of time from recognition of need to advertise until advertising date is too short to issue solicitation.

**Effect on Competition.** The potential market is limited because not all advertisers work in every market. Choice of advertising medium is somewhat price sensitive, but primarily driven by location and size of circulation in comparison with City's target audience.

**No Favoritism.** Not applicable due to the lack of competitors and specialized contracting needs.

#### **E-3 – Equipment Repair and Overhaul.**

**Alternate Award Process.** As needed, in City's discretion.

**Cost Savings and Other Benefits.**

1. Pre-contract pricing is impossible

2. City has discretion to decide whether costs of solicitation are justified in relationship to size of contract and availability of skilled technicians to repair the specific equipment.
3. Delay required for solicitation would impair City's ability to respond to equipment breakdown and be injurious to the public interest.
4. Experience with contractor is crucial because reliability over the course of several projects is important.

**Effect on Competition.** Allows contractor to be selected based on ability to provide accurate, reliable and fast service.

**Effect on Favoritism.** Favoritism will not be greater than if statutory request for proposals process is used.

#### **E-5 - Copyrighted Materials.**

**Alternate Award Process.** As needed, in City's discretion.

**Cost Savings and Other Benefits.** Necessary to allow City to acquire special needs products that are unique.

**Effect on Competition.** None. There is no competitive market for a unique product. Copyrighted materials are generally acquired from a sole-source copyright holder, as used property, or by donation.

**No Favoritism.** Not applicable due to the lack of competitors and specialized contracting needs.

#### **E-7 – Requirements Contracts.**

**Alternate Award Process.** Original contract must be based on a competitive process.

**Cost Savings and Other Benefits.** Size and frequency of procurements does not justify the cost of solicitation. Period of time from recognition of need until good or service required too short to issue solicitation.

**Effect on Competition.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years.

**Effect on Favoritism.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years.

## **E-8 – Office Copier Purchases.**

**Alternate Award Process.** Original contract must be based on a competitive process.

**Cost Savings and Other Benefits.** Size and frequency of procurements does not justify the cost of solicitation. Period of time from recognition of need until good or service required too short to issue solicitation.

**Effect on Competition.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years. In addition, rule requires evaluation and award based upon multiple factors, not just cost.

**Effect on Favoritism.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years. In addition, rule requires evaluation and award based upon set factors, in addition to cost.

**Other Factors.** Allows Contracting Agency to address emergency circumstances. Cannot anticipate when immediate replacement or repairs will be needed to ensure normal operations.

## **E-9 - Manufacturer Direct Supplies.**

**Alternate Award Process.** Subject to cost saving analysis.

**Cost Savings and Other Benefits.** Allowed only after a formal solicitation is completed and manufacturer's price is less than offers received. Cost of formal solicitation, therefore not merited.

**Effect on Competition.** None. Allowed only after assessment of manufacturer's costs to distributor within the same pool of potential contractors that would be qualified to respond to an invitation to bid.

**Effect on Favoritism.** None. Allowed only after assessment of manufacturer's costs to distributor within the same pool of potential contractors that would be qualified to respond to an invitation to bid.

**Other Factors.** Allowed on a contract-by-contract basis and shall not result in an ongoing price agreement, further fostering competition.

## **E-10 – Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt.**

**Alternate Award Process.** Intermediate procurement process.



**Cost Savings and Other Benefits.** Frequency and amount of exempt item purchases do not justify the cost of solicitation. Period of time from recognition of need through contract award too long for needed purchases of exempt fungible goods.

**Effect on Competition.** Minimal. Intermediate procurement process surveys market and ensures level of competition appropriate for these frequently purchased goods.

**Effect on Favoritism.** Purchase based on cost. Intermediate procurement process sufficiently avoids any favoritism.

#### **E-11 – Hazardous Material Removal; Oil Cleanup.**

**Alternate Award Process.** Rule encourages competitive procedures to the extent reasonable under the circumstances.

**Cost Savings and Other Benefits.** Avoids unnecessary cost and delay associated with procurement procedures when most qualified available contractor required for immediate performance. Primary consideration is public safety and compliance with hazardous material laws.

**Effect on Competition.** Minimal, given competitive procedures encouraged by Rule and supporting findings describing circumstance requiring clean up.

**Effect on Favoritism.** Minimal, given competitive procedures encouraged by Rule and supporting findings describing circumstance requiring clean up.

**Other Factors.** Exemption necessary to ensure City's ability to comply with State law governing hazardous materials.

#### **E-13 – Medical and Laboratory Supplies.**

**Alternate Award Process.** Direct award to different vendors allowed, following initial competitive solicitation process.

**Cost Savings and Other Benefits.** Frequency and amount of exempt item purchases do not justify the cost of solicitation. Period of time from recognition of need through contract award too long for needed purchases of exempt fungible goods.

**Effect on Competition.** Minimal. Intermediate procurement process surveys market and ensures level of competition appropriate for these frequently purchased goods.

**Effect on Favoritism.** Purchase based on cost. Intermediate procurement process sufficiently avoids any favoritism.

#### **E-14 – Concession Agreements.**

**Alternate Award Process.** When in City's best interest, a competitive proposal solicitation will be used.

**Cost Savings and Other Benefits.** Allows City to take advantage of unique revenue opportunities.

**Effect on Competition.** Responds to unique opportunities for which the number of competitors may range from none to many.

**Effect on Favoritism.** No impact. Responds to unique opportunities.

**Other Factors.** Not a contract for the acquisition or disposal of goods, or services or public improvements. Most similar to personal services contract because the quality of the concession may be more important than price factors. Variation in types and sizes of concession opportunities is too great to provide a single method of solicitation. Statutory public contracting requirements may not apply. May not be a public contract. Most similar to personal services contract. Findings may not be required.

#### **E-15 – Used Personal Property, Purchase of.**

**Alternate Award Process.** Rule requires individualized ORS 279B.085 findings and an intermediate procurement process, where feasible.

**Cost Savings and Other Benefits.** Allows City to take advantage of unique opportunity to require needed goods and services for discounted prices.

**Effect on Competition.** No impact. Responds to unique opportunities.

**Effect on Favoritism.** No impact. Responds to unique opportunities.

#### **E-16 – Surplus Personal Property, Disposition of.**

**Alternate Award Process.** Any means in City's best interest, after making individualized ORS 279B.085 findings. Items with a residual value of more than \$10,000 require local contract review board prior authorization.

**Cost Savings and Other Benefits.**

1. Avoids unnecessary solicitation expense by allowing City to determine whether cost of solicitation is justified by value of surplus property.
2. Allows City to establish programs for donation to charitable organizations.

**Effect on Competition.** No impact. Responds to unique opportunities.

**Effect on Favoritism.** No impact. Responds to unique opportunities.

**Other Factors.** Variations in the type, quantity, quality and opportunities for recycling of surplus property are too large to have this class of contracts governed by a single solicitation method.

F:\1Clients\MuniYachats, City of\GENERAL\Public Contracting Rules Update 2016\FINDINGS in Support of Ordinance Adopting Rules (041316) CHCkad.docx

# **PUBLIC CONTRACTING RULES**

## **2016**

# TABLE OF CONTENTS

## PUBLIC CONTRACTING RULES - 2016

### DIVISION 46

#### GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTING

|                                                                  |   |
|------------------------------------------------------------------|---|
| 137-046-0100 Application; Federal Law Supremacy .....            | 1 |
| 137-046-0110 Definitions for the Rules .....                     | 1 |
| 137-046-0120 Policy .....                                        | 3 |
| 137-046-0130 Application of the Code and Rules; Exceptions ..... | 3 |

#### MINORITIES, WOMEN AND EMERGING SMALL BUSINESSES

|                                                                                                             |   |
|-------------------------------------------------------------------------------------------------------------|---|
| 137-046-0200 Affirmative Action; Limited Competition Permitted .....                                        | 3 |
| 137-046-0210 Subcontracting to and Contracting with Emerging Small Businesses;<br>DBE Disqualification..... | 3 |

#### CONTRACT PREFERENCES

|                                                                                  |   |
|----------------------------------------------------------------------------------|---|
| 137-046-0300 Preference for Oregon Goods and Services; Nonresident Bidders ..... | 5 |
| 137-046-0310 Reciprocal Preferences .....                                        | 6 |
| 137-046-0320 Preference for Recycled Materials .....                             | 6 |

#### COOPERATIVE PROCUREMENT

|                                                                                                                                        |   |
|----------------------------------------------------------------------------------------------------------------------------------------|---|
| 137-046-0400 Authority for Cooperative Procurements .....                                                                              | 6 |
| 137-046-0410 Responsibilities of Administering Contracting Agencies and<br>Purchasing Contracting Agencies .....                       | 6 |
| 137-046-0420 Joint Cooperative Procurements .....                                                                                      | 7 |
| 137-046-0430 Permissive Cooperative Procurements .....                                                                                 | 7 |
| 137-046-0440 Advertisements of Intent to Establish Contracts or Price Agreements through a<br>Permissive Cooperative Procurement ..... | 7 |
| 137-046-0450 Interstate Cooperative Procurements .....                                                                                 | 8 |
| 137-046-0460 Advertisements of Interstate Cooperative Procurements .....                                                               | 8 |
| 137-046-0470 Protests and Disputes .....                                                                                               | 8 |
| 137-046-0480 Contract Amendments .....                                                                                                 | 9 |

## **DIVISION 47**

### **PUBLIC PROCUREMENTS FOR GOODS OR SERVICES GENERAL PROVISIONS**

|                                |    |
|--------------------------------|----|
| 137-047-0100 Application ..... | 10 |
| 137-047-0110 Definitions ..... | 10 |

### **SOURCE SELECTION**

|                                                                                          |    |
|------------------------------------------------------------------------------------------|----|
| 137-047-0250 Methods of Source Selection.....                                            | 10 |
| 137-047-0255 Competitive Sealed Bidding .....                                            | 10 |
| 137-047-0257 Multistep Sealed Bids .....                                                 | 12 |
| 137-047-0260 Competitive Sealed Proposals .....                                          | 12 |
| 137-047-0261 Procedures for Competitive Range, Multi-tiered and Multistep Proposals..... | 14 |
| 137-047-0262 Competitive Range, Discussions and Negotiations.....                        | 14 |
| 137-047-0263 Multistep Sealed Proposals .....                                            | 16 |
| 137-047-0265 Small Procurements .....                                                    | 17 |
| 137-047-0270 Intermediate Procurements .....                                             | 17 |
| 137-047-0275 Sole-Source Procurements .....                                              | 17 |
| 137-047-0280 Emergency Procurements .....                                                | 18 |
| 137-047-0285 Special Procurements .....                                                  | 18 |
| 137-047-0290 Cooperative Procurements.....                                               | 18 |

### **PROCUREMENT PROCESS**

|                                                           |    |
|-----------------------------------------------------------|----|
| 137-047-0300 Public Notice of Solicitation Documents..... | 18 |
| 137-047-0310 Bids or Proposals are Offers .....           | 19 |
| 137-047-0320 Facsimile Bids and Proposals .....           | 20 |
| 137-047-0330 Electronic Procurement .....                 | 20 |

### **BID AND PROPOSAL PREPARATION**

|                                                                                        |    |
|----------------------------------------------------------------------------------------|----|
| 137-047-0400 Offer Preparation .....                                                   | 21 |
| 137-047-0410 Offer Submission .....                                                    | 22 |
| 137-047-0420 Pre-Offer Conferences .....                                               | 22 |
| 137-047-0430 Addenda to Solicitation Document .....                                    | 22 |
| 137-047-0440 Pre-Closing Modification or Withdrawal of Offers.....                     | 23 |
| 137-047-0450 Receipt, Opening, and Recording of Offers; Confidentiality of Offers..... | 24 |

|                                                                                            |    |
|--------------------------------------------------------------------------------------------|----|
| 137-047-0460 Late Offers, Late Withdrawals and Late Modifications .....                    | 24 |
| 137-047-0470 Mistakes.....                                                                 | 24 |
| 137-047-0480 Time for Agency Acceptance.....                                               | 25 |
| 137-047-0490 Extension of Time for Acceptance of Offer.....                                | 25 |
| <b>QUALIFICATIONS AND DUTIES</b>                                                           |    |
| 137-047-0500 Responsibility of Bidders and Proposers.....                                  | 25 |
| 137-047-0525 Qualified Products Lists .....                                                | 26 |
| 137-047-0550 Prequalification of Prospective Offerors .....                                | 26 |
| 137-047-0575 Debarment of Prospective Offerors .....                                       | 26 |
| <b>OFFER EVALUATION AND AWARD</b>                                                          |    |
| 137-047-0600 Offer Evaluation and Award.....                                               | 26 |
| 137-047-0610 Notice of Intent to Award .....                                               | 27 |
| 137-047-0620 Documentation of Award .....                                                  | 28 |
| 137-047-0630 Availability of Award Decisions.....                                          | 28 |
| 137-047-0640 Rejection of an Offer.....                                                    | 28 |
| 137-047-0650 Rejection of All Offers.....                                                  | 30 |
| 137-047-0660 Cancellation of Procurement or Solicitation .....                             | 30 |
| 137-047-0670 Disposition of Offers if Procurement or Solicitation Canceled.....            | 30 |
| <b>LEGAL REMEDIES</b>                                                                      |    |
| 137-047-0700 Protests and Judicial Review of Special Procurements .....                    | 31 |
| 137-047-0710 Protests and Judicial Review of Sole-Source Procurements .....                | 31 |
| 137-047-0720 Protests and Judicial Review of Multi-Tiered and Multistep Solicitations..... | 31 |
| 137-047-0730 Protests and Judicial Review of Solicitations .....                           | 32 |
| 137-047-0740 Protests and Judicial Review of Contract Award.....                           | 33 |
| 137-047-0745 Protests and Judicial Review of Qualified Products List Decisions.....        | 33 |
| 137-047-0750 Judicial Review of Other Violations .....                                     | 33 |
| 137-047-0760 Review of Prequalification and Debarment Decisions .....                      | 34 |
| 137-047-0800 Amendments to Contracts and Price Agreements .....                            | 34 |
| 137-047-0810 Termination of Price Agreements .....                                         | 34 |

## **DIVISION 48**

### **CONSULTANT SELECTION: ARCHITECTURAL, ENGINEERING, PHOTOGRAMMETRIST, TRANSPORTATION PLANNING AND LAND SURVEYING SERVICES AND RELATED SERVICES CONTRACTS**

|                                                                                                                            |    |
|----------------------------------------------------------------------------------------------------------------------------|----|
| 137-048-0100 Application .....                                                                                             | 35 |
| 137-048-0110 Definitions .....                                                                                             | 35 |
| 137-048-0120 [Reserved.] .....                                                                                             | 36 |
| 137-048-0130 Applicable Selection Procedures; Pricing Information; Disclosure of<br>Proposals; Conflicts of Interest ..... | 36 |

#### **SELECTION PROCEDURES**

|                                                                                                                                                    |    |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 137-048-0200 Direct Appointment Procedure .....                                                                                                    | 37 |
| 137-048-0210 Informal Selection Procedure .....                                                                                                    | 38 |
| 137-048-0220 Formal Selection Procedure .....                                                                                                      | 39 |
| 137-048-0230 Ties Among Proposers .....                                                                                                            | 42 |
| 137-048-0240 Protest Procedures .....                                                                                                              | 43 |
| 137-048-0250 Solicitation Cancellation, Delay or Suspension; Rejection of All<br>Proposals or Responses; Consultant Responsibility for Costs ..... | 43 |
| 137-048-0260 Two-Tiered Selection Procedure when State Agency is Lead<br>Contracting Agency .....                                                  | 44 |
| 137-048-0270 Price Agreements .....                                                                                                                | 45 |

#### **POST-SELECTION CONSIDERATIONS**

|                                                                          |    |
|--------------------------------------------------------------------------|----|
| 137-048-0300 Prohibited Payment Methodology; Purchase Restrictions ..... | 46 |
| 137-048-0310 Expired or Terminated Contracts; Reinstatement .....        | 46 |
| 137-048-0320 Contract Amendments .....                                   | 47 |

## **DIVISION 49**

### **GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTS FOR CONSTRUCTION SERVICES**

|                                                                              |    |
|------------------------------------------------------------------------------|----|
| 137-049-0100 Application .....                                               | 48 |
| 137-049-0110 Policies .....                                                  | 48 |
| 137-049-0120 Definitions .....                                               | 48 |
| 137-049-0130 Competitive Bidding Requirement .....                           | 48 |
| 137-049-0140 Contracts for Construction Other than Public Improvements ..... | 48 |
| 137-049-0150 Emergency Contracts; Bidding and Bonding Exemptions .....       | 49 |



|                                                                                 |    |
|---------------------------------------------------------------------------------|----|
| 137-049-0160 Intermediate Procurements; Competitive Quotes and Amendments ..... | 49 |
|---------------------------------------------------------------------------------|----|

## **FORMAL PROCUREMENT RULES**

|                                                                                        |    |
|----------------------------------------------------------------------------------------|----|
| 137-049-0200 Solicitation Documents; Required Provisions; Assignment or Transfer ..... | 50 |
| 137-049-0210 Notice and Advertising Requirements; Posting .....                        | 52 |
| 137-049-0220 Prequalification of Offerors .....                                        | 53 |
| 137-049-0230 Eligibility to Bid or Propose; Registration or License .....              | 53 |
| 137-049-0240 Pre-Offer Conferences .....                                               | 53 |
| 137-049-0250 Addenda to Solicitation Documents .....                                   | 54 |
| 137-049-0260 Request for Clarification or Change; Solicitation Protests.....           | 54 |
| 137-049-0270 Cancellation of Solicitation Document.....                                | 55 |
| 137-049-0280 Offer Submissions .....                                                   | 55 |
| 137-049-0290 Bid or Proposal Security .....                                            | 56 |
| 137-049-0300 Facsimile Bids and Proposals .....                                        | 57 |
| 137-049-0310 Electronic Procurement .....                                              | 57 |
| 137-049-0320 Pre-Closing Modification or Withdrawal of Offers.....                     | 58 |
| 137-049-0330 Receipt, Opening and Recording of Offers; Confidentiality of Offers ..... | 58 |
| 137-049-0340 Late Bids, Late Withdrawals and Late Modifications.....                   | 59 |
| 137-049-0350 Mistakes.....                                                             | 59 |
| 137-049-0360 First-Tier Subcontractors; Disclosure and Substitution .....              | 60 |
| 137-049-0370 Disqualification of Persons .....                                         | 61 |
| 137-049-0380 Bid or Proposal Evaluation Criteria.....                                  | 62 |
| 137-049-0390 Offer Evaluation and Award; Determination of Responsibility.....          | 62 |
| 137-049-0395 Notice of Intent to Award .....                                           | 64 |
| 137-049-0400 Documentation of Award; Availability of Award Decisions .....             | 64 |
| 137-049-0410 Time for Contracting Agency Acceptance; Extension .....                   | 65 |
| 137-049-0420 Negotiation With Bidders Prohibited.....                                  | 65 |
| 137-049-0430 Negotiation When Bids Exceed Cost Estimate .....                          | 65 |
| 137-049-0440 Rejection of Offers .....                                                 | 66 |
| 137-049-0450 Protest of Contractor Selection, Contract Award.....                      | 67 |

|                                                             |    |
|-------------------------------------------------------------|----|
| 137-049-0460 Performance and Payment Security; Waiver ..... | 68 |
| 137-049-0470 Substitute Contractor .....                    | 69 |
| 137-049-0490 Foreign Contractor.....                        | 69 |

## **ALTERNATIVE CONTRACTING METHODS**

|                                                                    |    |
|--------------------------------------------------------------------|----|
| 137-049-0600 Purpose .....                                         | 69 |
| 137-049-0610 Definitions for Alternative Contracting Methods ..... | 69 |
| 137-049-0620 Use of Alternative Contracting Methods .....          | 70 |
| 137-049-0630 Findings, Notice and Hearing .....                    | 70 |
| 137-049-0640 General Alternative Bidding Procedures .....          | 71 |
| 137-049-0650 Requests for Proposals (RFP).....                     | 72 |
| 137-049-0660 RFP Pricing Mechanisms .....                          | 74 |
| 137-049-0670 Design-Build Contracts .....                          | 74 |
| 137-049-0680 Energy Savings Performance Contracts (ESPC) .....     | 75 |
| 137-049-0690 Construction Manager/General Contractor (CM/GC) ..... | 77 |

## **CONTRACT PROVISIONS**

|                                                                            |    |
|----------------------------------------------------------------------------|----|
| 137-049-0800 Required Contract Clauses .....                               | 78 |
| 137-049-0810 Waiver of Delay Damages Against Public Policy .....           | 78 |
| 137-049-0815 BOLI Public Works Bond .....                                  | 78 |
| 137-049-0820 Retainage .....                                               | 78 |
| 137-049-0830 Contractor Progress Payments .....                            | 79 |
| 137-049-0840 Interest.....                                                 | 79 |
| 137-049-0850 Final Inspection.....                                         | 80 |
| 137-049-0860 Public Works Contracts .....                                  | 80 |
| 137-049-0870 Specifications; Brand Name Products.....                      | 81 |
| 137-049-0880 Records Maintenance; Right to Audit Records .....             | 81 |
| 137-049-0890 Contracting Agency Payment for Unpaid Labor or Supplies ..... | 81 |
| 137-049-0900 Contract Suspension; Termination Procedures.....              | 82 |
| 137-049-0910 Changes to the Work and Contract Amendments.....              | 82 |

## **CLASS EXEMPTIONS**

|                                                                      |    |
|----------------------------------------------------------------------|----|
| E-1 Purpose and Statutory Authority .....                            | 84 |
| E-2 Advertising Contracts .....                                      | 84 |
| E-3 Equipment Repair and Overhaul .....                              | 84 |
| E-4 Contracts for Price Regulated Items .....                        | 84 |
| E-5 Copyrighted Materials.....                                       | 84 |
| E-6 Investment Contracts.....                                        | 84 |
| E-7 Requirements Contracts.....                                      | 84 |
| E-8 Office Copier Purchases.....                                     | 85 |
| E-9 Manufacturer Direct Supplies .....                               | 85 |
| E-10 Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt..... | 85 |
| E-11 Hazardous Material Removal; Oil Cleanup .....                   | 85 |
| E-12 Insurance, Employee Benefit .....                               | 85 |
| E-13 Medical and Laboratory Supplies .....                           | 86 |
| E-14 Concession Agreements .....                                     | 86 |

## **USED PERSONAL PROPERTY**

|                                                     |    |
|-----------------------------------------------------|----|
| E-15 Used Personal Property, Purchase of .....      | 86 |
| E-16 Surplus Personal Property, Disposition of..... | 87 |

## **PERSONAL SERVICES**

|                                                                                                                                         |    |
|-----------------------------------------------------------------------------------------------------------------------------------------|----|
| E-17 Personal Services for Other than Architect, Engineer, Photogrammetrist, Transportation Planner<br>and Land Surveying Services..... | 87 |
| E-18 Liability Insurance Contracts .....                                                                                                | 88 |

## PUBLIC CONTRACTING RULES 2016

### DIVISION 46

#### GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTING

##### 137-046-0100

###### **Application; Federal Law Supremacy**

(1) These Public Contracting Rules (Rules) set forth the rules of procedure for Public Contracting of Contracting Agencies subject to these Rules. These Rules consist of the following four divisions:

(a) This division 46, which is applicable to all Public Contracting;

(b) Division 47, which describes procedures for Public Contracting for Goods or Services, as defined in ORS 279B.005;

(c) Division 48, which describes procedures for Public Contracting for Architectural, Engineering and Land Surveying Services and Related Services; and

(d) Division 49, which describes procedures for Public Contracting for Construction Services.

(2) In the event of conflict between rules in this division 46 and rules in divisions 47, 48 and 49, the rules in divisions 47, 48 and 49 take precedence over the rules in this division 46.

(3) Except as otherwise expressly provided in ORS 279C.800 through ORS 279C.870, and notwithstanding ORS chapters 279A, 279B, and ORS 279C.005 through 279C.670, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of ORS chapters 279A, 279B, and ORS 279C.005 through 279C.670 or these rules, or require additional conditions in Public Contracts not authorized by ORS chapters 279A, 279B, and ORS 279C.005 through 279C.670 or these Rules.

(4) These division 46 rules become effective upon adoption, and apply to Public Contracts first advertised, but if not advertised then entered into, on or after that date.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030 & ORS 279A.065

##### 137-046-0110

###### **Definitions for the Rules**

Unless the context of a specifically applicable definition in the Code requires otherwise, capitalized terms used in the Rules will have the meaning set forth in the division of the Rules in which they appear, and if not defined there, the meaning set forth in these division 46 rules, and if not defined there, the meaning set forth in the Code. The following terms, when capitalized in these Rules, shall have the meaning set forth below:

(1) "**Addendum**" or "**Addenda**" means an addition or deletion to, a material change in, or general interest explanation of a Solicitation Document.

(2) "**Award**" means, as the context requires, either the act or occurrence of the Contracting Agency's identification of the Person with whom the Contracting Agency will enter into a Contract following the resolution of any protest of the Contracting Agency's selection of that Person, and the completion of all Contract negotiations.

(3) "**Bid**" means a written response to an Invitation to Bid.

(4) "**Closing**" means the date and time announced in a Solicitation Document as the deadline for submitting Offers.

(5) "**Code**" means the Public Contracting Code, as defined in ORS 279A.010.

(6) "**Competitive Range**" means the Proposers with whom the Contracting Agency will conduct discussions or negotiations if the Contracting Agency intends to conduct discussions or negotiations in accordance with Rules 137-047-0262 or 137-049-0650.

(7) "**Contract**" means a "Public Contract," as defined in ORS 279A.010.

(8) "**Contract Price**" means, as the context requires, (a) the maximum monetary obligation that a Contracting Agency agrees to pay under a Contract, including bonuses, incentives and contingency amounts, if the Contractor fully performs under the Contract, (b) the maximum not-to-exceed amount of payments specified in the Contract, or (c) the unit prices for Goods or Services or Personal Services set forth in the Contract.

(9) "**Contracting Agency**" means a public body authorized by law to conduct a procurement. "Contracting Agency" includes any person authorized by a Contracting Agency to conduct procurements on the Contracting Agency's behalf.

(10) "**Contract Review Authority**" means the Local Contracting Agency's Local Contract Review Board determined as set forth in ORS 279A.060.

(11) "**Contractor**" means the Person with whom a Contracting Agency enters into a Contract.

- (12) **"DBE Disqualification"** means a disqualification, suspension or debarment pursuant to ORS 200.065, 200.075 or 279A.110.
- (13) **"Descriptive Literature"** means the Offeror's materials submitted to provide information concerning the products or services available in response to a Solicitation Document.
- (14) **"Electronic Advertisement"** means notice of a Contracting Agency's request for Offers, request for quotes, request for information or other document inviting participation in the Contracting Agency's Procurements available over the Internet via (a) the World Wide Web or some other Internet protocol; or (b) a Contracting Agency's Electronic Procurement System. An Electronic Advertisement may include a Solicitation Document.
- (15) **"Electronic Offer"** means a response to a Contracting Agency's request for Offers or request for quotes submitted to a Contracting Agency via email or through the Contracting Agency's Electronic Procurement System.
- (16) **"Electronic Procurement System"** means an information system that Persons may access through the Internet, using the World Wide Web or some other Internet protocol, or that Persons may otherwise remotely access using a computer, that enables a Contracting Agency to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to a Procurement.
- (17) **"Goods and Services"** or **"Goods or Services"** has the meaning set forth in ORS 279B.005(1)(a).
- (18) **"Invitation to Bid"** or **"ITB"** means all documents used for soliciting Bids in accordance with either ORS 279B.055, or 279C.335.
- (19) **"Offer"** means a written response to a Solicitation Document.
- (20) **"Offeror"** means a Person who submits an Offer.
- (21) **"Opening"** means the date, time and place announced in the Solicitation Document for the public opening of Written sealed Offers.
- (22) **"Person"** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity that has the legal capacity to enter into a contract.
- (23) **"Personal Services"** means the services or type of services performed under a Personal Services Contract.
- (24) **"Personal Services Contract"** or **"Contract for Personal Services"** means a contract primarily for the provision of services that require specialized technical, creative, professional, or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers, unless specifically exempt from the Code. For any single contract or class of contracts, the Contracting Agency shall have the discretion to determine whether additional types of services not specifically mentioned in this definition are personal services.
- (25) **"Product Sample"** means a representative specimen of the item offered by the Offeror in response to the Solicitation Document. Unless otherwise provided in the Solicitation Document, the Product Sample shall be the exact product or a representative portion of that product offered by the Offeror.
- (26) **"Proposal"** means a written response to a Request for Proposals.
- (27) **"Responsible Offeror"** (also, **"Responsible Bidder"** or **"Responsible Proposer,"** as applicable) means a Person that has submitted an Offer and meets the standards set forth in Rules 137-047-0640 or 137-049-0390(2), and that has not been debarred or disqualified by the Contracting Agency under Rules 137-047-0575 or 137-049-0370. When used alone, **"Responsible"** means meeting the aforementioned standards.
- (28) **"Responsive Offer"** (also, **"Responsive Bid"** or **"Responsive Proposal,"** as applicable) means an Offer that substantially complies in all material respects with applicable solicitation requirements. When used alone, **"Responsive"** means having the characteristic of substantially complying in all material respects with applicable solicitation requirements.
- (29) **"Request for Proposals"** or **"RFP"** means all documents used for soliciting Proposals in accordance with either ORS.279B.060, 279C.110 or Rule 137-049-0650.
- (30) **"Signed"** or **"Signature"** means any mark, word or symbol attached to or logically associated with a document and executed or adopted by a Person with the intent to be bound.
- (31) **"Solicitation Document"** means an Invitation to Bid, Request for Proposals or other document issued to invite offers from prospective contractors pursuant to ORS Chapter 279B or ORS Chapter 279C.
- (32) **"Specification"** means any description of the physical or functional characteristics, or of the nature of a supply, service or construction item, including any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed.

(33) **"Work"** means the furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual item in a Contract and successful completion of all duties and obligations imposed by the Contract.

(34) **"Written"** or **"Writing"** means conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions or facsimile documents when required by applicable law or permitted by a Solicitation Document or Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

#### **137-046-0120**

##### **Policy**

Contracting Agencies subject to the Code shall conduct Public Contracting to further the policies set forth in ORS 279A.015, elsewhere in the Code, and in these Rules.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.015 & ORS 279A.065

#### **137-046-0130**

##### **Application of the Code and Rules; Exceptions**

(1) Except as set forth in this section, a Contracting Agency shall exercise all rights, powers and authority related to Public Contracting in accordance with the Code and these Rules.

(2) Neither the Code nor these Rules apply to the contracts or the classes of contracts described in ORS 279A.025(2).

(3) Contracting Agencies otherwise subject to the Code and these Rules may enter into Public Contracts under a federal program pursuant to ORS 279A.180 without following the procedures set forth in ORS 279B.050 through ORS 279B.085.

(4) Contracting Agencies otherwise subject to the Code and these Rules may enter into contracts for Goods or Services with non-profit agencies providing employment opportunities for disabled individuals pursuant to ORS 279.835 through 279.855 without following the source selection procedures set forth in either ORS 279A.200 through ORS 279A.225, or ORS 279B.050 through ORS 279B.085. However, Contracting Agencies must enter into such contracts in accordance with any applicable administrative rules promulgated by the Department of Administrative Services.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.050, ORS 279A.055, ORS 279A.065 & ORS 279A.180

### **MINORITIES, WOMEN AND EMERGING SMALL BUSINESSES**

#### **137-046-0200**

##### **Affirmative Action; Limited Competition Permitted**

(1) Pursuant to ORS 279A.100, a Contracting Agency may limit competition on Public Contracts for Goods and Services, or on other Public Contracts with an estimated cost of \$50,000 or less to carry out affirmative action policies, in accordance with policies and procedures established by the Public Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.100

#### **137-046-0210**

##### **Subcontracting to and Contracting with Emerging Small Businesses; DBE Disqualification**

(1) As set forth in ORS 279A.105, a Contracting Agency may require a contractor to subcontract some part of a Contract to, or to obtain materials to be used in performing the Contract from:

(a) A business enterprise that is certified under ORS 200.055 as an emerging small business; or

(b) A business enterprise that is:

(A) Certified under ORS 200.055 as an emerging small business; and

(B) Is located in or draws its workforce from economically distressed areas, as designated by the Oregon Economic and Community Development Department.

(2) A subcontractor certified under ORS 200.055 as an emerging small business is located in or draws its workforce from economically distressed areas if:

(a) Its principal place of business is located in an area designated as economically distressed by the Oregon Economic and Community Development Department pursuant to administrative rules adopted by the Oregon Economic and Community Development Department; or

(b) The contractor certifies in writing to the Contracting Agency that a substantial number of the subcontractor's employees or subcontractors that will manufacture the goods or complete the services under the contract reside in an area designated as economically distressed by the Oregon Economic and Community Development Department pursuant to administrative rules adopted by the Oregon Economic and Community Development Department. For the purposes of making the foregoing determination, the Contracting Agency shall determine in each particular instance what proportion of a contractor's subcontractor's employees or subcontractors constitute a substantial number.

(3) Contracting Agencies shall include in each Solicitation Document a requirement that Offerors certify in their Offers in a form prescribed by the Contracting Agency, that the Offeror has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is certified under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, an emerging small business, or a business that is a service-disabled veteran owns.

(4) **DBE Disqualification.**

(a) A Contracting Agency may disqualify a Person from consideration of Award of the Contracting Agency's Contracts under ORS 200.065(5), or suspend a Person's right to bid on or participate in any public contract pursuant to ORS 200.075(1) after providing the Person with notice and a reasonable opportunity to be heard in accordance with sections (d) and (e) of this section.

(b) The Contracting Agency shall provide Written notice to the Person of a proposed Disqualification. The Contracting Agency shall deliver the Written notice by personal service or by registered or certified mail, return receipt requested. This notice shall:

(A) State that the Contracting Agency intends to disqualify or suspend the Person;

(B) Set forth the reasons for the DBE Disqualification;

(C) Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if the Contracting Agency does not receive the Person's Written request for a hearing within the time stated, the Person shall have waived its right to a hearing;

(D) Include a statement of the authority and jurisdiction under which the hearing will be held;

(E) Include a reference to the particular sections of the statutes and rules involved;

(F) State the proposed DBE Disqualification period; and

(G) State that the Person may be represented by legal counsel.

(c) **Hearing.** The Contracting Agency shall schedule a hearing upon the Contracting Agency's receipt of the Person's timely request. The Contracting Agency shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing prior to hearing.

(d) **Notice of Disqualification.** The Contracting Agency shall provide Written notice of the Disqualification to the Person. The Contracting Agency shall deliver the Written notice by personal service, or by registered or certified mail, return receipt requested. The notice shall contain:

(A) The effective date and period of DBE Disqualification;

(B) The grounds for DBE Disqualification; and

(C) A statement of the Person's appeal rights and applicable appeal deadlines.

(5) **Contract and Subcontract Conditions.** If a Contracting Agency awards a Contract to an Offeror that has been determined to be responsible under ORS 200.005(8) and 200.045(3), or awards a Contract under ORS 279A.100:

(a) The Contracting Agency must provide, as a material condition of the Contract:

(A) That the Contractor must maintain its certification under ORS 200.055 throughout the term of the Contract and any extensions (if the Contracting Agency used the certification as a factor in or as a basis for the Award of the Contract);

(B) That the Contractor must promptly pay each subcontractor that is certified under ORS 200.055 in accordance with ORS 279B.220, or 279C.570 and ORS 279C.580, whichever apply to the Contract;

(C) That the Contractor must include, in any subcontract the Contractor establishes in connection with the Contract, a provision that requires the subcontractor to maintain the subcontractor's certification under ORS 200.055 throughout the term of the subcontract and any extensions (if the Contractor used the certification as a factor in or as a basis for the Award of the subcontract);

(D) That the Contracting Agency may require the Contractor to terminate a subcontract with a subcontractor that fails to maintain its certification under ORS 200.055 throughout the term of the subcontract and any extensions.

(b) In the administration of Contracts that are subject to section (5) of this rule, the Contracting Agency must verify the Contractor's and any subcontractor's compliance with subsection (5)(a) of this rule.

(c) Subparagraph (5)(a)(A) of this section does not apply to an emerging small business that ceases to qualify as a tier one firm or a tier two firm (as ORS 200.005 defines those terms) due to the growth in the

business's number of full-time equivalent employees or in average annual gross receipts during the term of the Contract. This section (5) does not apply to an emerging small business for which a certification under ORS 200.055 expires during the term of the Contract or any extensions.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 200.065, ORS 200.075, ORS 279A.065, ORS 279A.105, ORS 279A.107 & ORS 279A.110

## CONTRACT PREFERENCES

### 137-046-0300

#### **Preference for Oregon Goods and Services; Nonresident Bidders**

(1) **Award When Offers Identical.** When a Contracting Agency receives Offers identical in price, fitness, availability and quality, and chooses to award a Contract, the Contracting Agency shall award the Contract based on the following order of precedence:

- (a) The Agency shall award the Contract to the Offeror among those submitting identical offers that is offering Goods or Services or Personal Services that have been manufactured or produced in Oregon.
- (b) If two or more Offerors submit identical Offers, and both offer Goods or Services or Personal Services manufactured or produced in Oregon, the Contracting Agency shall award the Contract by drawing lots among the identical Offers offering Goods or Services or Personal Services that have been manufactured or produced in Oregon. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.
- (c) If the Contracting Agency receives identical Offers, and none of the identical Offers offer Goods or Services or Personal Services manufactured or produced in Oregon, then the Contracting Agency shall award the Contract by drawing lots among the identical Offers. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(2) **Determining if Offers are Identical.** A Contracting Agency shall consider Offers identical in price, fitness, availability and quality as follows:

- (a) Bids received in response to an Invitation to Bid are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services or Personal Services described in the Invitation to Bid at the same price.
- (b) Proposals received in response to a Request for Proposals are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.
- (c) Proposals received in response to a Special Procurement conducted pursuant to ORS 279B.085 are identical in price, fitness, availability and quality if, after completing the contracting procedure approved by the Contract Review Authority, the Contracting Agency determines, in writing, that two or more Proposals are equally advantageous to the Contracting Agency.
- (d) Offers received in response to an intermediate Procurement conducted pursuant to ORS 279B.070 are identical if the Offers equally best serve the interests of the Contracting Agency in accordance with ORS 279B.070(4).

(3) **Determining if Goods or Services or Personal Services are Manufactured or Produced in Oregon.**

For the purposes of complying with section 1 of this Rule, Contracting Agencies may request, either in a Solicitation Document, following Closing, or at any other time determined appropriate by the Contracting Agency, any information the Contracting Agency determines is appropriate and necessary to allow the Contracting Agency to determine if the Goods or Services or Personal Services are manufactured or produced in Oregon. A Contracting Agency may use any reasonable criteria to determine if Goods or Services or Personal Services are manufactured or produced in Oregon, provided that the criteria reasonably relate to that determination, and provided that the Contracting Agency applies those criteria equally to each Bidder or Proposer.

(4) **Procedure for Drawing Lots.** In any instance when this Section calls for the drawing of lots, the Contracting Agency shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of being selected, and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

(5) **Discretionary Preference and Award.** Under ORS 279A.128, a Contracting Agency may provide, in a Solicitation Document for Goods, Services or Personal Services, a specified percentage preference of not more than ten percent for Goods fabricated or processed entirely in Oregon or Services or Personal Services performed entirely in Oregon. When the Contracting Agency provides for a preference under this Section, and more than one Offeror qualifies for the preference, the Contracting Agency may give a further



preference to a qualifying Offeror that resides in or is headquartered in Oregon. A Contracting Agency may establish a preference percentage higher than ten percent by written order that finds good cause to establish the higher percentage and which explains the Contracting Agency's reasons and evidence for finding good cause to establish a higher percentage. A Contracting Agency may not apply the preferences described in this Section in a Procurement for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or construction work that is described in ORS 297C.320.

Stat. Auth.: ORS 279A.065 & ORS 279A.128

Stats. Implemented: ORS 279A.065, ORS 279A.120 & ORS 279A.128

#### **137-046-0310**

##### **Reciprocal Preferences**

(1) When evaluating Bids pursuant to Rules 137-047-0255, 137-047-0257 or 137-049-0390, Contracting Agencies shall add a percentage increase to the Bid of a Nonresident Bidder equal to the percentage, if any, of the preference that would be given to that Bidder in the state in which the Bidder resides. A Contracting Agency may rely on the list prepared and maintained by the Department pursuant to ORS 279A.120(4) to determine both (i) whether the Nonresident Bidder's state gives preference to in-state bidders, and (ii) the amount of such preference.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.120

#### **137-046-0320**

##### **Preference for Recycled Materials**

(1) In comparing goods from two or more Offerors, if at least one Offeror offers goods manufactured from recycled materials, and at least one Offeror does not, a Contracting Agency shall select the Offeror offering goods manufactured from recycled materials if each of the conditions specified in ORS 279A.125(2) exists. When making the determination under ORS 279A.125(2)(d), the Contracting Agency shall consider the costs of the goods following any adjustments the Contracting Agency makes to the price of the goods after evaluation pursuant to Rule 137-046-0310.

(2) For the purposes of this Section, a Contracting Agency shall determine if goods are manufactured from recycled materials in accordance with standards established by the Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.125

## **COOPERATIVE PROCUREMENT**

#### **137-046-0400**

##### **Authority for Cooperative Procurements**

(1) Contracting Agencies may participate in, sponsor, conduct or administer Joint Cooperative Procurements, Permissive Cooperative Procurements and Interstate Cooperative Procurements in accordance with ORS 279A.200 through 279A.225.

(2) Each Purchasing Contracting Agency shall determine, in Writing, whether the solicitation and award process for an Original Contract arising out of a Cooperative Procurement is substantially equivalent to those identified in ORS 279B.055, ORS 279B.060 or ORS 279B.085 consistent with ORS 279A.200(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.205

#### **137-046-0410**

##### **Responsibilities of Administering Contracting Agencies and Purchasing Contracting Agencies**

(1) If a Contracting Agency is an Administering Contracting Agency of a Cooperative Procurement, the Contracting Agency may establish the conditions under which Persons may participate in the Cooperative Procurements administered by the Administering Contracting Agency. Such conditions may include, without limitation, whether each Person that participates in the Cooperative Procurement must pay administrative fees to the Administering Contracting Agency, whether the participants must enter into a written agreement with the Administering Contracting Agency, or any other matters related to the administration of the Cooperative Procurement and the resulting Original Contract. A Contracting Agency that acts as an Administering Contracting Agency may, but is not required to, include provisions in the Solicitation

Document for a Cooperative Procurement or advertise the Solicitation Document in a manner to assist Purchasing Contracting Agencies' compliance with the Code or these Rules.

- (2) If a Contracting Agency, acting as a Purchasing Contracting Agency, enters into a Contract or Price Agreement based on a Cooperative Procurement, the Contracting Agency shall comply with the Code and these Rules, including without limitation those sections of the Code and these Rules that govern:
- (a) The extent to which the Purchasing Contracting Agency may participate in the Cooperative Procurement,
  - (b) The advertisement of the solicitation document related to the Cooperative Procurement, and
  - (c) Public notice of the Purchasing Contracting Agency's intent to establish Contracts or Price Agreements based on a Cooperative Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.205

#### **137-046-0420**

##### **Joint Cooperative Procurements**

A Contracting Agency that chooses to participate in, sponsor, conduct or administer a Joint Cooperative Procurement may do so only in accordance with ORS 279A.210.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.210

#### **137-046-0430**

##### **Permissive Cooperative Procurements**

A Contracting Agency that chooses to participate in, sponsor, conduct or administer a Permissive Cooperative Procurement may do so only in accordance with ORS 279A.215.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.215

#### **137-046-0440**

##### **Advertisements of Intent to Establish Contracts or Price Agreements through a Permissive Cooperative Procurement**

(1) A Purchasing Contracting Agency that wishes to enter into a Contract or Price Agreement arising out of a Permissive Cooperative Procurement must publish notice of its intent to do so if the Purchasing Contracting Agency estimates that it will spend in excess of \$250,000 on Goods and Services or Personal Services acquired under the Contract or Price Agreement.

(2) For purposes of determining whether a Purchasing Contracting Agency must give the notice required by Rule 137-046-0440(1), a Purchasing Contracting Agency will spend in excess of \$250,000 for Goods and Services acquired under a Contract or Price Agreement arising out of a Permissive Cooperative Procurement if:

- (a) The Purchasing Contracting Agency's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides that the Purchasing Contracting Agency will make payments over the term of the Contract or Price Agreement that will, in aggregate, exceed \$250,000, whether or not the total amount or value of the payments is expressly stated;
  - (b) The Purchasing Contracting Agency's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides for a guaranteed maximum price, or a maximum not to exceed amount in excess of \$250,000; or
  - (c) At the time the Purchasing Contracting Agency enters into the Contract or Price Agreement, the Purchasing Contracting Agency reasonably contemplates, based on historical or other data available to the Purchasing Contracting Agency, that the total payments it will make for Goods or Services or Personal Services under the Contract or Price Agreement will, in aggregate, exceed \$250,000 over the anticipated duration of the Contract or Price Agreement.
- (3) The notice of intent required by Rule 137-046-0440(1) shall contain the information required by ORS 279A.215(2)(b), and Agency shall advertise the notice in the same manner as provided in ORS 279B.055(4)(b) and (c). Unless the Purchasing Contracting Agency sets forth a different time period in the notice, the Purchasing Contracting Agency shall give the notice required by this Section no fewer than 7 days before the deadline for submitting comments regarding the Purchasing Contracting Agency's intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement.
- (4) An Administering Contracting Agency that intends to establish a Contract or Price Agreement arising out of the Permissive Cooperative Procurement it administers may satisfy the notice requirements set forth in Rules 137-046-0440(1) and (3) by including the information required by ORS 279A.215(2)(b) in the Solicitation Document related to the Permissive Cooperative Procurement, and including instructions in the

Solicitation Document to potential Offerors describing how they may submit comments in response to the Administering Contracting Agency's intent to establish a Contract or Price Agreement through the Permissive Cooperative Procurement. The content and timing of such notice shall comply in all respects with ORS 279A.215(2), ORS 279A.215(3) and these Rules.

(5) The Purchasing Contracting Agency shall respond to any comments on its intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement as set forth in ORS 279A.215(3)(c).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.215

#### **137-046-0450**

##### **Interstate Cooperative Procurements**

A Contracting Agency that chooses to participate in, sponsor, conduct or administer an Interstate Cooperative Procurement may do so only in accordance with ORS 279A.220.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.220

#### **137-046-0460**

##### **Advertisements of Interstate Cooperative Procurements**

(1) The Solicitation Document for an Interstate Cooperative Procurement is advertised in Oregon for purposes of ORS 279A.220(2)(a) if it is advertised in Oregon in compliance with ORS 279B.055(4) or ORS 279B.060(4) by:

(a) The Administering Contracting Agency;

(b) The Purchasing Contracting Agency;

(c) The Cooperative Procurement Group, or a member of the Cooperative Procurement Group, of which the Purchasing Contracting Agency is a member; or

(d) Another Purchasing Contracting Agency that is subject to the Code, so long as such advertisement would, if given by the Purchasing Contracting Agency, comply with ORS 279B.055(4) or ORS 279B.060(4) with respect to the Purchasing Contracting Agency; or

(2) A Purchasing Contracting Agency or the Cooperative Procurement Group of which the Purchasing Contracting Agency is a member satisfies the advertisement requirement under ORS 279A.220(2)(b) if the notice is advertised in the same manner as provided in 279B.055(4)(b) and (c).

(3) The Purchasing Contracting Agency shall respond to any comments on its intent to establish a contract or price agreement through an Interstate Cooperative Procurement as set forth in ORS 279A.220(3)(c).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.220

#### **137-046-0470**

##### **Protests and Disputes**

(1) If a bidder or proposer wishes to protest the procurement process, the contents of a solicitation document related to a Cooperative Procurement, or the award or proposed award of an Original Contract, the bidder or proposer shall direct the protest to the Administering Contracting Agency, and the bidder or proposer shall make such protest in accordance with ORS 279B.400 through ORS 279B.425. If the Administering Contracting Agency is not subject to the Code, then bidders or proposers shall make such protests in accordance with the processes and procedures established by the Administering Contracting Agency.

(2) The failure of a Purchasing Contracting Agency to exercise any rights or remedies it has under a Contract or Price Agreement entered into through a Cooperative Procurement shall not affect the rights or remedies of any other Contracting Agency that participates in the Cooperative Procurement, including the Administering Contracting Agency, and shall not prevent any other Purchasing Contracting Agency from exercising any rights or seeking any remedies that may be available to it under its own Contract or Price Agreement arising out of the Cooperative Procurement.

(3) Any other protests related to a Cooperative Procurement, or disputes related to a Contract or Price Agreement arising out of a Cooperative Procurement, shall be made and resolved as set forth in ORS 279A.225.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.225

**137-046-0480**

**Contract Amendments**

A purchasing Contracting Agency may amend a Contract entered into pursuant to a Cooperative Procurement as set forth in Rule 137-047-0800 for Goods and Service Contracts and Rule 137-049-0910 for Public Improvement Contracts.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

## **PUBLIC CONTRACTING RULES 2016**

### **DIVISION 47**

#### **PUBLIC PROCUREMENTS FOR GOODS OR SERVICES GENERAL PROVISIONS**

##### **137-047-0100**

###### **Application**

These division 47 rules implement ORS chapter 279B, Public Procurements and apply to the Procurement of Goods or Services. These division 47 rules become effective upon adoption, and apply to Contracts first advertised, but if not advertised then entered into, on or after that date.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.015

##### **137-047-0110**

###### **Definitions**

- (1) "**Advantageous**" means in the Contracting Agency's best interests, as assessed according to the judgment of the Contracting Agency.
- (2) "**Affected Person**" or "**Affected Offeror**" means a Person whose ability to participate in a Procurement is adversely affected by a Contracting Agency decision. See ORS 279B.410.
- (3) "**Scope**" means the range and attributes of the Goods or Services described in the applicable Procurement document.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

#### **SOURCE SELECTION**

##### **137-047-0250**

###### **Methods of Source Selection**

Except as permitted by ORS 279B.065 through 279B.085 and ORS 279A.200 through 279A.225, a Contracting Agency shall Award a Public Contract for Goods or Services based on Offers received in response to either competitive sealed Bids pursuant to ORS 279B.055 or competitive sealed Proposals pursuant to ORS 279B.060

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.050

##### **137-047-0255**

###### **Competitive Sealed Bidding**

- (1) **Generally.** A Contracting Agency may procure Goods or Services by competitive sealed bidding as set forth in ORS 279B.055. An Invitation to Bid is used to initiate a competitive sealed bidding solicitation and shall contain the information required by ORS 279B.055(2) and by section 2 of this rule. The Contracting Agency shall provide public notice of the competitive sealed bidding solicitation as set forth in 137-047-0300.
- (2) **Invitation to Bid.** In addition to the provisions required by ORS 279B.055(2), the Invitation to Bid shall include the following:
  - (a) General Information.
    - (A) Notice of any pre-Offer conference as follows:
      - (i) The time, date and location of any pre-Offer conference;
      - (ii) Whether attendance at the conference will be mandatory or voluntary; and
      - (iii) A provision that provides that statements made by the Contracting Agency's representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.
    - (B) The form and instructions for submission of Bids and any other special information, e.g., whether Bids may be submitted by electronic means (See Rule 137-047-0330 for required provisions of electronic Bids);
    - (C) The time, date and place of Opening;
    - (D) The office where the Solicitation Document may be reviewed;

(E) A statement that each Bidder must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120(1);

(F) Bidder's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See Rule 137-046-0210(3));

(G) How the Contracting Agency will notify Bidders of Addenda and how the Contracting Agency will make Addenda available (See Rule 137-047-0430);

(b) **Contracting Agency Need.** The character of the Goods or Services the Contracting Agency is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements. Pursuant to ORS 279B.055, the Contracting Agency's description of its need to purchase must:

(A) Identify the scope of the work to be performed under the resulting Contract, if the Contracting Agency awards one;

(B) Outline the anticipated duties of the Contractor under any resulting Contract;

(C) Establish the expectations for the Contractor's performance of any resulting Contract; and

(D) Unless the Contracting Agency for good cause specifies otherwise, the scope of work must require the Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the goods or services that the Contracting Agency is purchasing.

(c) **Bidding and Evaluation Process.**

(A) The anticipated solicitation schedule, deadlines, protest process, and evaluation process;

(B) The Contracting Agency shall set forth objective evaluation criteria in the Solicitation Document in accordance with the requirements of ORS 279B.055(6)(a). Evaluation criteria need not be precise predictors of actual future costs, but to the extent possible, such evaluation factors shall be reasonable estimates of actual future costs based on information the Contracting Agency has available concerning future use; and

(C) If the Contracting Agency intends to Award Contracts to more than one Bidder pursuant to Rule 137-047-0600(4)(c), the Contracting Agency shall identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award.

(d) Applicable preferences pursuant to ORS 279B.055(6)(b).

(e) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385 and ORS 279B.110(2)(e). See, Rule 137-047-0640(1)(c)(F)(v).

(f) All Contract terms and conditions, including a provision indicating whether the Contractor can assign the Contract, delegate its duties, or subcontract the delivery of the Goods or Services without prior written approval from the Contracting Agency. Pursuant to ORS 279B.055, the Contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting Contract. Those consequences may include, but are not limited to:

(A) The Contracting Agency's reduction or withholding of payment under the Contract;

(B) The Contracting Agency's right to require the Contractor to perform, at the Contractor's expense, any additional work necessary to perform the statement of work or to meet the performance standards established by the resulting Contract; and

(C) The Contracting Agency's rights, which the Contracting Agency may assert individually or in combination, to declare a default of the resulting Contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contract or applicable law.

(3) **Good Cause.** For the purposes of this rule, "Good Cause" means a reasonable explanation for not requiring Contractor to meet the highest standards, and may include an explanation of circumstances that support a finding that the requirement would unreasonably limit competition or is not in the best interest of the Contracting Agency. The Contracting Agency shall document in the Procurement file the basis for the determination of Good Cause for specification otherwise. A Contracting Agency will have Good Cause to specify otherwise under the following circumstances:

(a) The use or purpose to which the Goods or Services will be put does not justify a requirement that the Contractor meet the highest prevalent standards in performing the Contract;

(b) Imposing express technical, standard, dimensional or mathematical specifications will better ensure that the Goods or Services will be compatible with or will operate efficiently or effectively with components, equipment, parts, Services or information technology including hardware, Services or software with which the Goods or Services will be used, integrated, or coordinated;

(c) The circumstances of the industry or business that provides the Goods or Services are sufficiently volatile in terms of innovation or evolution of products, performance, techniques, scientific developments, that a reliable highest prevalent standard does not exist or has not been developed;

(d) Any other circumstances in which Contracting Agency's interest in achieving economy, efficiency, compatibility or availability in the Procurement of the Goods or Services reasonably outweighs the

Contracting Agency's practical need for the highest prevalent standard in the applicable or closest industry or business that supplies the Goods or Services to be delivered under the resulting Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055

#### **137-047-0257**

##### **Multistep Sealed Bidding**

(1) **Generally.** A Contracting Agency may procure Goods or Services by using multistep sealed bidding under ORS 279B.055(12).

(2) **Phased Process.** Multistep sealed bidding is a phased Procurement process that seeks information or unpriced submittals in the first phase combined with regular competitive sealed bidding, inviting Bidders who submitted technically eligible submittals in the first phase to submit competitive sealed price Bids in the second phase. The Contract must be Awarded to the lowest Responsible Bidder.

(3) **Public Notice.** When a Contracting Agency uses multistep sealed Bidding, the Contracting Agency shall give public notice for the first phase in accordance with Rule 137-047-0300. Public notice is not required for the second phase. However, a Contracting Agency shall give notice of the second phase to all Bidders, inform Bidders of the right to protest Addenda issued after the initial Closing under Rule 137-047-430, and inform Bidders excluded from the second phase of the right, if any, to protest their exclusion under Rule 137-047-0720.

(4) **Procedures Generally.** In addition to the procedures set forth in Rules 137-047-0300 through 137-047-0490, a Contracting Agency shall employ the procedures set forth in this rule for multistep sealed bidding and in the Invitation to Bid.

##### **(5) Procedure for Phase One of Multistep Sealed Bidding.**

(a) **Form.** A Contracting Agency shall initiate multistep sealed bidding by issuing an Invitation to Bid in the form and manner required for competitive sealed Bids except as provided in this Rule. In addition to the requirements set forth in Rule 137-047-0255(2), the multistep Invitation to Bid must state:

(A) That the solicitation is a multistep sealed Bid Procurement and describe the process the Contracting Agency will use to conduct the Procurement;

(B) That the Contracting Agency requests unpriced submittals and that the Contracting Agency will consider price Bids only in the second phase and only from those Bidders whose unpriced submittals are found eligible in the first phase;

(C) Whether Bidders must submit price Bids at the same time as unpriced submittals and, if so, that Bidders must submit the price Bids in a separate sealed envelope;

(D) The criteria to be used in the evaluation of unpriced submittals;

(b) **Evaluation.** The Contracting Agency shall evaluate unpriced submittals in accordance with the criteria set forth in the Invitation to Bid.

##### **(6) Procedure for Phase Two of Multistep Sealed Bidding.**

(a) **After** the completion of phase one, if the Contracting Agency does not cancel the Solicitation, the Contracting Agency shall invite each eligible Bidder to submit a price Bid.

(b) **A Contracting Agency** shall conduct phase two as any other competitive sealed Bid Procurement except:

(A) As specifically set forth in this Rule or the Invitation to Bid;

(B) No public notice need be given of the invitation to submit price Bids because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055

#### **137-047-0260**

##### **Competitive Sealed Proposals**

(1) **Generally.** A Contracting Agency may procure Goods or Services by competitive sealed Proposals as set forth in ORS 279B.060. A Request for Proposal is used to initiate a competitive sealed Proposal solicitation and shall contain the information required by ORS 279B.060(2) and by section 2 of this rule. The Contracting Agency shall provide public notice of the competitive sealed Proposal as set forth in Rule 137-047-0300.

(2) **Request for Proposal.** In addition to the provisions required by ORS 279B.060(2), the Request for Proposal shall include the following:

##### **(a) General Information.**

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) A provision that provides that statements made by the Contracting Agency's representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.

(B) The form and instructions for submission of Proposals and any other special information, e.g., whether Proposals may be submitted by electronic means (See Rule 137-047-0330 for required provisions of electronic Proposals);

(C) The time, date and place of Opening;

(D) The office where the Solicitation Document may be reviewed;

(E) Proposer's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See Rule 137-046-0210(3)); and

(F) How the Contracting Agency will notify Proposers of Addenda and how the Contracting Agency will make Addenda available. (See Rule 137-047-0430).

(b) Contracting Agency Need. The character of the Goods or Services the Contracting Agency is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements. Pursuant to ORS 279B.060(2)(c), the Contracting Agency's description of its need to purchase must:

(A) Identify the scope of the work to be performed under the resulting Contract, if the Contracting Agency awards one;

(B) Outline the anticipated duties of the Contractor under any resulting Contract;

(C) Establish the expectations for the Contractor's performance of any resulting Contract; and

(D) Unless the Contractor under any resulting Contract will provide architectural, engineering, photogrammetric mapping, transportation planning and land surveying services or related services that are subject to ORS 279C.100 to 279C.125, or the Contracting Agency for Good Cause specifies otherwise, the scope of work must require the Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the Goods or Services that the Contracting Agency is purchasing.

(c) Proposal and Evaluation Process.

(A) The anticipated solicitation schedule, deadlines, protest process, and evaluation process;

(B) The Contracting Agency shall set forth selection criteria in the Solicitation Document in accordance with the requirements of ORS 279B.060(3)(e). Evaluation criteria need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates of actual future costs based on information available to the Contracting Agency; and

(C) If the Contracting Agency intends to Award Contracts to more than one Proposer pursuant to Rule 137-047-0600(4)(d), the Contracting Agency must identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award.

(d) Applicable Preferences, including those described in ORS 279A.120, 279A.125(2), 282.210, and Rules 137-046-0300 through 137-046-0330.

(e) For Contracting Agencies subject to ORS 305.385, Proposer's certification of compliance with the Oregon tax laws in accordance with ORS 305.385, as applicable and ORS 279B.110(2)(e). See, Rule 137-047-0640(1)(c)(F)(v).

(f) All contractual terms and conditions the Contracting Agency determines are applicable to the Procurement. The Contracting Agency's determination of contractual terms and conditions that are applicable to the Procurement may take into consideration, as authorized by ORS 279B.060(3), those contractual terms and conditions the Contracting Agency will not include in the Request for Proposal because the Contracting Agency either will reserve them for negotiation, or will request Proposers to offer or suggest those terms or conditions. (See Rule 137-047-0262.)

(g) As required by ORS 279B.060(2)(h), the Contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting Contract. Those consequences may include, but are not limited to:

(A) The Contracting Agency's reduction or withholding of payment under the Contract;

(B) The Contracting Agency's right to require the Contractor to perform, at the Contractor's expense, any additional work necessary to perform the scope of work or to meet the performance standards established by the resulting Contract; and

(C) The Contracting Agency's rights, which the Contracting Agency may assert individually or in combination, to declare a default of the resulting Contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contract or applicable law.

(3) The Contracting Agency may include the applicable contractual terms and conditions in the form of Contract provisions, or legal concepts to be included in the resulting Contract, and identify those contractual terms and conditions, if any, subject to negotiation per Rule 137-047-0262(3). Further, the Contracting Agency may specify that it will include or use Proposer's terms and conditions that have been pre-negotiated under Rule 137-047-0550, but the Contracting Agency may only include or use a Proposer's pre-negotiated terms and conditions in the resulting Contract to the extent those terms and conditions do not materially conflict with the applicable Contract terms and conditions. The Contracting Agency shall not agree to any



Proposer's terms and conditions that were expressly rejected in a solicitation protest under Rule 137-047-0420.

(4) For multiple Award Contracts, the Contracting Agency may enter into Contracts with different terms and conditions with each Contractor to the extent those terms and conditions do not materially conflict with the applicable contractual terms and conditions. The Contracting Agency shall not agree to any Proposer's terms and conditions that were expressly rejected in a solicitation protest under Rule 137-047-0420.

(5) **Good Cause.** For the purposes of this rule, "Good Cause" means a reasonable explanation for not requiring Contractor to meet the highest standards, and may include an explanation of circumstances that support a finding that the requirement would unreasonably limit competition or is not in the best interest of the Contracting Agency will have Good Cause to specify otherwise under the following circumstances:

(a) The use or purpose to which the Goods or Services will be put does not justify a requirement that the Contractor meet the highest prevalent standards in performing the Contract;

(b) Imposing express technical, standard, dimensional or mathematical specifications will better ensure that the Goods or Services will be compatible with, or will operate efficiently or effectively with, associated information technology, hardware, software, components, equipment, parts, or on-going Services with which the Goods or Services will be used, integrated, or coordinated;

(c) The circumstances of the industry or business that provides the Goods or Services are sufficiently volatile in terms of innovation or evolution of products, performance techniques, or scientific developments, that a reliable highest prevalent standard does not exist or has not been developed;

(d) Any other circumstances in which the Contracting Agency's interest in achieving economy, efficiency, compatibility or availability in the Procurement of the Goods or Services reasonably outweighs the Contracting Agency's practical need for the highest standard prevalent in the applicable or closest industry or business that supplies the Goods and Services to be delivered under the resulting Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060, ORS 279A.107 & ORS 279B.130

#### **137-047-0261**

##### **Procedures for Competitive Range, Multi-tiered and Multistep Proposals**

(1) **Generally.** A Contracting Agency may procure Goods or Services employing any combination of the methods of Contractor selection as set forth in ORS 279B.060(6)(b). In addition to the procedures set forth in Rules 137-047-0300 through 137-047-0490 for methods of Contractor selection, a Contracting Agency may provide for a multi-tiered or multi-step selection process that permits awards to the highest ranked proposer at any tier or step, calls for the establishment of a competitive range, or permits either serial or competitive simultaneous discussions or negotiations with one or more proposers. A Contracting Agency may employ one or more or any combination of the procedures set forth in this rule for competitive range, multi-tiered and multi-step proposals.

(2) When a Contracting Agency's Request for Proposals prescribes a multi-tiered or multistep Contractor selection process, a Contracting Agency nevertheless may, at the completion of any stage in the competition and on determining the Most Advantageous Proposer (or, in multiple-award situations, on determining the awardees of the Public Contracts), award a Contract (or Contracts) and conclude the Procurement without proceeding to subsequent stages. The Contracting Agency also may, at any time, cancel the Procurement under ORS 279B.100.

(3) **Exclusion Protest.** A Contracting Agency may provide before the notice of an intent to Award an opportunity for a Proposer to protest exclusion from the Competitive Range or from subsequent phases of multi-tiered or multistep sealed Proposals as set forth in Rule 137-047-0720.

(4) **Award Protest.** A Contracting Agency shall provide an opportunity to protest its intent to Award a Contract pursuant to ORS 279B.410 and Rule 137-047-0740. An Affected Offeror may protest, for any of the bases set forth in Rule 137-047-0720(2), its exclusion from the Competitive Range or from any phase of a multi-tiered or multistep sealed Proposal process, or may protest an Addendum issued following initial Closing, if the Contracting Agency did not previously provide Proposers the opportunity to protest the exclusion or Addendum. The failure to protest shall be considered the Proposer's failure to pursue an administrative remedy made available to the Proposer by the Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

#### **137-047-0262**

##### **Competitive Range, Discussions and Negotiations**

(1) When a Contracting Agency's solicitation process conducted under ORS 279B.060(8) calls for the Contracting Agency to establish a Competitive Range at any stage in the Procurement process, the Contracting Agency may do so as follows:

**(a) Determining Competitive Range.**

(A) The Contracting Agency may establish a Competitive Range after evaluating all Responsive Proposals in accordance with the evaluation criteria in the Request for Proposals. After evaluation of all Proposals in accordance with the criteria in the Request for Proposals, the Contracting Agency may determine and rank the Proposers in the Competitive Range. Notwithstanding the foregoing, however, in instances in which the Contracting Agency determines that a single Proposer has a reasonable chance of being determined the most Advantageous Proposer, the Contracting Agency need not determine or rank Proposers in the Competitive Range. In addition, notwithstanding the foregoing, a Contracting Agency may establish a Competitive Range of all Proposers to enter into discussions to correct deficiencies in Proposals.

(B) The Contracting Agency may establish the number of Proposers in the Competitive Range in light of whether the Contracting Agency's evaluation of Proposals identifies a number of Proposers who have a reasonable chance of being determined the most Advantageous Proposer, or whether the evaluation establishes a natural break in the scores of Proposers that indicates that a particular number of Proposers are closely competitive or have a reasonable chance of being determined the most Advantageous Proposer.

**(b) Protesting Competitive Range.** The Contracting Agency must provide Written notice to all Proposers identifying Proposers in the Competitive Range. A Contracting Agency may provide an opportunity for Proposers excluded from the Competitive Range to protest the Contracting Agency's evaluation and determination of the Competitive Range in accordance with Rule 137-047-0720.

**(2) Discussions.** The Contracting Agency may initiate oral or written discussions with all "eligible Proposers" on subject matter within the general scope of the Request for Proposals. In conducting discussions, the Contracting Agency:

(a) Shall treat all eligible Proposers fairly and shall not favor any eligible Proposer over another;

(b) May disclose other eligible Proposer's Proposals or discussions only in accordance with ORS 279B.060(8)(b) or (c);

(c) May adjust the evaluation of a Proposal as a result of discussions. The conditions, terms, or price of the Proposal may be changed during the course of the discussions provided the changes are within the scope of the Request for Proposals.

(d) At any time during the time allowed for discussions, the Contracting Agency may:

(A) Continue discussions with a particular eligible Proposer;

(B) Terminate discussions with a particular eligible Proposer and continue discussions with other eligible Proposers; or

(C) Conclude discussions with all remaining eligible Proposers and provide to the then-eligible Proposers, notice requesting best and final Offers.

**(3) Negotiations.** Contracting Agency may commence serial negotiations with the highest-ranked eligible Proposer or commence simultaneous negotiations with all eligible Proposers..

**(a) The Contracting Agency may negotiate:**

(A) The statement of Work;

(B) The Contract Price as it is affected by negotiating the statement of Work and other terms and conditions authorized for negotiation in the Request for Proposals or Addenda thereto; and

(C) Any other terms and conditions reasonably related to those authorized for negotiation in the Request for Proposals or Addenda thereto. Proposers shall not submit for negotiation, and a Contracting Agency shall not accept, alternative terms and conditions that are not reasonably related to those authorized for negotiation in the Request for Proposals or any Addendum.

**(4) Terminating Negotiations.** At any time during discussions or negotiations a Contracting Agency conducts under this rule, the Contracting Agency may terminate discussions or negotiations with the highest-ranked Proposer, or the eligible Proposer with whom it is currently discussing or negotiating, if the Contracting Agency reasonably believes that:

(a) The eligible Proposer is not discussing or negotiating in good faith; or

(b) Further discussions or negotiations with the eligible Proposer will not result in the parties agreeing to the terms and conditions of a Contract in a timely manner.

**(c) Continuing Serial Negotiations.** If the Contracting Agency is conducting serial negotiations and the Contracting Agency terminates negotiations with an eligible Proposer, the Contracting Agency may then commence negotiations with the next highest scoring eligible Proposer, and continue the sequential process until the Contracting Agency has either:

(A) Determined to Award the Contract to the eligible Proposer with whom it is currently discussing or negotiating; or

(B) Decided to cancel the Procurement under ORS 279B.100.

**(d) Competitive Simultaneous Negotiations.** If the Contracting Agency chooses to conduct competitive negotiations, the Contracting Agency may negotiate simultaneously with competing eligible Proposers. The Contracting Agency:

(A) Shall treat all eligible Proposers fairly and shall not favor any eligible Proposer over another;

(B) May disclose other eligible Proposers' Proposals or the substance of negotiations with other eligible Proposers only if the Contracting Agency notifies all of the eligible Proposers with whom the Contracting Agency will engage in negotiations of the Contracting Agency's intent to disclose before engaging in negotiations with any eligible Proposer.

(e) Any oral modification of a Proposal resulting from negotiations must be reduced to Writing.

(5) **Best and Final Offers.** If a Contracting Agency requires best and final Offers, a Contracting Agency must establish a common date and time by which eligible Proposers must submit best and final Offers. If a Contracting Agency is dissatisfied with the best and final Offers, the Contracting Agency may make a written determination that it is in the Contracting Agency's best interest to conduct additional discussions, negotiations or change the Contracting Agency's requirements and require another submission of best and final Offers. A Contracting Agency must inform all eligible Proposers that if they do not submit notice of withdrawal or another best and final Offer, their immediately previous Offers will be considered their best and final Offers. The Contracting Agency shall evaluate Offers as modified by the best and final Offer. The Contracting Agency shall conduct the evaluations as described in Rule 137-047-0600. The Contracting Agency may not modify evaluation factors or their relative importance after the date and time that best and final Offers are due.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

### **137-047-0263**

#### **Multistep Sealed Proposals**

(1) **Generally.** A Contracting Agency may procure Goods or Services by using multistep competitive sealed Proposals pursuant to ORS 279.060(6)(b)(G).

(2) **Phased Process.** Multistep sealed Proposals is a phased Procurement process that seeks necessary information or un-priced technical Proposals in the initial phase and invites Proposers who submitted technically qualified Proposals in the initial phase to submit competitive sealed price Proposals on the technical Proposers in the final phase. The Contract shall be Awarded to the Responsible Proposer submitting the most Advantageous Proposal in accordance with the terms of the Solicitation Document applicable to the final phase. If time is a factor, the Contracting Agency may require Proposers to submit a separate sealed price Proposal during the initial phase to be opened after the technical evaluation.

(3) **Public Notice.** Whenever multistep sealed Proposals are used, public notice for the first phase shall be given in accordance with Rule 137-047-0300. Public notice is not required for the subsequent phases. However, a Contracting Agency shall give notice of the subsequent phases to all Proposers and inform any Proposers excluded from the subsequent phases of the right, if any, to protest exclusion pursuant to Rule 137-047-0720.

#### **(4) Procedure for Phase One of Multistep Sealed Proposals.**

(a) **Form.** Multistep sealed Proposals shall be initiated by the issuance of a Request for Proposal in the form and manner required for competitive sealed Proposals except as provided in this rule. In addition to the requirements set forth in Rule 137-047-0260(2), the multistep Request for Proposal shall state:

(A) That un-priced technical Proposals are requested;

(B) Whether price Proposals are to be submitted at the same time as un-priced technical Proposals; that if they are, such price Proposals shall be submitted in a separate sealed envelope;

(C) That the solicitation is a multistep sealed Proposal Procurement, and that priced Proposals will be considered only in the subsequent phases from those Proposers whose un-priced technical Proposals are found qualified in the first phase;

(D) The criteria to be used in the evaluation of un-priced technical Proposals;

(E) That the Contracting Agency, to the extent that it finds necessary, may conduct oral or written discussions of the un-priced technical Proposals;

(F) That the Goods or Services being procured shall be furnished generally in accordance with the Proposer's technical Proposal as found to be finally qualified and shall meet the requirements of the Request for Proposal.

(G) Whether Proposers excluded from subsequent phases have a right to protest the exclusion. Such information can be given or changed through Addenda.

(b) **Addenda to the Request for Proposal.** After receipt of un-priced technical Proposals, Addenda to the Request for Proposal shall be distributed only to Proposers who submitted un-priced technical Proposals.

(c) **Receipt and Handling of Un-priced Technical Proposals.** Un-priced technical Proposals need not be opened publicly.

(d) **Evaluation of Un-Priced Technical Proposals.** Un-priced technical Proposals shall be evaluated solely in accordance with the criteria set forth in the Request for Proposal.

(e) **Discussion of Un-priced Technical Proposals.** The Contracting Agency may seek clarification of a technical Proposal of any Proposer who submits a qualified, or potentially qualified technical Proposal.

During the course of such discussions, the Contracting Agency shall not disclose any information derived from one un-priced technical Proposal to any other Proposer.

(f) Methods of Contractor Selection for Phase One. In conducting phase one, a Contracting Agency may employ any combination of the methods of Contractor selection that call for establishment of a Competitive Range or include discussions, negotiations, or best and final Offers as set forth in this rule.

(g) Procedure for Phase Two. On the completion of phase one, the Contracting Agency shall invite each qualified Proposer to submit price Proposals. A Contracting Agency shall conduct phase two as any other competitive sealed Proposal Procurement except as set forth in this rule. No public notice need be given of the request to submit price Proposals because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

### **137-047-0265**

#### **Small Procurements**

(1) **Generally.** For Procurements of Goods or Services less than or equal to \$10,000 a Contracting Agency may Award a Contract as a small Procurement pursuant to ORS 279B.065 by direct selection or award without any competitive or solicitation process, subject to the procurement policies of Contracting Agency.

(2) **Amendments.** A Contracting Agency may amend a Public Contract Awarded as a small Procurement in accordance Rule 137-047-0800, but the cumulative amendments may not increase the total Contract Price to greater than \$12,500.

Stat. Auth.: ORS 279A.065 & ORS 279B.065

Stats. Implemented: ORS 279B.065

### **137-047-0270**

#### **Intermediate Procurements**

(1) **Generally.** For Procurements of Goods or Services greater than \$10,000 and less than or equal to \$150,000, a Contracting Agency may Award a Contract as an intermediate Procurement pursuant to ORS 279B.070.

(2) **Written Solicitations.** For any intermediate Procurements, a Contracting Agency may use a Written solicitation to obtain quotes.

(3) **Negotiations.** A Contracting Agency may negotiate with a Proposer to clarify its quote or offer or to effect modifications that will make the quote or offer acceptable or make the quote or offer more Advantageous to the Contracting Agency.

(4) **Amendments.** A Contracting Agency may amend a Public Contract Awarded as an intermediate Procurement in accordance with Rule 137-047-0800, but the cumulative amendments may not increase the total Contract Price to a sum that exceeds \$150,000 or increases the price more than twenty-five percent (25%) of the original Contract price, whichever is greater.

Stat. Auth.: ORS 279A.065 & ORS 279B.070

Stats. Implemented: ORS 279B.070

### **137-047-0275**

#### **Sole-Source Procurements**

(1) **Generally.** A Contracting Agency may Award a Public Contract without competition as a sole-source Procurement, after documenting the procurement file with findings of current market research to support the determination that the product is available from only one seller or source. The findings shall also include:

(a) a brief description of the contract or contracts to be covered including contemplated future purchases;

(b) a description of the product or service to be purchased; and

(c) the reasons the Contracting Agency is seeking this procurement method, which shall include any of the following: (i) efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment, supplies, or services; or (ii) that the goods or services required for the exchange of software or data with other public or private agencies are available from only one source; or (iii) the particular product is for use in a pilot or an experimental project; or (iv) other findings that support the conclusion that the goods or services are available from only one source. ORS 279B.075(2)(d).

(2) **Public Notice.** If, but for the Contracting Agency's determination that it may enter into a Contract as a sole-source, a Contracting Agency would be required to select a Contractor using source selection methods set forth in either ORS 279B.055 or ORS 279B.060, a Contracting Agency shall give public notice of the Contract Review Authority's determination that the Goods or Services or class of Goods or Services are available from only one source in a manner similar to public notice of competitive sealed Bids under ORS 279B.055(4) and Rule 137-047-0300. The public notice shall describe the Goods or Services to be acquired

by a sole-source Procurement, identify the prospective Contractor and include the date, time and place that protests are due. The Contracting Agency shall give such public notice at least seven (7) Days before Award of the Contract, unless otherwise set forth in the notice.

(3) **Protest.** An Affected Person may protest the Contract Review Authority's determination that the Goods or Services or class of Goods or Services are available from only one source in accordance with Rule 137-047-0710.

Stat. Auth.: ORS 279A.065 & ORS 279B.075

Stats. Implemented: ORS 279B.075

#### **137-047-0280**

##### **Emergency Procurements**

A Contracting Agency may Award a Public Contract as an Emergency Procurement pursuant to the requirements of ORS 279B.080. For an Emergency Procurement of construction services that are not public improvements, the Procurement shall be made with competition that is reasonable and appropriate under the circumstances, in conformance with ORS 279B.080(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.080

#### **137-047-0285**

##### **Special Procurements**

(1) **Generally.** A Contracting Agency may Award a Public Contract as a Special Procurement pursuant to the requirements of ORS 279B.085.

(2) **Public Notice.** A Contracting Agency shall give public notice of the Contract Review Authority's approval of a Special Procurement in the same manner as public notice of competitive sealed Bids under ORS 279B.055(4) and Rule 137-047-0300. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. The Contracting Agency shall give public notice of the approval of a Special Procurement at least seven (7) Days before Award of the Contract, unless a different time period is stated in the request for approval notice. Award may be made at the time of approval, contingent upon expiration of the protest period or issuance of a written disposition of any protest received.

(3) **Protest.** An Affected Person may protest the approval of a Special Procurement in accordance with ORS 279B.400 and Rule 137-047-0700.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.085

#### **137-047-0290**

##### **Cooperative Procurements**

A Contracting Agency may participate in, sponsor, conduct, or administer Cooperative Procurements as set forth in ORS 279A.200 through 279A.225 and Rules 137-046-0400 through 137-046-0480.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.205

## **PROCUREMENT PROCESS**

#### **137-047-0300**

##### **Public Notice of Solicitation Documents**

(1) **Notice of Solicitation Documents; Fee.** A Contracting Agency shall provide public notice of every Solicitation Document in accordance with section (2) of this rule. The Contracting Agency may give additional notice using any method it determines appropriate to foster and promote competition, including:

- (a) Mailing notice of the availability of the Solicitation Document to Persons that have expressed an interest in the Contracting Agency's Procurements; or
- (b) Placing notice on the Contracting Agency's Electronic Procurement System; or
- (c) Placing notice on the Contracting Agency's Internet World Wide Web site.

(2) **Advertising.** A Contracting Agency shall advertise every notice of a Solicitation Document as follows:

- (a) The Contracting Agency shall publish the advertisement for Offers in accordance with the requirements of ORS 279B.055(4) and 279B.060(5); or

(b) A Contracting Agency may publish the advertisement for Offers on the Contracting Agency's Electronic Procurement System instead of publishing notice in a newspaper of general circulation as required by ORS 279B.055(4)(b).

**(3) Content of Advertisement.** All advertisements for Offers shall set forth:

(a) Where, when, how, and for how long the Solicitation Document may be obtained;

(b) A general description of the Goods or Services to be acquired;

(c) The interval between the first date of notice of the Solicitation Document given in accordance with subsection 2(a) or (b) above and Closing, which shall not be less than fourteen (14) Days for an Invitation to Bid and thirty (30) Days for a Request for Proposals, unless the Contracting Agency determines that a shorter interval is in the public's interest, and that a shorter interval will not substantially affect competition. However, in no event shall the interval between the first date of notice of the Solicitation Document given in accordance with subsection 2(a) or (b) above and Closing be less than seven (7) Days as set forth in ORS 279B.055(4)(f). The Contracting Agency shall document the specific reasons for the shorter public notice period in the Procurement file;

(d) The date that Persons must file applications for prequalification if prequalification is a requirement and the class or classes of Goods or Services for which Persons must be prequalified;

(e) The office where Contract terms, conditions and Specifications may be reviewed;

(f) The name, title and address of the individual authorized by the Contracting Agency to receive Offers;

(g) The scheduled Opening; and

(h) Any other information the Contracting Agency deems appropriate.

**(4) Posting Advertisement for Offers.** The Contracting Agency may post a copy of each advertisement for Offers at the principal business office of the Contracting Agency. An Offeror may obtain a copy of the advertisement for Offers upon request.

**(5) Fees.** The Contracting Agency may charge a fee or require a deposit for the Solicitation Document.

**(6) Notice of Addenda.** The Contracting Agency shall provide potential Offerors notice of any Addenda to a Solicitation Document in accordance with Rule 137-047-0430.

Stat. Auth.: ORS 279A.065, ORS 279B.055 & ORS 279B.060

Stats. Implemented: ORS 279B.055 & ORS 279B.060

### **137-047-0310**

#### **Bids or Proposals are Offers**

**(1) Offer and Acceptance.** The Bid or Proposal is the Bidder's or Proposer's Offer to enter into a Contract. The Offer is a "Firm Offer," i.e., the Offer shall be held open by the Offeror for the Contracting Agency's acceptance for the period specified in Rule 137-047-0480. The Contracting Agency's Award of the Contract constitutes acceptance of the Offer and binds the Offeror to the Contract.

(a) In competitive bidding and competitive Proposals, the Offer is always a "Firm Offer," i.e. the Offer shall be held open by the Offeror for the Contracting Agency's acceptance for the period specified in Rule 137-047-0480. The Contracting Agency may elect to accept the Offer at any time during the specified period, and the Contracting Agency's Award of the Contract constitutes acceptance of the Offer and binds the Offeror to the Contract.

(b) Notwithstanding the fact that a competitive Proposal is a "Firm Offer" for the period specified in Rule 137-047-0480, the Contracting Agency may elect to discuss or negotiate certain contractual provisions, as identified in these rules or in the Solicitation Document, with the Proposer. Where negotiation is permitted by the rules or in the Solicitation Document, Proposers are obligated to negotiate in good faith and only on those terms or conditions that the rules or the Solicitation Document have reserved for negotiation.

**(2) Contingent Offers.** Except to the extent the Proposer is authorized to propose certain terms and conditions pursuant to Rule 137-047-0262, a Proposer shall not make its Offer contingent upon the Contracting Agency's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.

**(3) Offeror's Acknowledgment.** By Signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits proposal of alternative terms under Rule 137-047-0262, the Offeror's Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by the Contracting Agency in Writing, and Offeror's agreement to perform the scope of work and meet the performance standards set forth in the final negotiated scope of work.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, ORS 279B.055 & ORS 279B.60

**137-047-0320****Facsimile Bids and Proposals**

(1) **Contracting Agency Authorization.** A Contracting Agency may authorize Offerors to submit facsimile Offers. If the Contracting Agency determines that Bid or Proposal security is or will be required, the Contracting Agency should not authorize facsimile Offers unless the Contracting Agency has another method for receipt of such security. Prior to authorizing the submission of facsimile Offers, the Contracting Agency shall determine that the Contracting Agency's equipment and personnel are capable of receiving the size and volume of anticipated Offers within a short period of time. In addition, the Contracting Agency shall establish administrative procedures and controls:

- (a) To receive, identify, record, and safeguard facsimile Offers;
- (b) To ensure timely delivery of Offers to the location of Opening; and
- (c) To preserve the Offers as sealed.

(2) **Provisions To Be Included in Solicitation Document.** In addition to all other requirements, if the Contracting Agency authorizes a facsimile Offer, the Contracting Agency will include in the Solicitation Document the following:

- (a) A provision substantially in the form of the following: "A 'facsimile Offer,' as used in this Solicitation Document, means an Offer, modification of an Offer, or withdrawal of an Offer that is transmitted to and received by the Contracting Agency via a facsimile machine";
- (b) A provision substantially in the form of the following: "Offerors may submit facsimile Offers in response to this Solicitation Document. The entire response must arrive at the place and by the time specified in this Solicitation Document";
- (c) A provision that requires Offerors to Sign their facsimile Offers;
- (d) A provision substantially in the form of the following: "The Contracting Agency reserves the right to Award the Contract solely on the basis of a facsimile Offer. However, upon the Contracting Agency's request the apparent successful Offeror shall promptly submit its complete original Signed Offer";
- (e) The data and compatibility characteristics of the Contracting Agency's receiving facsimile machine as follows:
  - (A) Telephone number; and
  - (B) Compatibility characteristics, e.g. make and model number, receiving speed, communications protocol; and
- (f) A provision that the Contracting Agency is not responsible for any failure attributable to the transmission or receipt of the facsimile Offer including, but not limited to the following:
  - (A) Receipt of garbled or incomplete documents;
  - (B) Availability or condition of the receiving facsimile machine;
  - (C) Incompatibility between the sending and receiving facsimile machine;
  - (D) Delay in transmission or receipt of documents;
  - (E) Failure of the Offeror to properly identify the Offer documents;
  - (F) Illegibility of Offer documents; and
  - (G) Security and confidentiality of data.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

**137-047-0330****Electronic Procurement**

(1) **Electronic Procurement Authorized.**

- (a) A Contracting Agency may conduct all phases of a Procurement, including without limitation the posting of Electronic Advertisements and the receipt of Electronic Offers, by electronic methods if and to the extent the Contracting Agency specifies in a Solicitation Document, a request for quotes, or any other Written instructions on how to participate in the Procurement.
- (b) The Contracting Agency shall open an Electronic Offer in accordance with electronic security measures in effect at the Contracting Agency at the time of its receipt of the Electronic Offer. Unless the Contracting Agency provides procedures for the secure receipt of Electronic Offers, the Person submitting the Electronic Offer assumes the risk of premature disclosure due to submission in unsealed form.
- (c) The Contracting Agency's use of electronic Signatures shall be consistent with applicable statutes and rules. A Contracting Agency may limit the use of electronic methods of conducting a Procurement as Advantageous to the Contracting Agency.
- (d) If the Contracting Agency determines that Bid or Proposal security is or will be required, the Contracting Agency should not authorize Electronic Offers unless the Contracting Agency has another method for receipt of such security.

(2) **Rules Governing Electronic Procurements.** The Contracting Agency shall conduct all portions of an electronic Procurement in accordance with these division 47 rules, unless otherwise set forth in this rule.

(3) **Preliminary Matters.** As a condition of participation in an electronic Procurement the Contracting Agency may require potential Contractors to register with the Contracting Agency before the date and time on which the Contracting Agency will first accept Offers, to agree to the terms, conditions, or other requirements of a Solicitation Document, or to agree to terms and conditions governing the Procurement, such as procedures that the Contracting Agency may use to attribute, authenticate or verify the accuracy of an Electronic Offer, or the actions that constitute an electronic Signature.

(4) **Offer Process.** A Contracting Agency may specify that Persons must submit an Electronic Offer by a particular date and time, or that Persons may submit multiple Electronic Offers during a period of time established in the Electronic Advertisement. When the Contracting Agency specifies that Persons may submit multiple Electronic Offers during a specified period of time, the Contracting Agency must designate a time and date on which Persons may begin to submit Electronic Offers, and a time and date after which Persons may no longer submit Electronic Offers. The date and time after which Persons may no longer submit Electronic Offers need not be specified by a particular date and time, but may be specified by a description of the conditions that, when they occur, will establish the date and time after which Persons may no longer submit Electronic Offers. When the Contracting Agency will accept Electronic Offers for a period of time, then at the designated date and time that the Contracting Agency will first receive Electronic Offers, the Contracting Agency must begin to accept real time Electronic Offers on the Contracting Agency's Electronic Procurement System, and shall continue to accept Electronic Offers in accordance with subsection 5(b) of this rule until the date and time specified by the Contracting Agency, after which the Contracting Agency will no longer accept Electronic Offers.

(5) **Receipt of Electronic Offers.**

(a) When a Contracting Agency conducts an electronic Procurement that provides that all Electronic Offers must be submitted by a particular date and time, the Contracting Agency shall receive the Electronic Offers in accordance with these division 47 rules.

(b) When the Contracting Agency specifies that Persons may submit multiple Offers during a period of time, the Contracting Agency shall accept Electronic Offers, and Persons may submit Electronic Offers, in accordance with the following:

(A) Following receipt of the first Electronic Offer after the day and time the Contracting Agency first receives Electronic Offers the Contracting Agency shall post on the Contracting Agency's Electronic Procurement System, and updated on a real time basis, the lowest Electronic Offer price or the highest ranking Electronic Offer. At any time before the date and time after which the Contracting Agency will no longer receive Electronic Offers, a Person may revise its Electronic Offer, except that a Person may not lower its price unless that price is below the then lowest Electronic Offer.

(B) A Person may not increase the price set forth in an Electronic Offer after the day and time that the Contracting Agency first accepts Electronic Offers.

(C) A Person may withdraw an Electronic Offer only in compliance with these division 47 rules. If a Person withdraws an Electronic Offer, it may not later submit an Electronic Offer at a price higher than that set forth in the withdrawn Electronic Offer.

(6) **Failure of the E-Procurement System.** In the event of a failure of the Contracting Agency's Electronic Procurement System that interferes with the ability of Persons to submit Electronic Offers, protest or to otherwise participate in the Procurement, the Contracting Agency may cancel the Procurement in accordance with Rule 137-047-0660, or may extend the date and time for receipt of Electronic Offers by providing notice of the extension immediately after the Electronic Procurement System becomes available.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279A.065

## **BID AND PROPOSAL PREPARATION**

### **137-047-0400**

#### **Offer Preparation**

(1) **Instructions.** An Offeror shall submit and Sign its Offer in accordance with the instructions set forth in the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to Opening in accordance with the requirements for submitting an Offer set forth in the Solicitation Document.

(2) **Forms.** An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(3) **Documents.** An Offeror shall provide the Contracting Agency with all documents and descriptive literature required by the Solicitation Document.



(4) **Electronic Submissions.** If the Solicitation Document permitted Electronic Offers under Rule 137-047-0330, an Offeror may submit its Offer electronically. The Contracting Agency shall not consider Electronic Offers unless authorized by the Solicitation Document.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

#### **137-047-0410**

##### **Offer Submission**

(1) **Product Samples and Descriptive Literature.** A Contracting Agency may require product samples or descriptive literature if the Contracting Agency determines either is necessary or desirable to evaluate the quality, features or characteristics of an Offer. The Contracting Agency will dispose of product samples, or make them available for the Offeror to retrieve in accordance with the Solicitation Document.

(2) **Identification of Offers.**

(a) To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by the Contracting Agency, whichever is applicable. If the Contracting Agency permits Electronic Offers or facsimile Offers in the Solicitation Document, the Offeror may submit and identify Electronic Offers or facsimile Offers in accordance with these division 47 rules and the instructions set forth in the Solicitation Document.

(b) The Contracting Agency is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(3) **Receipt of Offers.** The Offeror is responsible for ensuring the Contracting Agency receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

#### **137-047-0420**

##### **Pre-Offer Conferences**

(1) **Purpose.** A Contracting Agency may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Procurement requirements, obtain information, or to conduct site inspections.

(2) **Required Attendance.** The Contracting Agency may require attendance at the pre-Offer conference as a condition for making an Offer.

(3) **Scheduled Time.** If a Contracting Agency holds a pre-Offer conference, it shall be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) **Statements Not Binding.** Statements made by a Contracting Agency's representative at the pre-Offer conference do not change the Solicitation Document unless the Contracting Agency confirms such statements with a Written Addendum to the Solicitation Document.

(5) **Agency Announcement.** The Contracting Agency must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with Rules 137-047-0255(2) or 137-047-0260(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

#### **137-047-0430**

##### **Addenda to Solicitation Document**

(1) **Issuance; Receipt.** The Contracting Agency may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgment of receipt of all issued Addenda with its Offer, unless the Contracting Agency otherwise specifies in the Addenda.

(2) **Notice and Distribution.** The Contracting Agency shall notify prospective Offerors of Addenda in a manner intended to foster competition and to make prospective Offerors aware of the Addenda. The Solicitation Document shall specify how the Contracting Agency will provide notice of Addenda and how the Contracting Agency will make the Addenda available before Closing, and at each subsequent step or tier of evaluation if the Contracting Agency will engage in a multistep competitive sealed Bid process in accordance with Rule 137-047-0257, or a multi-tiered or multistep competitive sealed Proposal process in accordance with Rules 137-047-0261 through 137-047-0263. The following is an example of how a Contracting Agency may specify how it will provide notice of Addenda: "Contracting Agency will not mail notice of Addenda, but will publish notice of any Addenda on Contracting Agency's web site. Addenda may be downloaded off the Contracting Agency's web site. Offerors should frequently check the Contracting

Agency's web site until Closing, i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing."

**(3) Timelines; Extensions.**

(a) The Contracting Agency shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The Contracting Agency may extend the Closing if the Contracting Agency determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent required by a countervailing public interest, the Contracting Agency shall not issue Addenda less than 72 hours before the Closing unless the Addendum also extends the Closing.

(b) Notwithstanding subsection 3(a) of this rule, an Addendum that modifies the evaluation criteria, selection process or procedure for any tier of competition under a multistep sealed Bid or a multi-tiered or multistep sealed Proposal issued in accordance with ORS 279B.060(6)(d) and Rules 137-047-0261 through 137-047-0263 must be issued no fewer than five (5) Days before the beginning of that tier or step of competition, unless the Contracting Agency determines that a shorter period is sufficient to allow Offerors to prepare for that tier or step of competition. The Contracting Agency shall document the factors it considered in making that determination, which may include, without limitation, the scope of the changes to the Solicitation Document, the location of the remaining eligible Proposers, or whether shortening the period between issuing an Addendum and the beginning of the next tier or step of competition favors or disfavors any particular Proposer or Proposers.

**(4) Request for Change or Protest.** Unless a different deadline is set forth in the Addendum, an Offeror may submit a Written request for change or protest to the Addendum, as provided in Rule 137-047-0730, by the close of the Contracting Agency's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under Rule 137-047-0730, whichever date is later. If the date established in the previous sentence falls after the deadline for receiving protests to the Solicitation Document in accordance with Rule 137-047-0730, then the Contracting Agency may consider an Offeror's request for change or protest to the Addendum only, and the Contracting Agency shall not consider a request for change or protest to matters not added or modified by the Addendum. Notwithstanding any provision of this section (4) of this rule, a Contracting Agency is not required to provide a protest period for Addenda issued after initial Closing during a multi-tier or multistep Procurement process conducted pursuant to ORS 279B.055 or ORS 279B.060.

Stat. Auth.: ORS 279A.065 & ORS 279B.060

Stats. Implemented: ORS 279B.060

**137-047-0440**

**Pre-Closing Modification or Withdrawal of Offers**

**(1) Modifications.** An Offeror may modify its Offer in Writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Contracting Agency in accordance with Rules 137-047-0400 and 137-047-0410, unless otherwise specified in the Solicitation Document. The Offeror shall mark the submitted modification as follows:

(a) Bid (or Proposal) Modification; and

(b) Solicitation Document Number (or other identification as specified in the Solicitation Document).

**(2) Withdrawals.**

(a) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an authorized representative of the Offeror, delivered to the individual and location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the Contracting Agency prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the Contracting Agency.

(b) The Contracting Agency may release an unopened Offer withdrawn under subsection 2(a) of this rule to the Offeror or its authorized representative, after voiding any date and time stamp mark.

(c) The Offeror shall mark the Written request to withdraw an Offer as follows:

(A) Bid (or Proposal) Withdrawal; and

(B) Solicitation Document Number (or Other Identification as specified in the Solicitation Document).

**(3) Documentation.** The Contracting Agency shall include all documents relating to the modification or withdrawal of Offers in the appropriate Procurement file.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

**137-047-0450****Receipt, Opening, and Recording of Offers; Confidentiality of Offers.**

(1) **Receipt.** A Contracting Agency shall electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The Contracting Agency shall not open the Offer or modification upon receipt, but shall maintain it as confidential and secure until Opening. If the Contracting Agency inadvertently opens an Offer or a modification prior to the Opening, the Contracting Agency shall return the Offer or modification to its secure and confidential state until Opening. The Contracting Agency shall document the resealing for the Procurement file (e.g. "Contracting Agency inadvertently opened the Offer due to improper identification of the Offer.").

(2) **Opening and Recording.** A Contracting Agency shall publicly open Offers including any modifications made to the Offer pursuant to Rule 137-047-0440(1). In the case of Invitations to Bid, to the extent practicable, the Contracting Agency shall read aloud the name of each Bidder, and such other information as the Contracting Agency considers appropriate. However, the Contracting Agency may withhold from disclosure information in accordance with ORS 279B.055(5)(c) and 279B.060(6). In the case of Requests for Proposals or voluminous Bids, if the Solicitation Document so provides, the Contracting Agency will not read Offers aloud.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

**137-047-0460****Late Offers, Late Withdrawals and Late Modifications**

Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late. An Agency shall not consider late Offers, withdrawals or modifications except as permitted in Rules 137-047-0470 or 137-047-0262.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

**137-047-0470****Mistakes**

(1) **Generally.** To protect the integrity of the competitive Procurement process and to assure fair treatment of Offerors, a Contracting Agency should carefully consider whether to permit waiver, correction or withdrawal of Offers for certain mistakes.

(2) **Contracting Agency Treatment of Mistakes.** A Contracting Agency shall not allow an Offeror to correct or withdraw an Offer for an error in judgment. If the Contracting Agency discovers certain mistakes in an Offer after Opening, but before Award of the Contract, the Contracting Agency may take the following action:

(a) A Contracting Agency may waive, or permit an Offeror to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

(A) Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

(B) Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms; or the Addendum involved did not affect price, quality or delivery.

(b) A Contracting Agency may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms the Contracting Agency's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example a missing unit price may be established by dividing the total price for the units by the quantity of units for that item or a missing, or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Offer). In the event of a discrepancy, unit prices shall prevail over extended prices.

(c) A Contracting Agency may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;

(B) That the error is not a minor informality under this subsection or an error in judgment;

(C) That the error cannot be corrected or waived under subsection (b) of this section;

(D) That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;  
(E) That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;  
(F) That the Offeror will suffer substantial detriment if the Contracting Agency does not grant the Offeror permission to withdraw the Offer;  
(G) That the Contracting Agency's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the Contracting Agency or the public it represents; and  
(H) That the Offeror promptly gave notice of the claimed error to the Contracting Agency.  
(d) The criteria in subsection (2)(c) of this rule shall determine whether a Contracting Agency will permit an Offeror to withdraw its Offer after Closing. These criteria also shall apply to the question of whether a Contracting Agency will permit an Offeror to withdraw its Offer without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to the Contracting Agency based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually awarded by the Contracting Agency, whether by Award to the next lowest Responsive and Responsible Bidder or the most Advantageous Responsive and Responsible Proposer, or by resort to a new solicitation.  
(3) **Rejection for Mistakes.** The Contracting Agency shall reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.  
(4) **Identification of Mistakes after Award.** The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following Award, an Offeror is bound by its Offer, and may withdraw its Offer or rescind a Contract entered into pursuant to this division 47 only to the extent permitted by applicable law.

Stat. Auth.: ORS 279A.065 & ORS 279B.055  
Stats. Implemented: ORS 279B.055

#### **137-047-0480**

##### **Time for Agency Acceptance**

An Offeror's Offer is a Firm Offer, irrevocable, valid and binding on the Offeror for not less than thirty (30) Days following Closing unless otherwise specified in the Solicitation Document.

Stat. Auth.: ORS 279A.065  
Stats. Implemented: ORS 279A.065

#### **137-047-0490**

##### **Extension of Time for Acceptance of Offer**

A Contracting Agency may request, orally or in Writing, that Offerors extend, in Writing, the time during which the Contracting Agency may consider their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period.

Stat. Auth.: ORS 279A.065  
Stats. Implemented: ORS 279A.065

## **QUALIFICATIONS AND DUTIES**

#### **137-047-0500**

##### **Responsibility of Bidders and Proposers**

Before Awarding a Contract the Contracting Agency shall determine that the Bidder submitting the lowest Bid or Proposer submitting the most Advantageous Proposal is Responsible. The Contracting Agency shall use the standards set forth in ORS 279B.110 and Rule 137-047-0640(1)(c)(F) to determine if a Bidder or Proposer is Responsible. In the event a Contracting Agency determines a Bidder or Proposer is not Responsible it shall prepare a Written determination of non-Responsibility as required by ORS 279B.110 and shall reject the Offer.

Stat. Auth.: ORS 279A.065  
Stats. Implemented: ORS 279B.110

**137-047-0525****Qualified Products Lists**

A Contracting Agency may develop and maintain a qualified products list pursuant to ORS 279B.115.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.115

**137-047-0550****Prequalification of Prospective Offerors**

(1) A Contracting Agency may prequalify prospective Offerors pursuant to ORS 279B.120 and 279B.125.

(2) Notwithstanding the prohibition against revocation of prequalification in ORS 279B.120(3), a Contracting Agency may determine that a prequalified Offeror is not Responsible prior to Contract Award.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.120

**137-047-0575****Debarment of Prospective Offerors**

(1) **Generally.** A Contracting Agency may Debar prospective Offerors for the reasons set for the in ORS 279A.110 or after providing notice and the opportunity for hearing as set forth in ORS 279B.130.

(2) **Responsibility.** Notwithstanding the limitation on the term for Debarment in ORS 279B.130(1)(b), a Contracting Agency may determine that a previously Debarred Offeror is not Responsible prior to Contract Award.

(3) **Imputed Knowledge.** A Contracting Agency may attribute improper conduct of a Person or its affiliate or affiliates having a contract with a prospective Offeror to the prospective Offeror for purposes of Debarment where the impropriety occurred in connection with the Person's duty for or on behalf of, or with the knowledge, approval, or acquiescence of, the prospective Offeror.

(4) **Limited Participation.** A Contracting Agency may allow a Debarred Person to participate in solicitations and Contracts on a limited basis during the Debarment period upon Written determination that participation is Advantageous to a Contracting Agency. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.130

**OFFER EVALUATION AND AWARD****137-047-0600****Offer Evaluation and Award**

(1) **Contracting Agency Evaluation.** The Contracting Agency shall evaluate Offers only as set forth in the Solicitation Document, pursuant to ORS 279B.055(6)(a) and 279B.060(6)(b), and in accordance with applicable law. The Contracting Agency shall not evaluate Offers using any other requirement or criterion.

**(a) Evaluation of Bids.**

(A) **Nonresident Bidders.** In determining the lowest Responsive Bid, the Contracting Agency shall apply the reciprocal preference set forth in ORS 279A.120(2)(b) and Rule 137-046-0310 for Nonresident Bidders.

(B) **Public Printing.** The Contracting Agency shall for the purpose of evaluating Bids apply the public printing preference set forth in ORS 282.210.

(C) **Award When Bids are Identical.** If the Contracting Agency determines that one or more Bids are identical under Rule 137-046-0300, the Contracting Agency shall Award a Contract in accordance with the procedures set forth in Rule 137-046-0300.

**(b) Evaluation of Proposals.**

(A) **Award When Proposals are Identical.** If the Contracting Agency determines that one or more Proposals are identical under Rule 137-046-0300, the Contracting Agency shall Award a Contract in accordance with the procedures set forth in Rule 137-046-0300.

(B) **Public Printing.** The Contracting Agency shall for the purpose of evaluating Proposals apply the public printing preference set forth in ORS 282.210.

(c) **Recycled Materials.** When procuring Goods, the Contracting Agency shall give preference for recycled materials as set forth in ORS 279A.125 and Rule 137-046-0320.

(2) **Clarification of Bids or Proposals.** After Opening, a Contracting Agency may conduct discussions with apparent Responsive Offerors for the purpose of clarification to assure full understanding of the Offer. All

Offers, in the Contracting Agency's sole discretion, needing clarification shall be accorded such an opportunity. The Contracting Agency shall document clarification of any Offer in the Procurement file.

**(3) Negotiations.**

(a) Bids. Except as permitted by section 2 of this rule, a Contracting Agency shall not negotiate with any Bidder. After Award of the Contract, the Contracting Agency and Contractor may only modify the Contract in accordance with Rule 137-047-0800.

(b) Requests for Proposals. A Contracting Agency may conduct discussions or negotiate with Proposers only in accordance with ORS 279B.060(6)(b) and Rule 137-047-0262 After Award of the Contract, the Contracting Agency and Contractor may only modify the Contract in accordance with Rule 137-047-0800.

**(4) Award.**

(a) General. If Awarded, the Contracting Agency shall Award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer submitting the most Advantageous, Responsive Proposal. The Contracting Agency may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the public interest.

(b) Multiple Items. An Invitation to Bid or Request for Proposals may call for pricing of multiple items of similar or related type with Award based on individual line item, group total of certain items, a "market basket" of items representative of the Contracting Agency's expected purchases, or grand total of all items.

**(c) Multiple Awards - Bids.**

(A) Notwithstanding subsection 4(a) of this rule, a Contracting Agency may Award multiple Contracts under an Invitation to Bid in accordance with the criteria set forth in the Invitation to Bid. Multiple Awards shall not be made if a single Award will meet the Contracting Agency's needs, including but not limited to adequate availability, delivery, service, or product compatibility. A multiple Award may be made if Award to two or more Bidders of similar Goods or Services is necessary for adequate availability, delivery, service or product compatibility. Multiple Awards may not be made for the purpose of dividing the Procurement into multiple solicitations, or to allow for user preference unrelated to utility or economy. A notice to prospective Bidders that multiple Contracts may be Awarded for any Invitation to Bid shall not preclude the Contracting Agency from Awarding a single Contract for such Invitation to Bid.

(B) If an Invitation to Bid permits the Award of multiple Contracts, the Contracting Agency shall specify in the Invitation to Bid the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services.

**(d) Multiple Awards – Proposals.**

(A) Notwithstanding subsection 4(a) of this rule, a Contracting Agency may Award multiple Contracts under a Request for Proposals in accordance with the criteria set forth in the Request for Proposals. Multiple Awards shall not be made if a single Award will meet the Contracting Agency's needs, including but not limited to adequate availability, delivery, service or product compatibility. A multiple Award may be made if Award to two or more Proposers of similar Goods or Services is necessary for adequate availability, delivery, service or product compatibility. Multiple Awards may not be made for the purpose of dividing the Procurement into multiple solicitations, or to allow for user preference unrelated to obtaining the most Advantageous Contract. A notice to prospective Proposers that multiple Contracts may be Awarded for any Request for Proposals shall not preclude the Contracting Agency from Awarding a single Contract for such Request for Proposals.

(B) If a Request for Proposals permits the Award of multiple Contracts, the Contracting Agency shall specify in the Request for Proposals the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services.

(e) Partial Awards. If after evaluation of Offers, the Contracting Agency determines that an acceptable Offer has been received for only parts of the requirements of the Solicitation Document:

(A) The Contracting Agency may Award a Contract for the parts of the Solicitation Document for which acceptable Offers have been received; or

(B) The Contracting Agency may reject all Offers and may issue a new Solicitation Document on the same or revised terms, conditions and Specifications.

(f) All or none Offers. A Contracting Agency may Award all or none Offers if the evaluation shows an all or none Award to be the lowest cost for Bids or the most Advantageous for Proposals of those submitted.

Stat. Auth.: ORS 279A.065 & ORS 279B.060

Stats. Implemented: ORS 279B.055 & ORS 279B.060

**137-047-0610**

**Notice of Intent to Award**

(1) Notice of Intent to Award. The Contracting Agency shall provide Written notice of its intent to Award to all Bidders and Proposers pursuant to ORS 279B.135 at least seven (7) Days before the Award of a Contract, unless the Contracting Agency determines that circumstances require prompt execution of the Contract, in which case the Contracting Agency may provide a shorter notice period in the Solicitation

documents. The Contracting Agency shall document the specific reasons for the shorter notice period in the Procurement file.

(2) **Finality.** The Contracting Agency's Award shall not be final until the later of the following:

(a) The expiration of the protest period provided pursuant to Rule 137-047-0740; or

(b) The Contracting Agency provides Written responses to all timely-filed protests denying the protests and affirming the Award.

(3) If so provided in the Solicitation documents, said notice of intent to Award may be issued via facsimile or electronic data exchange.

Stat. Auth.: ORS 279A.065 & ORS 279B.135

Stats. Implemented: ORS 279B.135

#### **137-047-0620**

##### **Documentation of Award**

(1) **Basis of Award.** After Award, the Contracting Agency shall make a record showing the basis for determining the successful Offeror part of the Contracting Agency's Procurement file.

(2) **Contents of Award Record.** The Contracting Agency's record shall include:

(a) For Bids:

(A) Bids;

(B) Completed Bid tabulation sheet; and

(C) Written justification for any rejection of lower Bids.

(b) For Proposals:

(A) Proposals;

(B) The completed evaluation of the Proposals;

(C) Written justification for any rejection of higher scoring Proposals; and

(D) If the Contracting Agency engaged in any of the methods of Contractor selection described in ORS 279B.060(6)(b) and Rules 137-047-0261 through 137-047-0263, written documentation of the content of any discussions, negotiations, best and final Offers, or any other procedures the Contracting Agency used to select a Proposer to which the Contracting Agency Awarded a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

#### **137-047-0630**

##### **Availability of Award Decisions**

(1) **Contract Documents.** To the extent required by the Solicitation Document, the Contracting Agency shall deliver to the successful Offeror a Contract, Signed purchase order, Price Agreement, or other Contract documents as applicable.

(2) **Availability of Award Decisions.** A Person may obtain tabulations of Awarded Bids or evaluation summaries of Proposals for a minimal charge, in person or by submitting to the Contracting Agency a Written request accompanied by payment. The requesting Person shall provide the Solicitation Document number and enclose a self-addressed, stamped envelope. In addition, the Contracting Agency may make available tabulations of Bids and Proposals through the Electronic Procurement System of the Contracting Agency or the Contracting Agency's website.

(3) **Availability of Procurement Files.** After notice of intent to Award, the Contracting Agency shall make Procurement files available in accordance with applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055 & ORS 279B.060

#### **137-047-0640**

##### **Rejection of an Offer**

(1) **Rejection of an Offer.**

(a) A Contracting Agency may reject any Offer as set forth in ORS 279B.100.

(b) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offer:

(A) Is contingent upon the Contracting Agency's acceptance of terms and conditions (including

Specifications) that differ from the Solicitation Document;

(B) Takes exception to terms and conditions (including Specifications) set forth in the Solicitation Document;

(C) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the Solicitation Document or in contravention of applicable law;

(D) Offers Goods or Services that fail to meet the Specifications of the Solicitation Document;

(E) Is late;

(F) Is not in substantial compliance with the Solicitation Document; or  
 (G) Is not in substantial compliance with all prescribed public Procurement procedures.  
 (c) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offeror:  
 (A) Has not been prequalified under ORS 279B.120 and the Contracting Agency required mandatory prequalification;  
 (B) Has been Debarred as set forth in ORS 279B.130 or has been disqualified pursuant to Rule 137-046-0210(4) (DBE Disqualification);  
 (C) Has not met the requirements of ORS 279A.105, if required by the Solicitation Document;  
 (D) Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;  
 (E) Has failed to provide the certification of non-discrimination required under ORS 279A.110(4); or  
 (F) Is non-Responsible. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the Contracting Agency must have information that indicates that the Offeror meets the applicable standards of Responsibility. To be a Responsible Offeror, the Contracting Agency must determine pursuant to ORS 279B.110 that the Offeror:  
 (i) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to meet all contractual responsibilities; and  
 (ii) Has completed previous contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that to the extent the costs associated with and time available to perform a previous contract were within the Offeror's control, the Offeror stayed within the time and budget allotted for the Procurement and otherwise performed the contract in a satisfactory manner. A Contracting Agency should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the Contracting Agency should determine whether the Offeror's deficient performance was expressly excused under the terms of the contract, or whether the Offeror took appropriate corrective action. The Contracting Agency may review the Offeror's performance on both private and public contracts in determining the Offeror's record of contract performance. The Contracting Agency shall make its basis for determining an Offeror non-Responsible under this subparagraph part of the Procurement file pursuant to ORS 279B.110(2)(b);  
 (iii) Has a satisfactory record of integrity. An Offeror may lack integrity if a Contracting Agency determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a Contracting Agency. A Contracting Agency may find an Offeror non-Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The standards for Debarment under ORS 279B.130 may be used to determine an Offeror's integrity. A Contracting Agency may find an Offeror non-responsible based on previous convictions of offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Offeror's performance of a contract or subcontract. The Contracting Agency shall make its basis for determining that an Offeror is non-Responsible under this subparagraph part of the Procurement file pursuant to ORS 279B.110(2)(c);  
 (iv) Is legally qualified to contract with the Contracting Agency;  
 (v) Has attested in Writing that the Offeror complied with the tax laws of this state and of political subdivisions of this state. Such certification demonstrates Offeror's compliance with such law in a credible and convenient way; and  
 (vi) Has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror fails to promptly supply information requested by the Contracting Agency concerning Responsibility, the Contracting Agency shall base the determination of Responsibility upon any available information, or may find the Offeror non-Responsible.  
**(2) Form of Business Entity.** For purposes of this rule, the Contracting Agency may investigate any Person submitting an Offer. The investigation may include that Person's officers, directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this rule or to apply the Debarment provisions of ORS 279B.130.  
**(3) Notice.** Contracting Agency need not provide an Offeror with any notice in the event that its Offer is rejected. However, Contracting Agency will provide all Offerors with a Notice of Intent to Award, as required, pursuant to Rule 137-047-1610.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100, ORS 279B.110 & ORS 279B.130



**137-047-0650****Rejection of All Offers**

(1) **Rejection.** A Contracting Agency may reject all Offers as set forth in ORS 279B.100. The Contracting Agency shall notify all Offerors of the rejection of all Offers, along with the reasons for rejection of all Offers.

(2) **Criteria.** The Contracting Agency may reject all Offers based upon the following criteria:

- (a) The content of or an error in the Solicitation Document, or the Procurement process unnecessarily restricted competition for the Contract;
- (b) The price, quality or performance presented by the Offerors are too costly or of insufficient quality to justify acceptance of any Offer;
- (c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;
- (d) Causes other than legitimate market forces threaten the integrity of the competitive process. These causes may include, without limitation, those that tend to limit competition, such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct, and inadvertent or intentional errors in the Solicitation Document;
- (e) The Contracting Agency cancels the Procurement or solicitation in accordance with Rule 137-047-0660; or
- (f) Any other circumstance indicating that Awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100

**137-047-0660****Cancellation of Procurement or Solicitation**

(1) **Cancellation in the Public Interest.** A Contracting Agency may cancel a Procurement or solicitation as set forth in ORS 279B.100.

(2) **Notice of Cancellation Before Opening.** If the Contracting Agency cancels a Procurement or solicitation prior to Opening, the Contracting Agency shall provide Written notice of cancellation in the same manner that the Contracting Agency initially provided notice of the solicitation. Such notice of cancellation shall:

- (a) Identify the Solicitation Document;
- (b) Briefly explain the reason for cancellation; and
- (c) If appropriate, explain that an opportunity will be given to compete on any resolicitation.

(3) **Notice of Cancellation After Opening.** If the Contracting Agency cancels a Procurement or solicitation after Opening, the Contracting Agency shall provide Written notice of cancellation to all Offerors who submitted Offers.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100

**137-047-0670****Disposition of Offers if Procurement or Solicitation Canceled**

(1) **Prior to Opening.** If the Contracting Agency cancels a Procurement or solicitation prior to Opening, the Contracting Agency shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the Contracting Agency shall open the Offer to determine the source and then return it to the Offeror. For Electronic Offers, the Contracting Agency shall delete the Offers from the Contracting Agency's Electronic Procurement System or information technology system.

(2) **After Opening.** If the Contracting Agency cancels a Procurement or solicitation after Opening, the Contracting Agency:

- (a) May return Proposals in accordance with ORS 279B.060(6)(c); and
- (b) Shall keep Bids in the Procurement file.

(3) **Rejection of All Offers.** If the Contracting Agency rejects all Offers, the Contracting Agency shall keep all Proposals and Bids in the Procurement file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100

## LEGAL REMEDIES

### 137-047-0700

#### **Protests and Judicial Review of Special Procurements**

(1) **Purpose.** An Affected Person may protest the approval of a Special Procurement. Pursuant to ORS 279B.400(1), before seeking judicial review of the approval of a Special Procurement, an Affected Person must file a Written protest with the Contract Review Authority for the Contracting Agency and exhaust all administrative remedies.

(2) **Delivery.** Notwithstanding the requirements for filing a writ of review under ORS chapter 34 pursuant to ORS 279B.400(4)(a), an Affected Person must deliver a Written protest to the Contract Review Authority for the Contracting Agency within seven (7) Days after the first date of public notice of the approval of a Special Procurement by the Contract Review Authority for the Contracting Agency, unless a different protest period is provided in the public notice of the approval of a Special Procurement.

(3) **Content of Protest.** The Written protest must include:

- (a) A detailed statement of the legal and factual grounds for the protest;
- (b) A description of the resulting harm to the Affected Person; and
- (c) The relief requested.

(4) **Contract Review Authority Response.** The Contract Review Authority shall not consider an Affected Person's protest of the approval of a Special Procurement submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the public notice of the approval of a Special Procurement. The Contract Review Authority shall issue a Written disposition of the protest in a timely manner. If the Contract Review Authority upholds the protest, in whole or in part, it may in its sole discretion implement the sustained protest in the approval of the Special Procurement, or revoke the approval of the Special Procurement.

(5) **Judicial Review.** An Affected Person may seek judicial review of the Contract Review Authority's decision relating to a protest of the approval of a Special Procurement in accordance with ORS 279B.400.

Stat. Auth.: ORS 279A.065 & ORS 279B.400

Stats. Implemented: ORS 279B.400

### 137-047-0710

#### **Protests and Judicial Review of Sole-Source Procurements**

(1) **Purpose.** For sole-source Procurements requiring public notice under Rule 137-047-0275, an Affected Person may protest the determination of the Contract Review Authority or designee that the Goods or Services or class of Goods or Services are available from only one source. Pursuant to ORS 279B.420(3)(f), before seeking judicial review, an Affected Person must file a Written protest with the Contract Review Authority or designee and exhaust all administrative remedies.

(2) **Delivery.** Unless otherwise specified in the public notice of the sole-source Procurement, an Affected Person must deliver a Written protest to the Contract Review Authority or designee within seven (7) Days after the first date of public notice of the sole-source Procurement, unless a different protest period is provided in the public notice of a sole-source Procurement.

(3) **Content of Protest.** The Written protest must include:

- (a) A detailed statement of the legal and factual grounds for the protest;
- (b) A description of the resulting harm to the Affected Person; and
- (c) The relief requested.

(4) **Contract Review Authority Response.** The Contract Review Authority or designee shall not consider an Affected Person's sole-source Procurement protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the public notice of the sole-source Procurement. The Contract Review Authority or designee shall issue a Written disposition of the protest in a timely manner. If the Contract Review Authority or designee upholds the protest, in whole or in part, the Contracting Agency shall not enter into a sole-source Contract.

(5) **Judicial Review.** Judicial review of the Contract Review Authority's or designee's disposition of a sole-source Procurement protest shall be in accordance with ORS 279B.420.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.075

### 137-047-0720

#### **Protests and Judicial Review of Multi-Tiered and Multistep Solicitations**

(1) **Purpose.** An Affected Offeror may protest exclusion from the Competitive Range or from subsequent tiers or steps of a solicitation in accordance with the applicable Solicitation Document. When such a protest

is permitted by the Solicitation Document, then pursuant to ORS 279B.420(3)(f), before seeking judicial review, an Affected Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies.

(2) **Basis for Protest.** An Affected Offeror may protest its exclusion from a tier or step of competition only if the Offeror is Responsible and submitted a Responsive Offer and but for the Contracting Agency's mistake in evaluating the Offeror's or other Offerors' Offers, the protesting Offeror would have been eligible to participate in the next tier or step of competition. (For example, the protesting Offeror must claim it is eligible for inclusion in the Competitive Range if all ineligible higher-scoring Offerors are removed from consideration, and that those ineligible Offerors are ineligible for inclusion in the Competitive Range because: their Proposals were not Responsive, or the Contracting Agency committed a substantial violation of a provision in the Solicitation Document or of an applicable Procurement statute or administrative rule, and the protesting Offeror was unfairly evaluated and would have, but for such substantial violation, been included in the Competitive Range.)

(3) **Delivery.** Unless otherwise specified in the Solicitation Document, an Affected Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the notice of the Competitive Range or notice of subsequent tiers or steps.

(4) **Content of Protest.** The Affected Offeror's protest shall be in Writing and must specify the grounds upon which the protest is based.

(5) **Contracting Agency Response.** The Contracting Agency shall not consider an Affected Offeror's multi-tiered or multistep solicitation protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall issue a Written disposition of the protest in a timely manner. If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either issue an Addendum under Rule 137-047-0430 reflecting its disposition or cancel the Procurement or solicitation under Rule 137-047-0660.

(6) **Judicial Review.** Judicial review of the Contracting Agency's decision relating to a multi-tiered or multistep solicitation protest shall be in accordance with ORS 279B.420.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

### **137-047-0730**

#### **Protests and Judicial Review of Solicitations**

##### **(1) Purpose.**

(a) A prospective Offeror may protest the Procurement process or the Solicitation Document for a Contract solicited under ORS 279B.055, 279B.060 and 279B.085 as set forth in ORS 279B.405(2). Pursuant to ORS 279B.405(3), before seeking judicial review, a prospective Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies.

(b) **Specific Special Procurements.** Notwithstanding section 1(a) of this rule, a Person may not protest, challenge, or review approval of a Special Procurement except in conformance with ORS 279B.400.

(2) **Delivery.** Unless otherwise specified in the Solicitation Document, a prospective Offeror must deliver a Written protest to the Contracting Agency not less than ten (10) Days prior to Closing.

(3) **Content of Protest.** In addition to the information required by ORS 279B.405(4), a prospective Offeror's Written protest shall include a statement of the desired changes to the Procurement process or the Solicitation Document that the prospective Offeror believes will remedy the conditions upon which the prospective Offeror based its protest.

(4) **Contracting Agency Response.** The Contracting Agency shall not consider a Prospective Offeror's solicitation protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall consider the protest if it is timely filed and meets the conditions set forth in ORS 279B.405(4). The Contracting Agency shall issue a Written disposition of the protest in accordance with the timeline set forth in ORS 279B.405(6). If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either issue an Addendum reflecting its disposition under Rule 137-047-0430 or cancel the Procurement or solicitation under Rule 137-047-0660.

(5) **Extension of Closing.** If the Contracting Agency receives a protest from a prospective Offeror in accordance with this rule, the Contracting Agency may extend Closing if the Contracting Agency determines an extension is necessary to consider and respond to the protest.

(6) **Clarification.** Prior to the deadline for submitting a protest, a prospective Offeror may request that the Contracting Agency clarify any provision of the Solicitation Document. The Contracting Agency's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the Contracting Agency unless the Contracting Agency amends the Solicitation Document by Addendum.

(7) **Judicial Review.** Judicial review of the Contracting Agency's decision relating to a solicitation protest shall be in accordance with ORS 279B.405.

Stat. Auth.: ORS 279A.065 & ORS 279B.405  
Stats. Implemented: ORS 279B.405

#### **137-047-0740**

##### **Protests and Judicial Review of Contract Award**

(1) **Purpose.** An Offeror may protest the Award of a Contract, or the intent to Award of a Contract, whichever occurs first, if the conditions set forth in ORS 279B.410(1) are satisfied. An Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies before seeking judicial review of the Contracting Agency's Contract Award decision. These administrative remedies apply to all public contracts awarded by Contracting Agency, including those awarded pursuant to an intermediate procurement.

(2) **Delivery.** Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the notice of intent to Award the Contract, or Award of a Contract, whichever occurs first.

(3) **Content of Protest.** An Offeror's Written protest shall specify the grounds for the protest to be considered by the Contracting Agency pursuant to ORS 279B.410(2).

(4) **Contracting Agency Response.** The Contracting Agency shall not consider an Offeror's Contract Award protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall issue a Written disposition of the protest in a timely manner as set forth in ORS 279B.410(4). If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either Award the Contract to the successful protestor or cancel the Procurement or solicitation.

(5) **Judicial Review.** Judicial review of the Contracting Agency's decision relating to a Contract Award protest shall be in accordance with ORS 279B.415.

Stat. Auth.: ORS 279A.065 & ORS 279B.410  
Stats. Implemented: ORS 279B.410 & ORS 279B.415.

#### **137-047-0745**

##### **Protests and Judicial Review of Qualified Products List Decisions**

(1) **Purpose.** A prospective Offeror may protest the Contracting Agency's decision to exclude the prospective Offeror's Goods from the Contracting Agency's qualified products list under ORS 279B.115. A prospective Offeror must file a Written protest and exhaust all administrative remedies before seeking judicial review of the Contracting Agency's qualified products list decision.

(2) **Delivery.** Unless otherwise stated in the Contracting Agency's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list, a prospective Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the Contracting Agency's decision to exclude the prospective Offeror's Goods from the qualified products list.

(3) **Content of Protest.** The prospective Offeror's protest shall be in Writing and must specify the grounds upon which the protest is based.

(4) **Contracting Agency Response.** The Contracting Agency shall not consider a prospective Offeror's qualified products list protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Contracting Agency's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list. The Contracting Agency shall issue a Written disposition of the protest in a timely manner. If the Contracting Agency upholds the protest, it shall include the successful protestor's Goods on the qualified products list.

(5) **Judicial Review.** Judicial review of the Contracting Agency's decision relating to a qualified products list protest shall be in accordance with ORS 279B.425.

Stat. Auth.: ORS 279A.065  
Stats. Implemented: ORS 279B.115

#### **137-047-0750**

##### **Judicial Review of Other Violations**

Any violation of ORS chapter 279A or 279B by a Contracting Agency for which no judicial remedy is otherwise provided in the Public Contracting Code is subject to judicial review as set forth in ORS 279B.420.

Stat. Auth.: ORS 279A.065  
Stats. Implemented: ORS 279B.420

**137-047-0760****Review of Prequalification and Debarment Decisions**

Review of the Contracting Agency's prequalification and Debarment decisions shall be as set forth in ORS 279B.425.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.425

**137-047-0800****Amendments to Contracts and Price Agreements**

(1) **Generally.** A Contracting Agency may amend a Contract without additional competition in any of the following circumstances:

(a) The amendment is within the scope of the Procurement as described in the Solicitation Documents, if any, or if no Solicitation Documents, as described in the sole source notice or the approved Special Procurement, if any. An amendment is not within the scope of the Procurement if the Agency determines that if it had described in the Procurement the changes to be made by the amendment, it would likely have increased competition or affected award of the Contract;

(b) These Rules otherwise permit the Contracting Agency to Award a Contract without competition for the goods or services to be procured under the Amendment.

(c) The amendment is necessary to comply with a change in law that affects performance of the Contract.

(d) The amendment results from renegotiation of the terms and conditions, including the Contract Price, of a Contract and the amendment is Advantageous to the Contracting Agency, subject to all of the following conditions:

(A) The Goods or Services to be provided under the amended Contract are the same as the Goods or Services to be provided under the unamended Contract.

(B) The Contracting Agency determines that, with all things considered, the amended Contract is at least as favorable to the Contracting Agency as the unamended Contract; and

(C) The renegotiated Contract will not increase or extend the total term of the original contract by more than one (1) year. Also, if multiple contracts with a single Contractor are restated as a single Contract, the term of the single Contract may not have a total term greater than one (1) year longer than the longest term of any of the prior Contracts.

(e) If the Contract is the result of a Cooperative Procurement, the amended Contract may not materially change the terms, conditions, and prices of the Original Contract.

(2) **Small or Intermediate Contract.** A Contracting Agency may amend a Contract Awarded as a small or intermediate Procurement pursuant to sections 1 or 2 of this rule, provided also that the total increase in Contract price does not exceed the amount set forth in Rule 137-047-0265 for small Procurements and Rule 137-047-0270 for intermediate Procurements.

(3) **Emergency Contract.** A Contracting Agency may amend a Contract Awarded as an emergency Procurement if the emergency justification for entering into the Contract still exists, and the amendment is necessary to address the continuing emergency.

(4) **Price Agreements.** A Contracting Agency may amend or terminate a Price Agreement as follows:

(a) As permitted by the Price Agreement;

(b) As permitted by this rule;

(c) If the circumstances set forth in ORS 279B.140(2) exist; or

(d) As permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

**137-047-0810****Termination of Price Agreements**

(1) A Contracting Agency may terminate a Price Agreement as follows:

(a) As permitted by the Price Agreement.

(b) If the circumstances set forth in ORS 279B.140(2) exist; or

(c) As permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279B.140

## PUBLIC CONTRACTING RULES 2016

### DIVISION 48

#### CONSULTANT SELECTION: ARCHITECTURAL, ENGINEERING, PHOTOGRAMMETRIST, TRANSPORTATION PLANNING AND LAND SURVEYING SERVICES AND RELATED SERVICES CONTRACTS

##### 137-048-0100

###### Application

These division 48 rules apply to the screening and selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services under Contracts, and set forth the following procedures:

- (a) Procedures through which Contracting Agency selects Consultants to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services; and
- (b) Two-tiered procedures for selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services for certain public improvements owned and maintained by a Local Government.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065 & ORS 279C.105

##### 137-048-0110

###### Definitions

In addition to the definitions set forth in ORS 279A.010, 279C.100, and Rule 137-046-0110, the following definitions apply to these division 48 rules:

- (1) **"Consultant"** means an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor or provider of Related Services. A Consultant includes a business entity that employs Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors or providers of Related Services, or any combination of the foregoing.
- (2) **"Estimated Fee"** means Contracting Agency's reasonably projected fee to be paid for a Consultant's services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract solicitation method and is distinct from the total amount payable under the Contract.
- (3) **"Price Agreement,"** for purposes of this Division 48, is limited to mean an agreement related to the procurement of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services, under agreed-upon terms and conditions, including, but not limited to terms and conditions of later work orders or task orders for Project-specific Services, and which may include price or Consultant compensation information, with:
  - (a) No guarantee of a minimum or maximum purchase; or
  - (b) An initial work order, task order or minimum purchase, combined with a continuing Consultant obligation to provide Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services in which the Contracting Agency does not guarantee a minimum or maximum additional purchase.
- (4) **"Project"** means all components of a Contracting Agency's planned undertaking that gives rise to the need for a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services, under a Contract.
- (5) **"Transportation Planning Services"** are defined in ORS 279C.100. Transportation Planning Services include only Project-specific transportation planning involved in the preparation of categorical exclusions, environmental assessments, environmental impact statements and other documents required for compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation plans not directly associated with an individual Project that will require compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services also do not include transportation planning for Projects not subject to the National Environmental Policy Act, 42 USC 4321 et. seq.
- (6) **"Related Services"** means personal services, other than architectural, engineering, photogrammetric, mapping, Transportation Planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services,

material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land-use planning services.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. implemented: ORS 279A.065 & ORS 279C.105

**137-048-0120**

[Reserved.]

**137-048-0130**

**Applicable Selection Procedures; Pricing Information; Disclosure of Proposals; Conflicts of Interest**

(1) When selecting the most qualified Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, Contracting Agency shall follow the applicable selection procedure under either Rule 137-048-0200 (Direct Appointment Procedure), 137-048-0210 (Informal Selection Procedure) or 137-048-0220 (Formal Selection Procedure). For projects utilizing Informal or Formal Selection Procedures, Contracting Agency may solicit or use pricing policies and pricing proposals, or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, to determine a Consultant's compensation only after the Contracting Agency has selected the most qualified Consultant in accordance with the applicable selection procedure.

(2) When selecting Consultants to perform Related Services Contracting Agency shall follow either its Division 47 or Division 48 rules, as determined in its sole discretion.

(3) A Contracting Agency is not required to follow the procedures in Section (1) or Section (2) of this rule, when the Contracting Agency has established Price Agreements with more than one Consultant and is selecting a single Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under an individual work order or task order. Provided, however, the criteria and procedures the Contracting Agency uses to select a single Consultant, when the Contracting Agency has established Price Agreements with more than one Consultant, must meet the requirements of Rule 137-048-0270 (Price Agreements).

(4) Contracting Agency may use electronic methods to screen and select a Consultant in accordance with the procedures described in Rule 137-047-0330 (Electronic Procurement).

(5) For purposes of these division 48 rules, a "mixed" Contract is one requiring the Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, and also provide Related Services, other Services or other related Goods under the Contract. A Contracting Agency's classification of a procurement that will involve a "mixed" Contract will be determined by the predominant purpose of the Contract. A Contracting Agency will determine the predominant purpose of the Contract by determining which of the Services involves the majority of the total Estimated Fee to be paid under the Contract. If the majority of the total Estimated Fee to be paid under the Contract is for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, the Contracting Agency shall comply with the requirements of ORS 279C.110 and Section (1) of this rule. If the majority of the total Estimated Fee to be paid under the Contract is for Related Services, the Contracting Agency shall comply with the requirements of ORS 279C.120 and Section (2) of this rule. If the majority of the total Estimated Fee to be paid under the Contract is for some other Services or Goods under the Public Contracting Code, the Contracting Agency shall comply with the applicable provisions of the Public Contracting Code and Divisions 46, 47 and 49 of these Rules that match the predominant purpose of the Contract.

(6) Consistent with the requirements of ORS 279C.107 and the remaining requirements of ORS 279C.100, 279C.105 and 279C.110 through 279C.125, the following provisions apply to proposals received by a Contracting Agency for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services:

(a) The term "competitive proposal," for purposes of ORS 279C.107, includes proposals submitted under these Division 48 Rules.

(b) In the limited circumstances permitted by ORS 279C.110, 279C.115 and 279C.120, where the Contracting Agency is conducting discussions or negotiations with proposers who submit proposals that the Contracting Agency has determined to be closely competitive or to have a reasonable chance of being selected for award, the Contracting Agency may open proposals so as to avoid disclosure of proposal contents to competing Proposers, consistent with the requirements of ORS 279C.107. Otherwise, Contracting Agency may open proposals in such a way as to avoid disclosure of the contents until after the Contracting Agency executes a Contract with the selected Consultant. If the Contracting Agency determines that it is in the best interest of the Contracting Agency to do so, the Contracting Agency may make proposals available for public inspection following the Contracting Agency's issuance of a notice of intent to award a Contract to a Consultant.

(c) Disclosure of proposals and proposal information is otherwise governed by ORS 279C.107.

(7) As required by ORS 279C.307, pertaining to requirements to ensure the objectivity and independence of providers of certain Personal Services which are procured under ORS chapter 279C, Contracting Agency may not:

(a) Procure services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract from a Contractor or an affiliate of a Contractor who is a party to the Public Contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the Services; or

(b) Procure services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract through the Public Contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the Services.

(8) The requirements of ORS 279C.307 and Section (7) of this rule apply in the following circumstances, except as provided in Section (9) of this rule:

(a) A Contracting Agency requires the Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Public Contract or performance under a Public Contract that is subject to ORS chapter 279C. A Public Contract that is "subject to ORS chapter 279C" includes a Public Contract for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, a Public Contract for Related Services or a Public Contract for construction services under ORS chapter 279C.

(b) The Procurements of Personal Services subject to the restrictions of ORS 279C.307 include, but are not limited to, the following:

(A) Procurements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, which involve overseeing or monitoring the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C;

(B) Procurements for commissioning services, which involve monitoring, inspecting, evaluating or otherwise overseeing the performance of a Contractor providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C;

(C) Procurements for project management services, which involve administration, management, monitoring, inspecting, evaluating compliance with or otherwise overseeing the performance of a Contractor providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, construction services subject to ORS chapter 279C, commissioning services or other Related Services for a Project;

(D) Procurements for special inspections and testing services, which involve inspecting, testing or otherwise overseeing the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C; and

(E) Procurements for other Related Services or Personal Services, which involve administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing the Public Contracts described in Section (8)(a) of this rule.

(9) The restrictions of ORS 279C.307 do not apply in the following circumstances, except as further specified below:

(a) To a Contracting Agency's Procurement of both design services and construction services through a single "Design-Build" Procurement, as that term is defined in Rule 137-049-0610. Such a Design-Build Procurement includes a Procurement under an Energy Savings Performance Contract, as defined in ORS 279A.010. Provided, however, the restrictions of ORS 279C.307 do apply to a Contracting Agency's Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Design-Build Contract or performance under such a Contract resulting from a Design-Build Procurement; and

(b) To a Contracting Agency's Procurement of both pre-construction services and construction services through a single "Construction Manager/General Contractor" Procurement, as defined in Rule 137-049-0610. Provided, however, the restrictions of ORS 279C.307 do apply to a Contracting Agency's Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Construction Manager/General Contractor Contract or performance under such a Contract resulting from a Construction Manager/General Contractor Procurement.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065 & ORS 279C.100-279C.125

## **SELECTION PROCEDURES**

### **137-048-0200**

#### **Direct Appointment Procedure**

(1) Contracting Agency may enter into a Contract directly with a Consultant without following the selection procedures set forth elsewhere in these rules if:

(a) Contracting Agency finds that an Emergency exists; or

(b) The Estimated Fee to be paid under the Contract does not exceed \$100,000; or

(c) The following requirements are met:



(A) The services consist of or are related to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project as the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services rendered under the earlier Contract; and

(B) Contracting Agency used either the formal selection procedure under Rule 137-048-0220 (Formal Selection Procedure) or the formal selection procedure applicable to selection of the Consultant at the time of original selection to select the Consultant for the earlier Contract.

(d) Continuation of Project With Extensive Estimated Fee. Where a Project is being continued under subsection 1(c) of this rule, and the Estimated Fee is expected to exceed \$250,000, the Contracting Agency must make written findings that entering into a Contract with the Consultant, whether in the form of an amendment to an existing Contract or a separate Contract for the additional scope of services, will:

(A) Promote efficient use of public funds and resources and result in substantial cost savings to the Contracting Agency; and,

(B) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement by not encouraging favoritism or substantially diminishing competition in the award of the Contract.

(2) Contracting Agency may select a Consultant for a Contract under this rule from any and all Consultants offering the required Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services that the Contracting Agency reasonably can identify under the circumstances.

(3) The Contracting Agency shall direct negotiations with a Consultant selected under this rule toward obtaining written agreement on:

(a) The Consultant's performance obligations and performance schedule;

(b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services; and

(c) Any other provisions the Contracting Agency believes to be in the Contracting Agency's best interest to negotiate.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279C.110 & ORS 279C.115

#### **137-048-0210**

##### **Informal Selection Procedure**

(1) Contracting Agency may use the informal selection procedure described in this rule to obtain a Contract if the Estimated Fee is expected not to exceed \$250,000.

(2) If using the informal selection procedure on the basis of qualifications alone or, for Related Services, on the basis of price and/or qualifications, Contracting Agency shall:

(a) Create a Request for Proposals that includes at a minimum the following:

(A) A description of the Project for which a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services are needed and a description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services that will be required under the resulting Contract;

(B) The anticipated Contract performance schedule;

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;

(D) The date and time Proposals are due and other directions for submitting Proposals;

(E) Criteria upon which the most qualified Consultant will be selected. Selection criteria may include, but are not limited to, the following:

(i) The amount and type of resources and number of experienced staff the Consultant has committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the Request for Proposals within the applicable time limits, including the current and projected workloads of such staff and the proportion of time such staff would have available for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services;

(ii) Proposed management techniques for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the Request for Proposals;

(iii) A Consultant's capability, experience and past performance history and record in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, including but not limited to quality of work, ability to meet schedules, cost control methods and Contract administration practices;

- (iv) A Consultant's approach to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the Request for Proposals and design philosophy, if applicable;
- (v) A Consultant's geographic proximity to and familiarity with the physical location of the Project;
- (vi) Volume of work, if any, previously awarded to a Consultant, with the objective of effecting equitable distribution of Contracts among qualified Consultants, provided such distribution does not violate the principle of selecting the most qualified Consultant for the type of professional services required;
- (vii) A Consultant's ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;
- (viii) If the Contracting Agency is selecting a Consultant to provide Related Services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead.
- (F) A Statement that Proposers responding to the RFP do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFP;
- (G) A statement directing Proposers to the protest procedures set forth in these Division 48 rules; and
- (H) A sample form of the Contract.
- (b) Provide a Request for Proposals to a minimum of three (3) prospective Consultants drawn from any and all Consultants that the Contracting Agency reasonably can locate that offer the desired Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, or any combination of the foregoing. If three (3) prospective Consultants cannot reasonably be located, Contracting Agency shall document its efforts in writing and provide the RFP to those Consultants that were located.
- (c) Review and rank all Proposals received according to the criteria set forth in the Request for Proposals.
- (3) If Contracting Agency does not cancel the RFP after it reviews and ranks each Proposer, Contracting Agency will begin negotiating a Contract with the highest ranked Proposer. Contracting Agency shall direct negotiations toward obtaining written agreement on:
  - (a) The Consultant's performance obligations and performance schedule;
  - (b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services; and
  - (c) Any other provisions the Contracting Agency believes to be in the Contracting Agency's best interest to negotiate.
- (4) The Contracting Agency shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer, if the Contracting Agency and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. The Contracting Agency may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, in accordance with Section (3) of this rule, until negotiations result in a Contract. If negotiations with any of the Proposers do not result in a Contract within a reasonable amount of time, the Contracting Agency may end the particular informal solicitation and thereafter may proceed with a new informal solicitation under this rule or proceed with a formal solicitation under Rule 137-048-0220 (Formal Selection Procedure).
- (5) The Contracting Agency shall terminate the informal selection procedure and proceed with the formal selection procedure under Rule 137-048-0220 if the scope of the anticipated Contract is revised during negotiations so that the Estimated Fee will exceed \$250,000.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279C.110

#### **137-048-0220**

##### **Formal Selection Procedure**

- (1) Contracting Agency shall use the formal selection procedure described in this rule to select Consultants if the Consultants cannot be selected under either 137-048-0200 (Direct Appointment Procedure) or under 137-048-0210 (Informal Selection Procedure). The formal selection procedure described in this rule may otherwise be used at Contracting Agency's discretion.
- (2) When using the formal selection procedure Contracting Agency shall obtain Contracts through public advertisement of Requests for Proposals, or Requests for Qualifications followed by Requests for Proposals.
  - (a) Except as provided in subsection (b) of this section, Contracting Agency shall advertise each RFP and RFQ at least once in at least one newspaper of general circulation in the area where the Project is located and in as many other issues and publications as desired by Contracting Agency to achieve adequate competition. Other issues and publications may include, but are not limited to, local newspapers, trade journals, and publications targeted to reach the minority, women and emerging small business enterprise audiences.

(A) Contracting Agency shall publish the advertisement within a reasonable time before the deadline for the Proposal submission or response to the RFQ or RFP, but in any event no fewer than fourteen (14) calendar days before the closing date set forth in the RFQ or RFP.

(B) Contracting Agency shall include a brief description of the following items in the advertisement:

(i) The Project;

(ii) A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the Contracting Agency seeks;

(iii) How and where Consultants may obtain a copy of the RFQ or RFP; and

(iv) The deadline for submitting a Proposal or response to the RFQ or RFP.

(b) In the alternative to advertising in a newspaper as described in subsection (2)(a) of this rule, the Contracting Agency shall publish each RFP and RFQ by one or more of the electronic methods identified in Rule 137-046-0110(14). The Contracting Agency shall comply with subsections (2)(a)(A) and (2)(a)(B) of this rule when publishing advertisements by electronic methods.

(3) Request for Qualifications Procedure. Contracting Agency may use the RFQ procedure to evaluate potential Consultants and establish a short list of qualified Consultants to whom the Contracting Agency may issue an RFP for some or all of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ.

(a) A Contracting Agency shall include the following, at a minimum, in each RFQ:

(A) A brief description of the Project for which the Contracting Agency is seeking Consultants;

(B) A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the Contracting Agency seeks for the Project;

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including but not limited to construction services;

(D) The deadline for submitting a response to the RFQ;

(E) A description of required Consultant qualifications for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the Contracting Agency seeks;

(F) The RFQ evaluation criteria, including weights, points or other classifications applicable to each criterion;

(G) A statement whether or not the Contracting Agency will hold a pre-qualification meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ and if a pre-qualification meeting will be held, the location of the meeting and whether or not attendance is mandatory; and

(H) A Statement that Consultants responding to the RFQ do so solely at their expense, and that the Contracting Agency is not responsible for any Consultant expenses associated with the RFQ.

(b) A Contracting Agency may include a request for any or all of the following in each RFQ:

(A) A statement describing Consultants' general qualifications and related performance information;

(B) A description of Consultants' specific qualifications to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ including Consultants' committed resources and recent, current and projected workloads;

(C) A list of similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services and references concerning past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;

(D) A copy of all records, if any, of Consultants' performance under Contracts with any other Contracting Agency;

(E) The number of Consultants' experienced staff committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ, including such personnel's specific qualifications and experience and an estimate of the proportion of time that such personnel would spend on those services;

(F) Consultants' approaches to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ and design philosophy, if applicable;

(G) Consultants' geographic proximity to and familiarity with the physical location of the Project;

(H) Consultants' Ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;

(I) If the Contracting Agency is selecting a Consultant to provide Related Services, Consultants' pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead;

(J) Consultants' ability to assist Contracting Agency in complying with the solar energy technology requirements of ORS 279C.527; and

(K) Any other information Contracting Agency deems reasonably necessary to evaluate Consultants' qualifications.

(c) Contracting Agency may use any reasonable screening or evaluation method to establish a short list of qualified Consultants, including but not limited to, the following:

(A) Requiring Consultants responding to an RFQ to achieve a threshold score before qualifying for placement on the short list;

(B) Placing a pre-determined number of the highest scoring Consultants on a short list;

(C) Placing on a short list only those Consultants with certain essential qualifications or experience, whose practice is limited to a particular subject area, or who practice in a particular geographic locale or region, provided that such factors are material, would not unduly restrict competition, and were announced as dispositive in the RFQ.

(d) No Consultant will be eligible for placement on a Contracting Agency's short list established under subsection (3)(d) of this rule if Consultant or any of Consultant's principals, partners or associates are members of the Contracting Agency's RFQ evaluation committee.

(e) Except when the RFQ is cancelled, a Contracting Agency shall provide a copy of the subsequent RFP to each Consultant on the short list.

(4) Formal Selection of Consultants Through Request for Proposals. Contracting Agency shall use the procedure described in this Section (4) of this rule when issuing an RFP for a Contract described in Section (1) of this rule.

(a) RFP Required Contents. Contracting Agency using the formal selection procedure shall include at least the following in each Request for Proposals, whether or not the RFP is preceded by an RFQ:

(A) General background information, including a description of the Project and the specific Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services sought for the Project, the estimated Project cost, the estimated time period during which the Project is to be completed, and the estimated time period in which the specific Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services sought will be performed.

(B) The RFP evaluation process and the criteria which will be used to select the most qualified Proposer, including the weights, points or other classifications applicable to each criterion. If the Contracting Agency does not indicate the applicable number of points, weights or other classifications, then each criterion is of equal value. Evaluation criteria may include, but are not limited to, the following:

(i) Proposers' availability and capability to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;

(ii) Experience of Proposers' key staff persons in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services on comparable projects;

(iii) The amount and type of resources, and number of experienced staff persons Proposers have committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;

(iv) The recent, current and projected workloads of the staff and resources referenced in subsection (4)(a)(B)(iii), above;

(v) The proportion of time Proposers estimate that the staff referenced in subsection (4)(a)(B)(iii), above, would spend on the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;

(vi) Proposers' demonstrated ability to complete successfully similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services on time and within budget, including whether or not there is a record of satisfactory performance;

(vii) References and recommendations from past clients;

(viii) Proposers' performance history in meeting deadlines, submitting accurate estimates, producing high quality work, meeting financial obligations, price and cost data from previous projects, cost controls and contract administration;

(ix) Status and quality of any required license or certification;

(x) Proposers' knowledge and understanding of the Project and Architectural, Engineering and Land Surveying Services or Related Services described in the RFP as shown in Proposers' approaches to staffing and scheduling needs for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services and proposed solutions to any perceived design and constructability issues;

(xi) Results from interviews, if conducted;

(xii) Design philosophy, if applicable, and approach to the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;

(xiii) If the Contracting Agency is selecting a Consultant to provide Related Services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead; and

(xiv) Any other criteria that the Contracting Agency deems relevant to the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP, including, where the nature and budget of the Project so warrant, a design competition between competing Proposers. Provided, however, these additional criteria cannot include pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, when the sole purpose or predominant purpose of the RFP is to obtain Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services.

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including but not limited to construction services;

(D) Whether interviews are possible and if so, the weight, points or other classifications applicable to the potential interview;

- (E) The date and time Proposals are due, and the delivery location for Proposals;
  - (F) Reservation of the right to seek clarifications of each Proposal;
  - (G) Reservation of the right to negotiate a final Contract that is in the best interest of the Contracting Agency;
  - (H) Reservation of the right to reject any or all Proposals and reservation of the right to cancel the RFP at anytime if doing either would be in the public interest as determined by the Contracting Agency;
  - (I) A Statement that Proposers responding to the RFP do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFP;
  - (J) A statement directing Proposers to the protest procedures set forth in these division 48 rules;
  - (K) Special Contract requirements, including but not limited to disadvantaged business enterprise ("DBE"), minority business enterprise ("MBE"), women business enterprise ("WBE") and emerging small business enterprise ("ESB") participation goals or good faith efforts with respect to DBE, MBE, WBE and ESB participation, and federal requirements when federal funds are involved;
  - (L) A statement whether or not the Contracting Agency will hold a pre-Proposal meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP and if a pre-Proposal meeting will be held, the location of the meeting and whether or not attendance is mandatory;
  - (M) A request for any information the Contracting Agency deems reasonably necessary to permit the Contracting Agency to evaluate, rank and select the most qualified Proposer to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP; and
  - (N) A sample form of the Contract.
- (b) RFP Evaluation Committee. The Contracting Agency shall either establish a committee or designate an individual to review, score and rank Proposals according to the evaluation criteria set forth in the RFP. If the RFP has followed an RFQ, the Contracting Agency may include the same members who served on the RFQ evaluation committee. The Contracting Agency may appoint to the evaluation committee Contracting Agency employees or employees of other public agency with experience in Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying, Related Services, construction services or Public Contracting. At least one member of an evaluation committee must be a Contracting Agency employee. If the Contracting Agency procedure permits, the Contracting Agency may include on the evaluation committee private practitioners of architecture, engineering, land surveying or related professions. If formed, the Contracting Agency shall designate a member of the evaluation committee as the evaluation committee chairperson.
- (A) No Proposer will be eligible for award of the Contract under the RFP if Proposer or any of Proposer's principals, partners or associates are members of the Contracting Agency's RFP evaluation committee for the Contract;
- (c) If the Contracting Agency does not cancel the RFP after completing the scoring and ranking for each Proposer, the Contracting Agency will begin negotiating a Contract with the highest ranked Proposer. The Contracting Agency shall direct negotiations toward obtaining written agreement on:
- (A) The Consultant's performance obligations and performance schedule;
  - (B) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services; and
  - (C) Any other provisions the Contracting Agency believes to be in the Contracting Agency's best interest to negotiate.
- (d) The Contracting Agency shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer if the Contracting Agency and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. The Contracting Agency may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, and so on, in accordance with subsection (4)(c) of this rule, until negotiations result in a Contract. If negotiations with any Proposer do not result in a Contract within a reasonable amount of time, the Contracting Agency may end the particular formal solicitation. Nothing in this rule precludes a Contracting Agency from proceeding with a new formal solicitation for the same Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP that failed to result in a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.110 & ORS 279C.527

### **137-048-0230**

#### **Ties Among Proposers**

(1) If Contracting Agency is selecting a Consultant on the basis of qualifications alone and determines after the ranking of Proposers that two or more Proposers are equally qualified, the Contracting Agency may select a candidate through any process that the Contracting Agency believes will result in the best value for the Contracting Agency taking into account the scope, complexity and nature of the Architectural, Engineering, Photogrammetric

Mapping, Transportation Planning or Land Surveying Services. Provided, however, the tie breaking process established by the Contracting Agency under this Section (1) cannot be based on the Consultant's pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead. The process must be designed to instill public confidence through ethical and fair dealing, honesty and good faith on the part of the Contracting Agency and Proposers and shall protect the integrity of the Public Contracting process. Once a tie is broken, the Contracting Agency and the selected Proposer shall proceed with negotiations under Rules 137-048-0210(3) or 137-048-0220(4)(c), as applicable.

(2) If Contracting Agency is selecting a Consultant on the basis of price alone, or on the basis of price and qualifications, and determines after the ranking of Proposers that two or more Proposers are identical in terms of price or are identical in terms of price and qualifications, then the Contracting Agency shall follow the procedure set forth in Rule 137-046-0300 (Preferences for Oregon Goods and Services), to select the Consultant.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279C.105 & ORS 279C.110

#### **137-048-0240**

##### **Protest Procedures**

(1) **RFP Protest and Request for Change.** Consultants may submit a written protest of anything contained in an RFP and may request a change to any provision, specification or Contract term contained in an RFP, no later than seven (7) calendar days prior to the date Proposals are due, unless a different deadline is indicated in the RFP. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or Contract terms. The Contracting Agency may not consider any protest or request for change that is submitted after the submission deadline.

##### **(2) Protest of Consultant Selection.**

(a) Single Award. In the event of an award to a single Proposer, the Contracting Agency shall provide to all Proposers a copy of the selection notice that the Contracting Agency sent to the highest ranked Proposer. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to the Contracting Agency no later than seven (7) calendar days after the date of the selection notice unless a different deadline is indicated in the RFP. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP or because the higher ranked Proposers otherwise are not qualified to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP.

(b) Multiple Award. In the event of an award to more than one Proposer, the Contracting Agency shall provide to all Proposers copies of the selection notices that the Contracting Agency sent to the highest ranked Proposers. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposers may submit a written protest of the selection to the Contracting Agency no later than seven (7) calendar days after the date of the selection notices, unless a different deadline is indicated in the RFP. A Proposer submitting a protest must claim that the protesting Proposer is one of the highest ranked proposers because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP, or because a sufficient number of Proposals of higher ranked Proposers failed to meet the requirements of the RFP. In the alternative, a Proposer submitting a protest must claim that the Proposals of all higher ranked Proposers, or a sufficient number of higher ranked Proposers, are not qualified to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP.

(c) Effect of Protest Submission Deadline. A Contracting Agency may not consider any protest that is submitted after the submission deadline.

(3) **Resolution of Protests.** A duly authorized representative of the Contracting Agency shall resolve all timely submitted protests within a reasonable time following the Contracting Agency's receipt of the protest and once resolved, shall promptly issue a written decision on the protest to the Proposer who submitted the protest. If the protest results in a change to the RFP, the Contracting Agency shall revise the RFP accordingly and shall re-advertise the RFP in accordance with these rules.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065 & 279C.110

#### **137-048-0250**

##### **Solicitation Cancellation, Delay or Suspension; Rejection of All Proposals or Responses; Consultant Responsibility for Costs**

A Contracting Agency may cancel, delay or suspend a solicitation, RFQ or other preliminary Procurement document, whether related to a Direct Appointment Procedure (Rule 137-048-0200), the Informal Selection Procedure (Rule 137-048-0210), or the Formal Selection Procedure (Rule 137-048-0220), or reject all Proposals, responses to RFQs, responses to other preliminary Procurement documents, or any combination of the foregoing, if the Contracting

Agency believes it is in the public interest to do so. In the event of any such cancellation, delay, suspension or rejection, the Contracting Agency is not liable to any Proposer for any loss or expense caused by or resulting from any such cancellation, delay, suspension or rejection. Consultants responding to either solicitations, RFQs or other preliminary Procurement documents are responsible for all costs they may incur in connection with submitting Proposals, responses to RFQs or responses to other preliminary Procurement documents. In the event of any such cancellation, Contracting Agency shall return Proposals to Proposers and keep a list of returned Proposals in the Solicitation file, in accordance with ORS 279C.107.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279C.110

#### **137-048-0260**

##### **Two-Tiered Selection Procedure when State Agency is Lead Contracting Agency**

(1) If the Contracting Agency requires an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for a public improvement owned and maintained by that Local Contracting Agency, and a State Agency will serve as the lead Contracting Agency and will enter into Contracts with Architects, Photogrammetrists, Transportation Planners, Engineers or Land Surveyors for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for that public improvement, the State Contracting Agency shall utilize the two-tiered selection process described below to obtain these Contracts with Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors.

(2) **Tier One.** The State Contracting Agency shall, when feasible, identify no fewer than the three (3) most qualified Proposers responding to an RFP pursuant to its own rules or, if permitted by state, by these Division 48 rules applicable selection procedures described in from among Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors, and shall notify the Local Contracting Agency of the Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors selected.

(3) **Tier Two.** In accordance with the qualifications based selection requirements of ORS 279C.110, the Local Contracting Agency shall either:

(a) Select an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor from the State Contracting Agency's list of Proposers to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for Local Contracting Agency's public improvement; or

(b) Select an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for Local Contracting Agency's public improvement through an alternative process adopted by the Local Contracting Agency, consistent with the provisions of the applicable RFP, if any, and these division 48 rules. The Local Contracting Agency's alternative process must be described in the applicable RFP, may be structured to take into account the unique circumstances of the Local Contracting Agency and may include provisions to allow the Local Contracting Agency to perform its tier two responsibilities efficiently and economically, alone or in cooperation with other Local Contracting Agencies. The Local Contracting Agency's alternative process may include, but is not limited to, one or more of the following methods:

(A) A general written direction from the Local Contracting Agency to the State Contracting Agency, prior to the advertisement of a Procurement or series of Procurements or during the course of the Procurement or series of Procurements, that the Local Contracting Agency's tier two selection shall be the highest-ranked firm identified by the State Contracting Agency during the tier one process, and that no further coordination or consultation with the Local Contracting Agency is required. However, the Local Contracting Agency may provide written notice to the State Contracting Agency that the Local Contracting Agency's general written direction is not to be applied for a particular Procurement and describe the process that the Local Contracting Agency will utilize for the particular Procurement. In order for a written direction from the Local Contracting Agency consistent with this subsection to be effective for a particular Procurement, it must be received by the State Contracting Agency with adequate time for the State Contracting Agency to revise the RFP in order for Proposers to be notified of the tier two process to be utilized in the Procurement. In the event of a multiple award under the terms of the applicable Procurement, the written direction from the Local Contracting Agency may apply to the highest ranked firms that are selected under the terms of the Procurement document.

(B) An intergovernmental agreement between the Local Contracting Agency and the State Contracting Agency outlining the alternative process that the Local Contracting Agency has adopted for a Procurement or series of Procurements.

(C) Where multiple Local Government Agencies are involved in a two-tiered selection procedure, the Local Government Agencies may name one or more authorized representative(s) to act on behalf of all the Local Government Agencies, whether the Local Government Agencies are acting collectively or individually, to select the Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services

under the tier two selection process. In the event of a multiple award under the terms of the applicable Procurement, the authorized representative(s) of the Local Contracting Agencies may act on behalf of the Local Contracting Agencies to select the highest ranked firms that are required under the terms of the Procurement document, as part of the tier two selection process.

(4) The State Contracting Agency shall thereafter begin Contract negotiations with the selected Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor in accordance with the negotiation provisions in Rule 137-048-0200 (Direct Appointment Procedure), 137-048-0210 (Informal Selection Procedure) or 137-048-0220 (Formal Selection Procedure) as applicable.

(5) Nothing in these division 48 rules should be construed to deny or limit a Local Contracting Agency's ability to enter into a Contract directly with Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors pursuant to ORS 279C.125(4), through a selection process established by that Local Contracting Agency.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279C.110 & ORS 279C.125

#### **137-048-0270**

##### **Price Agreements**

(1) Contracting Agency may establish Price Agreements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, when the Contracting Agency cannot determine the precise quantities of those Services which the Contracting Agency will require over a specified time period.

(2) When establishing Price Agreements under this rule, a Contracting Agency shall select no fewer than three Consultants, when feasible. The selection procedures for establishing Price Agreements shall be in accordance with Rule 137-048-0130(1) or 137-048-0130(2), as applicable. Contracting Agency may select a single Consultant, when a Price Agreement is awarded to obtain services for a specific Project or a closely-related group of Projects.

(3) Solicitation materials and the terms and conditions for a Price Agreement for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services must:

(a) Include a scope of services, menu of services, a specification for services or a similar description of the nature, general scope, complexity and purpose of the procurement that will reasonably enable a prospective bidder or Proposer to decide whether to submit a bid or proposal;

(b) Specify whether the Contracting Agency intends to award a Price Agreement to one Consultant or to multiple Consultants. If the Contracting Agency will award a Price Agreement to more than one Consultant, the solicitation document and Price Agreement shall describe the criteria and procedures the Contracting Agency will use to select a Consultant for each individual work order or task order. Subject to the requirements of ORS 279C.110, the criteria and procedures to assign work orders or task orders that only involve or predominantly involve Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying services are at the Contracting Agency's sole discretion; provided, however, in circumstances where a direct contract is not permitted under Rule 137-048-0200, the selection criteria cannot be based on pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the Services required, expenses, hourly rates and overhead. In accordance with Rule 137-048-0130(2) applicable to Related Services procurements, the selection criteria and procedures may be based solely on the qualifications of the Consultants, solely on pricing information, or a combination of both qualifications and pricing information. Pricing information may include the number of hours proposed for the Related Services required, expenses, hourly rates, overhead and other price factors. Work order or task order assignment procedures under Price Agreements may include direct appointments, subject to the requirements of Rule 137-048-0200; and

(c) Specify the maximum term for assigning Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under the Price Agreement.

(4) All Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services assigned under a Price Agreement require a written work order or task order issued by the Contracting Agency. Any work orders or task orders assigned under a Price Agreement must include, at a minimum, the following:

(a) A clearly defined statement of work and performance schedule for any deliverables;

(b) A maximum, not-to-exceed price or fixed price amount for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services specified and authorized under the work order or task order; and

(c) Language that incorporates all applicable terms and conditions of the Price Agreement into the work order or task order.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065, ORS 279C.110 & ORS 279C.120



## POST-SELECTION CONSIDERATIONS

### 137-048-0300

#### Prohibited Payment Methodology; Purchase Restrictions

(1) Except as otherwise allowed by law, Contracting Agency shall not enter into any Contract which includes compensation provisions that expressly provide for payment of:

- (a) Consultant's costs under the Contract plus a percentage of those costs; or
- (b) A percentage of the Project construction costs or total Project costs.

(2) Except as otherwise allowed by law, Contracting Agency shall not enter into any Contract in which:

(a) The compensation paid under the Contract is solely based on or limited to the Consultant's hourly rates for the Consultant's personnel working on the Project and reimbursable expenses incurred during the performance of work on the Project (sometimes referred to as a "time and materials" Contract); and

(b) The Contract does not include a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract.

(3) Except in cases of Emergency or in the particular instances noted in the subsections below, Contracting Agency shall not purchase any building materials, supplies or equipment for any building, structure or facility constructed by or for Contracting Agency from any Consultant under a Contract with Contracting Agency to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, for the building, structure or facility. This prohibition does not apply if either of the following circumstances exists:

(a) The Consultant is providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under a Contract with a Contracting Agency to perform Design-Build services or Energy Savings Performance Contract services (see Rules 137-049-0670 and 137-049-0680); or

(b) That portion of the Contract relating to the acquisition of building materials, supplies or equipment was awarded to the Consultant pursuant to applicable law governing the award of such a Contract.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065 & ORS 279C.105

### 137-048-0310

#### Expired or Terminated Contracts; Reinstatement

(1) If Contracting Agency enters into a Contract for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services and that Contract subsequently expires or is terminated, the Contracting Agency may proceed as follows, subject to the requirements of subsection (2) of this rule:

(a) Expired Contracts. If the Contract has expired as the result of Project delay caused by the Contracting Agency or caused by any other occurrence outside the reasonable control of the Contracting Agency or the Consultant, and if no more than one year has passed since the Contract expiration date, the Contracting Agency may amend the Contract to extend the Contract expiration date, revise the description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract to reflect any material alteration of the Project made as a result of the delay, and revise the applicable performance schedule. Beginning on the effective date of the amendment, the Contracting Agency and the Consultant shall continue performance under the Contract as amended; or

(b) Terminated Contracts. If Contracting Agency or both parties to the Contract have terminated the Contract for any reason and if no more than one year has passed since the Contract termination date, then the Contracting Agency may enter into a new Contract with the same Consultant to perform the remaining Architectural, Engineering and Land Surveying Services, or Related Services not completed under the original Contract, or to perform any remaining Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services not completed under the Contract as adjusted to reflect a material alteration of the Project.

(2) The Contracting Agency may proceed under either subsection (1)(a) or subsection (1)(b) of this rule only after making written findings that amending the existing Contract or entering into a new Contract with the Consultant will:

(a) Promote efficient use of public funds and resources and result in substantial cost savings to the Contracting Agency;

(b) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement process by not encouraging favoritism or substantially diminishing competition in the award of Contracts; and

(c) Result in a Contract that is still within the scope of the final form of the original Procurement document.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065 & ORS 279C.110

**137-048-0320**

**Contract Amendments**

(1) A Contracting Agency may amend any Contract if the Contracting Agency, in its sole discretion, determines that the amendment is within the scope of the Solicitation Document and that the amendment would not materially impact the field of competition for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the final form of the original Procurement document. In making this determination, the Contracting Agency shall consider potential alternative methods of procuring the services contemplated under the proposed amendment. An amendment would not materially impact the field of competition for the services described in the Solicitation Document if the Contracting Agency reasonably believes that the number of Proposers would not significantly increase if the Procurement document were re-issued to include the additional services.

(2) The Contracting Agency may amend any Contract if the additional services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, which affect performance of the original Contract.

(3) All amendments to Contracts must be in writing, must be signed by an authorized representative of the Consultant and the Contracting Agency and must receive all required approvals before the amendments will be binding on the Contracting Agency.

Stat. Auth.: ORS 279A.065 & ORS 279C.105

Stats. Implemented: ORS 279A.065 & ORS 279C.110

## **PUBLIC CONTRACTING RULES 2016**

### **DIVISION 49**

#### **GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTS FOR CONSTRUCTION SERVICES**

##### **137-049-0100**

###### **Application**

(1) These division 49 rules apply to Public Improvement Contracts as well as Public Contracts for ordinary construction services that are not Public Improvements. Rules that apply specifically to Public Improvement Contracts are so identified.

(2) These division 49 rules address matters covered in ORS Chapter 279C (with the exception of Architectural, Engineering, Land Surveying and Related Services, all of which are addressed in division 48 of the Rules).

(3) These division 49 Rules become effective upon adoption, and apply to the Contracts described in section

(1) above first advertised, but if not advertised then entered into, on or after that date.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

##### **137-049-0110**

###### **Policies**

In addition to the general Code policies set forth in ORS 279A.015, the ORS 279C.300 policy on competition and the ORS 279C.305 policy on least-cost for Public Improvements apply to these division 49 rules.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.300 & ORS 279C.305

##### **137-049-0120**

###### **Definitions**

(1) "**Conduct Disqualification**" means a Disqualification pursuant to ORS 279C.440.

(2) "**Disqualification**" means the preclusion of a Person from contracting with a Contracting Agency for a period of time in accordance with Rule 137-049-0370. Disqualification may be a Conduct Disqualification or DBE Disqualification.

(3) "**Foreign Contractor**" means a Contractor that is not domiciled in or registered to do business in the State of Oregon. See Rule 137-049-0480.

(4) "**Notice**" means any of the alternative forms of public announcement of Procurements, as described in Rule 137-049-0210.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.110

##### **137-049-0130**

###### **Competitive Bidding Requirement**

A Contracting Agency shall solicit Bids for Public Improvement Contracts by Invitation to Bid ("ITB"), except as otherwise allowed or required by these Rules, or pursuant to ORS 279C.335 on Competitive Bidding exceptions and exemptions, 279A.030 on federal law overrides or 279A.100 on affirmative action. Also see Rules 137-049-0600 to 137-049-0690 regarding the use of Alternative Contracting Methods and the exemption process.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335

##### **137-049-0140**

###### **Contracts for Construction Other than Public Improvements**

(1) **Procurement Under ORS Chapter 279B.** Pursuant to ORS 279C.320, Public Contracts for construction services that are not Public Improvement Contracts, other than Emergency Contracts regulated under ORS 279C.335(6) and Rule 137-049-0150, may be procured and amended as general trade services under the provisions of ORS Chapter 279B and division 47 Rules, rather than under the provisions of ORS Chapter 279C and these division 49 rules.

(2) **Application of ORS Chapter 279C.** Non-procurement provisions of ORS Chapter 279C and these division 49 rules may still be applicable to the resulting Contracts. See, for example, particular statutes on Disqualification (ORS 279C.440, 445 and 450); Legal Actions (ORS 279C.460 and 465); Required Contract Conditions (ORS 279C.505, 515, 520 and 530); Hours of Labor (ORS 279C.540 and 545); Retainage (ORS 279C.550, 560 and 565); Subcontracts (ORS 279C.580); Action on Payment Bonds (ORS 279C.600, 605, 610, 615, 620 and 625); Termination (ORS 279C.650, 650, 660 and 670); and all of the Prevailing Wage Rates requirements (ORS 279C.800 through 870) for Public Works Contracts.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.320

#### **137-049-0150**

##### **Emergency Contracts; Bidding and Bonding Exemptions**

(1) **Emergency Declaration.** A Contracting Agency may declare that Emergency circumstances exist that require prompt execution of a Public Contract for Emergency construction or repair Work. The declaration shall be made at an administrative level consistent with the Contracting Agency's internal policies, by a written declaration that describes the circumstances creating the Emergency and the anticipated harm from failure to enter into an Emergency Contract. The Emergency declaration shall thereafter be kept on file as a public record.

(2) **Competition for Contracts.** Pursuant to ORS 279C.320(1), Emergency Contracts are regulated under ORS 279B.080, which provides that, for an emergency procurement of construction services, the Contracting Agency shall ensure competition that is reasonable and appropriate under the Emergency circumstances, and may include written requests for Offers, oral requests for Offers or direct appointments without competition in cases of extreme necessity, in whatever solicitation time periods the Contracting Agency considers reasonable in responding to the Emergency.

(3) **Emergency Contract Scope.** Although no dollar limitation applies to Emergency Contracts, the scope of the Contract must be limited to Work that is necessary and appropriate to remedy the conditions creating the Emergency as described in the declaration.

(4) **Emergency Contract Modification.** Emergency Contracts may be modified by change order or amendment to address the conditions described in the original declaration or an amended declaration that further describes additional work necessary and appropriate for related Emergency circumstances.

(5) **Excusing Bonds.** Pursuant to ORS 279C.380(4) and this rule, the Emergency declaration may also state that the Contracting Agency waives the requirement of furnishing a performance bond and payment bond for the Emergency Contract. After making such an Emergency declaration the bonding requirements are excused for the procurement, but this Emergency declaration does not affect the separate Public Works bond requirement for the benefit of the Bureau of Labor and Industries (BOLI) in enforcing prevailing wage rate and overtime payment requirements. See Rule 137-049-0815 and BOLI rules at OAR 839-025-0015.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.080, ORS 279C.320 & ORS 279C.380

#### **137-049-0160**

##### **Intermediate Procurements; Competitive Quotes and Amendments**

(1) **General.** Public Improvement Contracts estimated by the Contracting Agency to exceed \$5,000 and not to exceed \$100,000 may be Awarded in accordance with this rule.

(2) **Selection Criteria.** The selection criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, contractor capacity, responsibility and similar factors.

(3) **Request for Quotes.** Contracting Agencies shall utilize written requests for quotes whenever reasonably practicable. Written request for quotes shall include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. When requesting quotations orally, prior to requesting the price quote the Contracting Agency shall state any additional selection criteria and, if the criteria are not of equal value, their relative value. For Public Works Contracts, oral quotations may be utilized only in the event that Written copies of the prevailing wage rates are not required by the Bureau of Labor and Industries.

(4) **Number of Quotes; Record Required.** Contracting Agencies shall seek at least three competitive quotes, and keep a written record of the sources and amounts of the quotes received. If three quotes are not reasonably available the Contracting Agency shall make a written record of the effort made to obtain those quotes.

(5) **Award.** If Awarded, the Contracting Agency shall Award the Contract to the prospective contractor whose quote will best serve the interests of the Contracting Agency, taking into account the announced selection criteria. If Award is not made to the Offeror offering the lowest price, the Contracting Agency shall make a written record of the basis for Award.

(6) **Price Increases.** Intermediate level Public Improvement Contracts obtained by competitive quotes may be increased above the original amount of Award by Contracting Agency issuance of a Change to the Work or Amendment, pursuant to Rule 137-049-0910, within the following limitations:

(a) Up to an aggregate Contract Price increase of 25% over the original Contract amount when a Contracting Agency's contracting officer determines that a price increase is warranted for additional reasonably related Work, and;

(b) Up to an aggregate Contract Price increase of 50% over the original Contract amount, when a Contracting Agency's contracting officer determines that a price increase is warranted for additional reasonably related Work and a Contracting Agency official, board or governing body with administrative or review authority over the contracting officer approves the increase.

(7) **Amendments.** Amendments of intermediate level Public Improvement Contracts that exceed the thresholds stated in section (1) are specifically authorized by the Code, when made in accordance with this rule and Rule 137-049-0910. Accordingly, such amendments are not considered new procurements and do not require an exemption from competitive bidding.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.410.

## FORMAL PROCUREMENT RULES

### 137-049-0200

#### **Solicitation Documents; Required Provisions; Assignment or Transfer**

(1) **Solicitation Document.** Pursuant to ORS 279C.365 and this rule, the Solicitation Document shall include the following:

(a) **General Information.**

(A) Identification of the Public Improvement project, including the character of the Work, and applicable plans, Specifications and other Contract documents;

(B) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) That statements made by the Contracting Agency's representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.

(C) The deadline for submitting mandatory prequalification applications and the class or classes of Work for which Offerors must be prequalified if prequalification is a requirement;

(D) The name and title of the authorized Contracting Agency Person designated for receipt of Offers and contact Person (if different);

(E) Instructions and information concerning the form and submission of Offers, including the address of the office to which Offers must be delivered, any Bid or Proposal security requirements, and any other required information or special information, e.g., whether Offers may be submitted by facsimile or electronic means (See Rule 137-049-0300 regarding facsimile Bids or Proposals and Rule 137-049-0310 regarding electronic Procurement);

(F) The time, date and place of Opening;

(G) The time and date of Closing after which a Contracting Agency will not accept Offers, which time shall be not less than five Days after the date of the last publication of the advertisement. Although a minimum of five Days is prescribed, Contracting Agencies are encouraged to use at least a 14 Day Solicitation period when feasible. If the Contracting Agency is issuing an ITB that may result in a Public Improvement Contract with a value in excess of \$100,000, the Contracting Agency shall designate a time of Closing consistent with the first-tier subcontractor disclosure requirements of ORS 279C.370(1)(b) and Rule 137-049-0360. For timing issues relating to Addenda, see Rule 137-049-0250;

(H) The office where the Specifications for the Work may be reviewed;

(I) A statement that each Bidder to an ITB must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120;

(J) If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), a statement that no Offer will be received or considered by the Contracting Agency unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.840 or 40 U.S.C. 276a.";

(K) A statement that the Contracting Agency will not receive or consider an Offer for a Public Improvement Contract unless the Offeror is registered and in good standing with the Construction Contractors Bd, or is licensed by the State Landscape Contractors Bd, as specified in Rule 137-049-0230;

(L) Whether a Contractor or a subcontractor under the Contract must be licensed under ORS 468A.720 regarding asbestos abatement projects;

(M) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See Rule 137-049-0440(3));

(N) How the Contracting Agency will notify Offerors of Addenda and how the Contracting Agency will make Addenda available (See Rule 137-049-0250); and

(O) When applicable, instructions and forms regarding First-Tier Subcontractor Disclosure requirements, as set forth in Rule 137-049-0360.

**(b) Evaluation Process:**

(A) A statement that the Contracting Agency may reject any Offer not in compliance with all prescribed Public Contracting procedures and requirements, including the requirement to demonstrate the Bidder's responsibility under ORS 279C.375(3)(b) and may reject for good cause all Offers after finding that doing so is in the public's interest;

(B) The anticipated Solicitation schedule, deadlines, protest process and evaluation process, if any;

(C) Evaluation criteria, including the relative value applicable to each criterion, that the Contracting Agency will use to determine the Responsible Bidder with the lowest Responsive Bid (where Award is based solely on price) or the Responsible Proposer or Proposers with the best Responsive Proposal or Proposals (where use of Competitive Proposals is authorized under ORS 279C.335 and Rule 137-049-0620), along with the process the Contracting Agency will use to determine acceptability of the Work;

(i) If the Solicitation Document is an Invitation to Bid, the Contracting Agency shall set forth any special price evaluation factors in the Solicitation Document. Examples of such factors include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas. Price evaluation factors need not be precise predictors of actual future costs; but, to the extent possible, such evaluation factors shall be objective, reasonable estimates based upon information the Contracting Agency has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposals, the Contracting Agency shall refer to the additional requirements of Rule 137-049-0650 and 279C.400 to 279C.410; and

(c) **Contract Provisions.** The Contracting Agency shall include all Contract terms and conditions, including warranties, insurance and bonding requirements, that the Contracting Agency considers appropriate for the Public Improvement project. The Contracting Agency must also include all applicable Contract provisions required by Oregon law as follows:

(A) Prompt payment to all Persons supplying labor or material; contributions to Industrial Accident Fund; liens and withholding taxes (ORS 279C.505(1));

(B) Demonstrate that an employee drug testing program is in place (ORS 279C.505(2));

(C) If the Contract calls for demolition Work described in ORS 279C.510(1), a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

(D) If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510(2));

(E) Payment of claims by public officers (ORS 279C.515(1));

(F) Contractor and first-tier subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515(2), including the rate of interest;

(G) Person's right to file a complaint with the Construction Contractors Bd for all Contracts related to a Public Improvement Contract (ORS 279C.515(3));

(H) Hours of labor in compliance with ORS 279C.520;

(I) Environmental and natural resources regulations (ORS 279C.525);

(J) Payment for medical care and attention to employees (ORS 279C.530(1));

(K) A Contract provision substantially as follows: "All employers, including Contractor, that employ subject Workers who Work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530(2));

(L) Maximum hours, holidays and overtime (ORS 279C.540);

(M) Time limitation on claims for overtime (ORS 279C.545);

(N) Prevailing wage rates (ORS 279C.800 to 279C.870);

(O) BOLI Public Works bond (ORS 279C.830(3));

(P) Retainage (ORS 279C.550 to 279C.570);

(Q) Prompt payment policy, progress payments, rate of interest (ORS 279C.570);

(R) Contractor's relations with subcontractors (ORS 279C.580);

(S) Notice of claim (ORS 279C.605);  
(T) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385; and  
(U) Contractor's certification that all subcontractors performing Work described in ORS 701.005(2) (i.e., construction Work) will be registered with the Construction Contractors Bd or licensed by the State Landscape Contractors Bd in accordance with ORS 701.035 to 701.055 before the subcontractors commence Work under the Contract.

**(2) Assignment or Transfer Restricted.** Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without the Contracting Agency's prior Written consent. Unless otherwise agreed by the Contracting Agency in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If the Contracting Agency consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to the Contracting Agency for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the Contracting Agency otherwise agrees in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.110(4), ORS 279A.120, ORS 279C.365, ORS 279C.370, ORS 279C.390, ORS 279C.505 to 580, ORS 279C.605, ORS 305.385, ORS 468A.720, ORS 701.005 & ORS 701.055

### **137-049-0210**

#### **Notice and Advertising Requirements; Posting**

**(1) Notice and Distribution Fee.** A Contracting Agency may furnish "Notice" as set forth below in subsections (a) through (c), to a number of Persons sufficient for the purpose of fostering and promoting competition. The Notice may indicate where, when, how and for how long the Solicitation Document may be obtained; generally describe the Public Improvement project or Work; and may contain any other appropriate information. The Contracting Agency may charge a fee or require a deposit for the Solicitation Document. The Contracting Agency may furnish Notice using any method determined to foster and promote competition, including:

- (a) Mailing Notice of the availability of Solicitation Documents to Persons that have expressed an interest in the Contracting Agency's Procurements;
- (b) Placing Notice on the Contracting Agency's Electronic Procurement System; or
- (c) Placing Notice on the Contracting Agency's Internet Web site.

**(2) Advertising.** Pursuant to ORS 279C.360 and this rule, a Contracting Agency shall advertise every Solicitation for competitive Bids or competitive Proposals for a Public Improvement Contract, unless the Contract Review Authority for that Contracting Agency has exempted the Solicitation from the advertisement requirement as part of a competitive Bidding exemption under ORS 279C.335.

(a) Unless the Contracting Agency publishes by Electronic Advertisement as permitted under subsection 2(b), the Contracting Agency shall publish the advertisement for Offers at least once in at least one newspaper of general circulation in the area where the Contract is to be performed and in as many additional issues and publications as the Contracting Agency may determine to be necessary or desirable to foster and promote competition.

(b) Contracting Agency may publish by Electronic Advertisement if the Contract Review Authority for the Contracting Agency determines that Electronic Advertisement is likely to be cost effective and, by rule or order, authorizes Electronic Advertisement.

(c) In addition to the Contracting Agency's publication required under subsection 2(a) or 2(b), the Contracting Agency shall also publish an advertisement for Offers in at least one trade newspaper of general statewide circulation if the Contract is for a Public Improvement with an estimated cost in excess of \$125,000.

(d) All advertisements for Offers shall set forth:

- (A) The Public Improvement project;
- (B) The office where Contract terms, conditions and Specifications may be reviewed;
- (C) The date that Persons must file applications for prequalification under ORS 279C.430, if prequalification is a requirement, and the class or classes of Work for which Persons must be prequalified;
- (D) The scheduled Closing, which shall not be less than five Days after the date of the last publication of the advertisement;
- (E) The name, title and address of the Contracting Agency Person authorized to receive Offers;
- (F) The scheduled Opening; and

(G) If applicable, that the Contract is for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276(a)).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.360 & ORS 200.035

#### **137-049-0220**

##### **Prequalification of Offerors**

(1) **Prequalification.** Pursuant to ORS 279C.430 and this rule, two types of prequalification are authorized:

(a) **Mandatory Prequalification.** A Contracting Agency may require mandatory prequalification of Offerors on forms prescribed by the Contracting Agency's Contract Review Authority. The Contracting Agency shall determine prequalification status in accordance with 279C.430. A Contracting Agency must indicate in the Solicitation Document if it will require mandatory prequalification and establish the time for submitting the prequalification application. Mandatory prequalification is when a Contracting Agency conditions a Person's submission of an Offer upon the Person's prequalification. The Contracting Agency shall not consider an Offer from a Person that is not prequalified if the Contracting Agency required prequalification.

(b) **Permissive Prequalification.** A Contracting Agency may prequalify a Person for the Contracting Agency's Solicitation list on forms prescribed by the Contracting Agency's Contract Review Authority, but in permissive prequalification the Contracting Agency shall not limit distribution of a Solicitation to that list.

(2) **Prequalification Presumed.** If an Offeror is currently prequalified by either the Oregon Department of Transportation or the Oregon Department of Administrative Services to perform Contracts, the Offeror shall be rebuttably presumed qualified to perform similar Work for other Contracting Agencies.

(3) **Standards for Prequalification.** A Person may prequalify by demonstrating to the Contracting Agency's satisfaction:

(a) That the Person's financial, material, equipment, facility and personnel resources and expertise, or ability to obtain such resources and expertise, indicate that the Person is capable of meeting all contractual responsibilities;

(b) The Person's record of performance;

(c) The Person's record of integrity;

(d) The Person is qualified to contract with the Contracting Agency.

(See, Rule 137-049-0390(2) regarding standards of responsibility.)

(4) **Notice of Denial.** If a Person fails to prequalify for a mandatory prequalification, the Contracting Agency shall notify the Person, specify the reasons under section (3) of this rule and inform the Person of the Person's right to a hearing under ORS 279C.445 and 279C.450.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.430 & ORS 279C.435

#### **137-049-0230**

##### **Eligibility to Bid or Propose; Registration or License**

(1) **Construction Contracts.** A Contracting Agency shall not consider a Person's Offer to do Work as a contractor, as defined in ORS 701.005(2), unless the Person has a current, valid certificate of registration issued by the Construction Contractors Bd at the time the Offer is made.

(2) **Landscape Contracts.** A Contracting Agency shall not consider a Person's Offer to do Work as a landscape contractor as defined in ORS 671.520(2), unless the Person has a current, valid landscape contractors license issued pursuant to ORS 671.560 by the State Landscape Contractors Bd at the time the offer is made.

(3) **Noncomplying Entities.** The Contracting Agency shall deem an Offer received from a Person that fails to comply with this rule nonresponsive and shall reject the Offer as stated in ORS 279C.365(1)(k), unless contrary to federal law or subject to different timing requirements set by federal funding agencies.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 671.530 & ORS 701.055

#### **137-049-0240**

##### **Pre-Offer Conferences**

(1) **Purpose.** A Contracting Agency may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Procurement requirements, obtain information or to conduct site inspections.

(2) **Required Attendance.** The Contracting Agency may require attendance at the pre-Offer conference as a condition for making an Offer. Unless otherwise specified in the Solicitation Document, a mandatory attendance requirement is considered to have been met if, at any time during the mandatory meeting, a representative of an offering firm is present.



(3) **Scheduled Time.** If a Contracting Agency holds a pre-Offer conference, it shall be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) **Statements Not Binding.** Statements made by a Contracting Agency's representative at the pre-Offer conference do not change the Solicitation Document unless the Contracting Agency confirms such statements with a Written Addendum to the Solicitation Document.

(5) **Contracting Agency Announcement.** The Contracting Agency must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with Rule 137-049-0200(1)(a)(B).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & ORS 279C.370

#### **137-049-0250**

##### **Addenda to Solicitation Documents**

(1) **Issuance; Receipt.** The Contracting Agency may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgement of receipt of all issued Addenda with its Offer, unless the Contracting Agency otherwise specifies in the Addenda or in the Solicitation Document.

(2) **Notice and Distribution.** The Contracting Agency shall notify prospective Offerors of Addenda consistent with the standards of Notice set forth in Rule 137-049-0210(1). The Solicitation Document shall specify how the Contracting Agency will provide notice of Addenda and how the Contracting Agency will make the Addenda available (see Rule 137-049-0200(1)(a)(N)). For example, "Contracting Agency will not mail notice of Addenda, but will publish notice of any Addenda on Contracting Agency's Web site. Addenda may be downloaded off the Contracting Agency's Web site. Offerors should frequently check the Contracting Agency's Web site until closing, i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing."

(3) **Timelines; Extensions.** The Contracting Agency shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The Contracting Agency may extend the Closing if the Contracting Agency determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent required by public interest, the Contracting Agency shall not issue Addenda less than 72 hours before the Closing unless the Addendum also extends the Closing.

(4) **Request for Change or Protest.** Unless a different deadline is set forth in the Addendum, an Offeror may submit a Written request for change or protest to the Addendum, as provided in Rule 137-049-0260, by the close of the Contracting Agency's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under Rule 137-049-0260, whichever date is later. The Contracting Agency shall consider only an Offeror's request for change or protest to the Addendum; the Contracting Agency shall not consider a request for change or protest to matters not added or modified by the Addendum, unless the Offeror submits the request for change or protest before the deadline for the Contracting Agency's receipt of request for change or protests as set forth in Rule 137-049-0260(2) and (3).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.395 & ORS 279A.065

#### **137-049-0260**

##### **Request for Clarification or Change; Solicitation Protests**

(1) **Clarification.** Prior to the deadline for submitting a Written request for change or protest, an Offeror may request that the Contracting Agency clarify any provision of the Solicitation Document. The Contracting Agency's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the Contracting Agency unless the Contracting Agency amends the Solicitation Document by Addendum.

##### **(2) Request for Change.**

(a) **Delivery.** An Offeror may request in Writing a change to the Specifications or Contract terms and conditions. Unless otherwise specified in the Solicitation Document, an Offeror must deliver the Written request for change to the Contracting Agency not less than 10 Days prior to Closing;

##### **(b) Content of Request for Change.**

(A) An Offeror's Written request for change shall include a statement of the requested change(s) to the Contract terms and conditions, including any Specifications, together with the reason for the requested change.

(B) An Offeror shall mark its request for change as follows:

(i) "Contract Provision Request for Change"; and

(ii) Solicitation Document number (or other identification as specified in the Solicitation Document).

**(3) Protest.**

(a) **Delivery.** An Offeror may protest Specifications or Contract terms and conditions. Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest on those matters to the Contracting Agency not less than 10 Days prior to Closing;

(b) **Content of Protest.**

(A) An Offeror's Written protest shall include:

- (i) A detailed statement of the legal and factual grounds for the protest;
- (ii) A description of the resulting prejudice to the Offeror; and
- (iii) A statement of the desired changes to the Contract terms and conditions, including any Specifications.

(B) An Offeror shall mark its protest as follows:

- (i) "Contract Provision Protest"; and
- (ii) Solicitation Document number (or other identification as specified in the Solicitation Document)

(4) **Contracting Agency Response.** The Contracting Agency is not required to consider an Offeror's request for change or protest after the deadline established for submitting such request or protest. The Contracting Agency shall provide notice to the applicable Person if it entirely rejects a protest. If the Contracting Agency agrees with the Person's request or protest, in whole or in part, the Contracting Agency shall either issue an Addendum reflecting its determination under Rule 137-049-0260 or cancel the Solicitation under Rule 137-049-0270.

(5) **Extension of Closing.** If a Contracting Agency receives a Written request for change or protest from an Offeror in accordance with this rule, the Contracting Agency may extend Closing if the Contracting Agency determines an extension is necessary to consider the request or protest and issue an Addendum, if any, to the Solicitation Document.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345 & ORS 279C.365

**137-049-0270**

**Cancellation of Solicitation Document**

(1) **Cancellation in the Public Interest.** A Contracting Agency may cancel a Solicitation for good cause if the Contracting Agency finds that cancellation is in the public interest. The Contracting Agency's reasons for cancellation shall be made part of the Solicitation file.

(2) **Notice of Cancellation.** If the Contracting Agency cancels a Solicitation prior to Opening, the Contracting Agency shall provide Notice of cancellation in accordance with Rule 137-049-0210(1). Such notice of cancellation shall:

- (a) Identify the Solicitation;
- (b) Briefly explain the reason for cancellation; and
- (c) If appropriate, explain that an opportunity will be given to compete on any resolicitation.

(3) **Disposition of Offers.**

(a) **Prior to Offer Opening.** If the Contracting Agency cancels a Solicitation prior to Offer Opening, the Contracting Agency shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the Contracting Agency shall open the Offer to determine the source and then return it to the Offeror.

(b) **After Offer Opening.** If the Contracting Agency rejects all Offers, the Contracting Agency shall retain all such Offers as part of the Contracting Agency's Solicitation file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.395

**137-049-0280**

**Offer Submissions**

(1) **Offer and Acceptance.** The Bid or Proposal is the Bidder's or Proposer's offer to enter into a Contract.

(a) In competitive Solicitations, the Offer is always a "Firm Offer," i.e., the Offer shall be held open by the Offeror for the Contracting Agency's acceptance for the period specified in Rule 137-049-0410. The Contracting Agency's Award of the Contract to a Bidder constitutes acceptance of the Offer and binds the Offeror to the Contract.

(b) Notwithstanding the fact that a competitive Proposal is a "Firm Offer" for the period specified in Rule 137-049-0410, the Contracting Agency may elect to discuss or negotiate certain contractual provisions, as identified in these rules or in the Solicitation Document with Proposer. See Rule 137-049-0650 on Requests for Proposals and Rule 137-049-0290 on Bid or Proposal Security.

(2) **Responsive Offer.** A Contracting Agency may Award a Contract only to a Responsible Offeror with a Responsive Offer.

(3) **Contingent Offers.** Except to the extent that an Offeror is authorized to propose certain terms and conditions pursuant to Rule 137-049-0650, an Offeror shall not make an Offer contingent upon the Contracting Agency's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.

(4) **Offeror's Acknowledgement.** By signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits proposal of alternative terms under Rule 137-049-0650, the Offeror's Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by the Contracting Agency in Writing.

(5) **Instructions.** An Offeror shall submit and Sign its Offer in accordance with the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.

(6) **Forms.** An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(7) **Documents.** An Offeror shall provide the Contracting Agency with all documents and descriptive literature required under the Solicitation Document.

(8) **Facsimile or Electronic Submissions.** If the Contracting Agency permits facsimile or electronic Offers in the Solicitation Document, the Offeror may submit facsimile or electronic Offers in accordance with the Solicitation Document. The Contracting Agency shall not consider facsimile or electronic Offers unless authorized by the Solicitation Document.

(9) **Product Samples and Descriptive Literature.** A Contracting Agency may require Product Samples or descriptive literature if it is necessary or desirable to evaluate the quality, features or characteristics of the offered items. The Contracting Agency will dispose of Product Samples, or return or make available for return Product Samples to the Offeror in accordance with the Solicitation Document.

**(10) Identification of Offers**

(a) To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by the Contracting Agency, whichever is applicable.

(b) The Contracting Agency is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(11) **Receipt of Offers.** The Offeror is responsible for ensuring that the Contracting Agency receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & ORS 279C.375

**137-049-0290**

**Bid or Proposal Security**

(1) **Security Amount.** If a Contracting Agency requires Bid or Proposal security, it shall be not more than 10% or less than 5% of the Offeror's Bid or Proposal, consisting of the base Bid or Proposal together with all additive alternates. A Contracting Agency shall not use Bid or Proposal security to discourage competition. The Contracting Agency shall clearly state any Bid or Proposal security requirements in its Solicitation Document. The Offeror shall forfeit Bid or Proposal security after Award if the Offeror fails to execute the Contract and promptly return it with any required Performance Bond, Payment Bond and any required proof of insurance. See ORS 279C.365(4) and ORS 279C.385.

(2) **Requirement for Bid Security (Optional for Proposals).** Unless a Contracting Agency has otherwise exempted a Solicitation or class of Solicitations from Bid security pursuant to ORS 279C.390, the Contracting Agency shall require Bid security for its Solicitation of Bids for Public Improvements. This requirement applies only to Public Improvement Contracts with a value, estimated by the Contracting Agency, of more than \$100,000 or, in the case of Contracts for highways, bridges and other transportation projects, more than \$50,000. See ORS 279C.365(5). The Contracting Agency may require Bid security even if it has exempted a class of Solicitations from Bid security. Contracting Agencies may also require Proposal security in RFPs. See ORS 279C.400(5).

(3) **Form of Bid or Proposal Security.** A Contracting Agency may accept only the following forms of Bid or Proposal security:

(a) A surety bond from a surety company authorized to do business in the State of Oregon;

(b) An irrevocable letter of credit issued by an insured institution as defined in ORS 706.008; or

(c) A cashier's check or Offeror's certified check.

(4) **Return of Security.** A Contracting Agency shall return or release the Bid or Proposal security of all unsuccessful Offerors after a Contract has been fully executed and all required bonds and insurance have been provided, or after all Offers have been rejected. The Contracting Agency may return the Bid or

Proposal security of unsuccessful Offerors prior to Award if the return does not prejudice Contract Award and the security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 279C.385 & ORS 279C.390

#### **137-049-0300**

##### **Facsimile Bids and Proposals**

(1) **Contracting Agency Authorization.** A Contracting Agency may authorize Offerors to submit facsimile Offers. If the Contracting Agency determines that Bid or Proposal security is or will be required, the Contracting Agency shall not authorize facsimile Offers unless the Contracting Agency has established a method for receipt of such security. Prior to authorizing the submission of facsimile Offers, the Contracting Agency shall determine that the Contracting Agency's equipment and personnel are capable of receiving the size and volume of anticipated Offers within a short period of time. In addition, the Contracting Agency shall establish administrative procedures and controls:

- (a) To receive, identify, record and safeguard facsimile Offers;
- (b) To ensure timely delivery of Offers to the location of Opening; and
- (c) To preserve the Offers as sealed.

(2) **Provisions to be Included in Solicitation Document.** In addition to all other requirements, if the Contracting Agency authorizes a facsimile Offer for Bids or Proposals, the Contracting Agency shall include in the Solicitation Document (other than in a request for quotes) the following:

- (a) A provision substantially in the form of the following: "A 'facsimile Offer', as used in this Solicitation Document, means an Offer, modification of an Offer, or withdrawal of an Offer that is transmitted to and received by the Contracting Agency via a facsimile machine.";
- (b) A provision substantially in the form of the following: "Offerors may submit facsimile Offers in response to this Solicitation Document. The entire response must arrive at the place and by the time specified in this Solicitation Document.";
- (c) A provision that requires Offerors to Sign their facsimile Offers;
- (d) A provision substantially in the form of the following: "The Contracting Agency reserves the right to Award the Contract solely on the basis of the facsimile Offer. However, upon the Contracting Agency's request the apparent successful Offeror shall promptly submit its complete original Signed Offer.";
- (e) The data and compatibility characteristics of the Contracting Agency's receiving facsimile machine as follows:
  - (A) Telephone number; and
  - (B) Compatibility characteristics, e.g., make and model number, receiving speed, communications protocol; and
- (f) A provision that the Contracting Agency is not responsible for any failure attributable to the transmission or receipt of the facsimile Offer including, but not limited to the following:
  - (A) Receipt of garbled or incomplete documents;
  - (B) Availability or condition of the receiving facsimile machine;
  - (C) Incompatibility between the sending and receiving facsimile machine;
  - (D) Delay in transmission or receipt of documents;
  - (E) Failure of the Offeror to properly identify the Offer documents;
  - (F) Illegibility of Offer documents; and
  - (G) Security and confidentiality of data.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365

#### **137-049-0310**

##### **Electronic Procurement**

(1) **General.** Contracting Agencies may utilize Electronic Advertisement of Public Improvement Contracts in accordance with ORS 279C.360(1) and Rule 137-049-0210(2)(b), provided that advertisement of such Contracts with an estimated Contract Price in excess of \$125,000 must also be published in a trade newspaper of general statewide circulation, and may post notices of intent to Award electronically as provided by ORS 279C.410(7).

(2) **Alternative Procedures.** In the event that a Contracting Agency desires to direct or permit the submission and receipt of Offers for a Public Improvement Contract by electronic means, as allowed under ORS 279C.365(1)(d), it shall first promulgate supporting procedures substantially in conformance with Rule 137-047-0330 (Electronic Procurement under ORS Chapter 279B), taking into account ORS Chapter 279C

requirements for written bids, opening bids publicly, bid security, first-tier subcontractor disclosure and inclusion of prevailing wage rates.

(3) **Interpretation.** Nothing in this rule shall be construed as prohibiting Contracting Agency from making procurement documents for Public Improvement Contracts available in electronic format as well as in hard copy when Bids are to be submitted only in hard copy.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365

#### **137-049-0320**

##### **Pre-Closing Modification or Withdrawal of Offers**

(1) **Modifications.** An Offeror may modify its Offer in Writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Contracting Agency in accordance with Rule 137-049-0280, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

(a) Bid (or Proposal) Modification; and

(b) Solicitation Number (or Other Identification as specified in the Solicitation Document).

##### **(2) Withdrawals**

(a) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an authorized representative of the Offeror, delivered to the location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the Contracting Agency prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in Person prior to the Closing, upon presentation of appropriate identification and satisfactory evidence of authority.

(b) The Contracting Agency may release an unopened Offer withdrawn under subsection 2(a) to the Offeror or its authorized representative, after voiding any date and time stamp mark.

(c) The Offeror shall mark the Written request to withdraw an Offer as follows:

(A) Bid (or Proposal) Withdrawal; and

(B) Solicitation Number (or Other Identification as specified in the Solicitation Document).

(3) **Documentation.** The Contracting Agency shall include all documents relating to the modification or withdrawal of Offers in the appropriate Solicitation file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.360(2), ORS 279C.365, ORS 279C.375 & ORS 279C.395

#### **137-049-0330**

##### **Receipt, Opening and Recording of Offers; Confidentiality of Offers**

(1) **Receipt.** A Contracting Agency shall electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The Contracting Agency shall not open the Offer or modification upon receipt, but shall maintain it as confidential and secure until Opening. If the Contracting Agency inadvertently opens an Offer or a modification prior to the Opening, the Contracting Agency shall return the Offer or modification to its secure and confidential state until Opening. The Contracting Agency shall document the resealing for the Procurement file (e.g. "Contracting Agency inadvertently opened the Offer due to improper identification of the Offer").

(2) **Opening and Recording.** A Contracting Agency shall publicly open Offers including any modifications made to the Offer pursuant to Rule 137-049-0320. In the case of Invitations to Bid, to the extent practicable, the Contracting Agency shall read aloud the name of each Bidder, the Bid price(s), and such other information as the Contracting Agency considers appropriate. In the case of Requests for Proposals or voluminous Bids, if the Solicitation Document so provides, the Contracting Agency will not read Offers aloud.

(3) **Availability.** After Opening, the Contracting Agency shall make Bids available for public inspection, but pursuant to ORS 279C.410 Proposals are not subject to disclosure until after notice of intent to award is issued. In any event Contracting Agencies may withhold from disclosure those portions of an Offer that the Offeror designates as trade secrets or as confidential proprietary data in accordance with applicable law. See ORS 192.501(2); ORS 646.461 to 646.475. To the extent the Contracting Agency determines such designation is not in accordance with applicable law, the Contracting Agency shall make those portions available for public inspection. The Offeror shall separate information designated as confidential from other nonconfidential information at the time of submitting its Offer. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and shall be publicly available regardless of an Offeror's designation to the contrary.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 279C.375 & ORS 279C.395

**137-049-0340****Late Bids, Late Withdrawals and Late Modifications**

Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late. A Contracting Agency shall not consider late Offers, withdrawals or modifications except as permitted in Rules 137-049-0350 or 137-049-0390.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 279C.375 & ORS 279C.395

**137-049-0350****Mistakes**

(1) **Generally.** To protect the integrity of the competitive Procurement process and to assure fair treatment of Offerors, a Contracting Agency should carefully consider whether to permit waiver, correction or withdrawal of Offers for certain mistakes.

(2) **Contracting Agency Treatment of Mistakes.** A Contracting Agency shall not allow an Offeror to correct or withdraw an Offer for an error in judgment. If the Contracting Agency discovers certain mistakes in an Offer after Opening, but before Award of the Contract, the Contracting Agency may take the following action:

(a) A Contracting Agency may waive, or permit an Offeror to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

(A) Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

(B) Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms; or the Addendum involved did not affect price, quality or delivery.

(b) A Contracting Agency may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms the Contracting Agency's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example a missing unit price may be established by dividing the total price for the units by the quantity of units for that item or a missing, or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Offer). In the event of a discrepancy, unit prices shall prevail over extended prices.

(c) A Contracting Agency may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;

(B) That the error is not a minor informality under this subsection or an error in judgment;

(C) That the error cannot be corrected or waived under subsection (b) of this section;

(D) That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;

(E) That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;

(F) That the Offeror will suffer substantial detriment if the Contracting Agency does not grant the Offeror permission to withdraw the Offer;

(G) That the Contracting Agency's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the Contracting Agency or the public it represents; and

(H) That the Offeror promptly gave notice of the claimed error to the Contracting Agency.

(d) The criteria in subsection (2)(c) of this rule shall determine whether a Contracting Agency will permit an Offeror to withdraw its Offer after Closing. These criteria also shall apply to the question of whether a Contracting Agency will permit an Offeror to withdraw its Offer without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to the Contracting Agency based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually awarded by the Contracting Agency, whether by Award to the next lowest Responsive and Responsible Bidder or the best Responsive and Responsible Proposer, or by resort to a new solicitation.

(3) **Rejection for Mistakes.** The Contracting Agency shall reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

(4) **Identification of Mistakes after Award.** The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following Award, an Offeror is bound by its Offer, and may withdraw its Offer or rescind a Contract entered into pursuant to this division 49 only to the extent permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375 & ORS 279C.395

#### **137-049-0360**

##### **First-Tier Subcontractors; Disclosure and Substitution**

(1) **Required Disclosure.** Within two working hours after the Bid Closing on an ITB for a Public Improvement having a Contract Price anticipated by the Contracting Agency to exceed \$100,000, all Bidders shall submit to the Contracting Agency a disclosure form as described by ORS 279C.370(2), identifying any first-tier subcontractors (those Entities that would be contracting directly with the prime contractor) that will be furnishing labor or labor and materials on the Contract, if Awarded, whose subcontract value would be equal to or greater than:

- (a) Five percent of the total Contract Price, but at least \$15,000; or
- (b) \$350,000, regardless of the percentage of the total Contract Price.

(2) **Bid Closing, Disclosure Deadline and Bid Opening.** For each ITB to which this rule applies, the Contracting Agency shall:

- (a) Set the Bid Closing on a Tuesday, Wednesday or Thursday, and at a time between 2 p.m. and 5 p.m., except that these Bid Closing restrictions do not apply to an ITB for maintenance or construction of highways, bridges or other transportation facilities, and provided that the two-hour disclosure deadline described by this rule would not then fall on a legal holiday;
- (b) Open Bids publicly immediately after the Bid Closing; and
- (c) Consider for Contract Award only those Bids for which the required disclosure has been submitted by the announced deadline on forms prescribed by the Contracting Agency.

(3) **Bidder Instructions and Disclosure Form.** For the purposes of this rule, a Contracting Agency in its Solicitation shall:

- (a) Prescribe the disclosure form that must be utilized, substantially in the form set forth in ORS 279C.370(2); and

- (b) Provide instructions in a notice substantially similar to the following:

##### **"Instructions for First-Tier Subcontractor Disclosure"**

Bidders are required to disclose information about certain first-tier subcontractors when the contract value for a Public Improvement is estimated by the Contracting Agency to be greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier subcontractor furnishing labor or labor and materials would be greater than or equal to: (i) 5% of the project Bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract either in its Bid submission, or within two hours after Bid Closing:

- (1) The subcontractor's name,
- (2) The category of Work that the subcontractor would be performing, and
- (3) The dollar value of the subcontract.

If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to indicate "NONE" on the accompanying form.

THE CONTRACTING AGENCY MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE (see Rule 137-049-0360)."

(4) **Submission.** A Bidder shall submit the disclosure form required by this rule either in its Bid submission, or within two Working hours after Bid Closing in the manner specified by the ITB.

(5) **Responsiveness.** Compliance with the disclosure and submittal requirements of ORS 279C.370 and this rule is a matter of Responsiveness. Bids that are submitted by Bid Closing, but for which the disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract Award.

(6) **Contracting Agency Role.** Contracting Agencies shall obtain, and make available for public inspection, the disclosure forms required by ORS 279C.370 and this rule. Contracting Agencies shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. Contracting Agencies are not required to determine the accuracy or completeness of the information provided on disclosure forms.

(7) **Substitution.** Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585. Contracting Agencies shall accept Written submissions filed under that statute as public records. Aside from issues involving inadvertent clerical error under ORS 279C.585, Contracting Agencies

do not have a statutory role or duty to review, approve or resolve disputes concerning such substitutions. See ORS 279C.590 regarding complaints to the Construction Contractors Board on improper substitution.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.370, ORS 279C.585, ORS 279C.590 & ORS 279C.835

### **137-049-0370**

#### **Disqualification of Persons**

(1) **Authority.** A Contracting Agency may disqualify a Person from consideration of Award of the Contracting Agency's Contracts after providing the Person with notice and a reasonable opportunity to be heard in accordance with sections (2) and (4) of this rule.

(a) Standards for Conduct Disqualification. As provided in ORS 279C.440, a Contracting Agency may disqualify a Person for:

(A) Conviction for the commission of a criminal offense as an incident in obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(B) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the Person's responsibility as a contractor.

(C) Conviction under state or federal antitrust statutes.

(D) Violation of a contract provision that is regarded by the Contracting Agency to be so serious as to justify Conduct Disqualification. A violation under this subsection 1(a)(D) may include but is not limited to material failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a Person's failure to perform or unsatisfactory performance caused by acts beyond the Person's control is not a basis for Disqualification.

(b) Standards for DBE Disqualification. As provided in ORS 200.065, 200.075 or 279A.110, a Contracting Agency may disqualify a Person's right to submit an Offer or to participate in a Contract (e.g. subcontractors) as follows:

(A) For a DBE Disqualification under ORS 200.065, the Contracting Agency may disqualify a Person upon finding that:

(i) The Person fraudulently obtained or retained or attempted to obtain or retain or aided another Person to fraudulently obtain or retain or attempt to obtain or retain certification as a disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or a business that a service-disabled veteran owns; or

(ii) The Person knowingly made a false claim that any Person is qualified for certification or is certified under ORS 200.055 for the purpose of gaining a Contract or subcontract or other benefit; or

(iii) The Person has been disqualified by another Contracting Agency pursuant to ORS 200.065.

(B) For a DBE Disqualification under ORS 200.075, the Contracting Agency may disqualify a Person upon finding that:

(i) The Person has entered into an agreement representing that a disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or a business that a service-disabled veteran owns, certified under ORS 200.055 ("Certified Enterprise"), will perform or supply materials under a Public Improvement Contract without the knowledge and consent of the Certified Enterprise; or

(ii) The Person exercises management and decision-making control over the internal operations, as defined by ORS 200.075(1)(b), of any Certified Enterprise; or

(iii) The Person uses a Certified Enterprise to perform services under a contract or to provide supplies under a Public Improvement Contract to meet an established Certified Enterprise goal, and such enterprise does not perform a commercially useful function, as defined by ORS 200.075(3), in performing its obligations under the contract.

(iv) If a Person is Disqualified for a DBE Disqualification under ORS 200.075, the affected Contracting Agency shall not permit such Person to participate in that Contracting Agency's Contracts.

(C) For a DBE Disqualification under ORS 279A.110, a Contracting Agency may disqualify a Person if the Contracting Agency finds that the Person discriminated against a disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or a business that a service-disabled veteran owns in awarding a subcontract under a Contract with that Contracting Agency.

(2) **Notice of Intent to Disqualify.** The Contracting Agency shall notify the Person in Writing of a proposed Disqualification personally or by registered or certified mail, return receipt requested. This notice shall:

(a) State that the Contracting Agency intends to disqualify the Person;

(b) Set forth the reasons for the Disqualification;

(c) Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if the Contracting Agency does not receive the Person's Written request for a hearing within the time stated, the Person shall have waived its right to a hearing;



- (d) Include a statement of the authority and jurisdiction under which the hearing will be held;
  - (e) Include a reference to the particular sections of the statutes and rules involved;
  - (f) State the proposed Disqualification period; and
  - (g) State that the Person may be represented by legal counsel.
- (3) **Hearing.** The Contracting Agency shall schedule a hearing upon the Contracting Agency receipt of the Person's timely hearing request. Within a reasonable time prior to the hearing, the Contracting Agency shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing.
- (4) **Notice of Disqualification.** The Contracting Agency will notify the Person in Writing of its Disqualification, personally or by registered or certified mail, return receipt requested. The notice shall contain:
- (a) The effective date and period of Disqualification;
  - (b) The grounds for Disqualification; and
  - (c) A statement of the Person's appeal rights and applicable appeal deadlines. For a Conduct Disqualification or a DBE Disqualification under ORS 279A.110, the disqualified person must notify the Contracting Agency in Writing within three business Days after receipt of the Contracting Agency's notice of Disqualification if the Person intends to appeal the Contracting Agency's decision.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 200.065, ORS 200.075, ORS 279A.110, ORS 279C.440, ORS 279C.445 & ORS 279C.450

#### **137-049-0380**

##### **Bid or Proposal Evaluation Criteria**

(1) **General.** A Public Improvement Contract, if Awarded, shall be Awarded to the Responsible Bidder submitting the lowest Responsive Bid, or to the Responsible Proposer submitting the best Responsive Proposal. See Rule 137-049-0390, and Rules for Alternative Contracting Methods at Rules 137-049-0600 to 137-049-0690.

(2) **Bid Evaluation Criteria.** Invitations to Bid may solicit lump-sum Offers, unit-price Offers or a combination of the two.

(a) **Lump Sum.** If the ITB requires a lump-sum Bid, without additive or deductive alternates, or if the Contracting Agency elects not to award additive or deductive alternates, Bids shall be compared on the basis of lump-sum prices, or lump-sum base Bid prices, as applicable. If the ITB calls for a lump-sum base Bid, plus additive or deductive alternates, the total Bid price shall be calculated by adding to or deducting from the base Bid those alternates selected by the Contracting Agency, for the purpose of comparing Bids.

(b) **Unit Price.** If the Bid includes unit pricing for estimated quantities, the total Bid price shall be calculated by multiplying the estimated quantities by the unit prices submitted by the Bidder, and adjusting for any additive or deductive alternates selected by the Contracting Agency, for the purpose of comparing Bids. Contracting Agencies shall specify within the Solicitation Document the estimated quantity of the procurement to be used for determination of the low Bidder. In the event of mathematical discrepancies between unit price and any extended price calculations submitted by the Bidder, the unit price shall govern. See Rule 137-049-0350(2)(b).

(3) **Proposal Evaluation Criteria.** If the Contracting Agency's Contract Review Authority has exempted the Procurement of a Public Improvement from the competitive Bidding requirements of ORS 279C.335(1), and has directed the Contracting Agency to use an Alternative Contracting Method under ORS 279C.335(4), the Contracting Agency shall set forth the evaluation criteria in the Solicitation Documents. See Rules 137-049-0650, 137-049-0650, ORS 279C.335 and 279C.405.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335

#### **137-049-0390**

##### **Offer Evaluation and Award; Determination of Responsibility**

(1) **General.** If Awarded, the Contracting Agency shall Award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer or Proposers submitting the best, Responsive Proposal or Proposals, provided that such Person is not listed by the Construction Contractors Board as disqualified to hold a Public Improvement Contract, see ORS 279C.375(3)(a), or is ineligible for Award as a Nonresident (as defined in ORS 279A.120) education service district (ORS 279C.325). The Contracting Agency may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the public interest. Where Award is based on competitive Bids, ORS 279C.375(5) permits multiple Contract awards when specified in the ITB.

**(2) Determination of Responsibility.** Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the Contracting Agency must have information that indicates that the Offeror meets the standards of responsibility set forth in ORS 279C.375(3)(b). To be a Responsible Offeror, the Contracting Agency must determine that the Offeror:

(a) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to meet all contractual responsibilities;

(b) Has completed previous contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that to the extent the costs associated with and time available to perform a previous contract were within the Offeror's control, the Offeror stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. A Contracting Agency should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the Contracting Agency should determine whether the Offeror's deficient performance was expressly excused under the terms of contract, or whether the Offeror took appropriate corrective action. The Contracting Agency may review the Offeror's performance on both private and Public Contracts in determining the Offeror's record of contract performance. The Contracting Agency shall make its basis for determining an Offeror not Responsible under this paragraph part of the Solicitation file;

(c) Has a satisfactory record of integrity. An Offeror may lack integrity if a Contracting Agency determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a Contracting Agency. A Contracting Agency may find an Offeror not Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The standards for Conduct Disqualification under Rule 137-049-0370 may be used to determine an Offeror's integrity. A Contracting Agency may find an Offeror non-responsible based on previous convictions of offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Offeror's performance of a contract or subcontract. The Contracting Agency shall make its basis for determining that an Offeror is not Responsible under this paragraph part of the Solicitation file;

(d) Is legally qualified to contract with the Contracting Agency;

(e) Holds current licenses that businesses or service professionals operating in this state must hold in order to undertake or perform the Work specified in the Contract;

(f) Is covered by liability insurance and other insurance in amounts the Contracting Agency requires in the Solicitation Documents;

(g) Qualifies as a carrier-insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128;

(h) Has made the disclosure required under ORS 279C.370; and

(i) Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Offeror fails to promptly supply information requested by the Contracting Agency concerning responsibility, the Contracting Agency shall base the determination of responsibility upon any available information, or may find the Offeror not Responsible.

**(3) Documenting Agency Determinations.** Contracting Agencies shall document their compliance with ORS 279C.375(3) and the above sections of this rule on a Responsibility Determination Form substantially as set forth in ORS 279.375(3)(c), and file that form with the Construction Contractors Board within 30 days after Contract Award.

**(4) Contracting Agency Evaluation.** The Contracting Agency shall evaluate an Offer only as set forth in the Solicitation Document and in accordance with applicable law. The Contracting Agency shall not evaluate an Offer using any other requirement or criterion.

**(5) Offeror Submissions.**

(a) The Contracting Agency may require an Offeror to submit Product Samples, descriptive literature, technical data, or other material and may also require any of the following prior to Award:

(A) Demonstration, inspection or testing of a product prior to Award for characteristics such as compatibility, quality or workmanship;

(B) Examination of such elements as appearance or finish; or

(C) Other examinations to determine whether the product conforms to Specifications.

(b) The Contracting Agency shall evaluate product acceptability only in accordance with the criteria disclosed in the Solicitation Document to determine that a product is acceptable. The Contracting Agency shall reject an Offer providing any product that does not meet the Solicitation Document requirements. A Contracting Agency's rejection of an Offer because it offers nonconforming Work or materials is not Disqualification and is not appealable under ORS 279C.445.

**(6) Evaluation of Bids.** The Contracting Agency shall use only objective criteria to evaluate Bids as set forth in the ITB. The Contracting Agency shall evaluate Bids to determine which Responsible Offeror offers the lowest Responsive Bid.

- (a) **Nonresident Bidders.** In determining the lowest Responsive Bid, the Contracting Agency shall, in accordance with Rule 137-046-0310, add a percentage increase to the Bid of a nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides.
- (b) **Clarifications.** In evaluating Bids, a Contracting Agency may seek information from a Bidder only to clarify the Bidder's Bid. Such clarification shall not vary, contradict or supplement the Bid. A Bidder must submit Written and Signed clarifications and such clarifications shall become part of the Bidder's Bid.
- (c) **Negotiation Prohibited.** The Contracting Agency shall not negotiate scope of Work or other terms or conditions under an Invitation to Bid process prior to Award.
- (7) **Evaluation of Proposals.** See Rule 137-049-0650 regarding rules applicable to Requests for Proposals.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335, ORS 279C.365, ORS 279C.375 & ORS 279C.395

### **137-049-0395**

#### **Notice of Intent to Award**

- (1) **Notice.** At least seven days before the Award of a Public Improvement Contract, unless the Contracting Agency determines that seven days is impractical and documents its reasons therefore in the procurement file, the Contracting Agency shall issue to each Bidder (pursuant to ORS 279C.375(2)) and each Proposer (pursuant to ORS 279C.410(7)), or post, electronically or otherwise, a notice of the Contracting Agency's intent to Award the Contract. This requirement does not apply to Award of a small (under \$5,000), intermediate (informal competitive quotes) or emergency Public Improvement Contract awarded under ORS 279C.335(1)(c) or (d) or (6).
- (2) **Form and Manner of Posting.** The form and manner of posting notice shall conform to customary practices within the Contracting Agency's procurement system, and may be made electronically.
- (3) **Finalizing Award.** The Contracting Agency's Award shall not be final until the later of the following:
  - (a) Seven Days after the date of the notice, unless the Solicitation Document provided a different period for protest; or
  - (b) The Contracting Agency provides a Written response to all timely-filed protests that denies the protest and affirms the Award.
- (4) **Prior Notice Impractical.** Posting of notice of intent to award shall not be required when the Contracting Agency determines that it is impractical due to unusual time constraints in making prompt Award for its immediate procurement needs, documents the Contract file as to the reason for the determination, and posts notice of that action as soon as reasonably practical.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375

### **137-049-0400**

#### **Documentation of Award; Availability of Award Decisions**

- (1) **Basis of Award.** After Award, the Contracting Agency shall make a record showing the basis for determining the successful Offeror part of the Contracting Agency's Solicitation file.
- (2) **Contents of Award Record for Bids.** The Contracting Agency's record shall include:
  - (a) All submitted Bids;
  - (b) Completed Bid tabulation sheet; and
  - (c) Written justification for any rejection of lower Bids.
- (3) **Contents of Award Record for Proposals.** Where the use of Requests for Proposals is authorized as set forth in Rule 137-049-0650, the Contracting Agency's record shall include:
  - (a) All submitted Proposals.
  - (b) The completed evaluation of the Proposals;
  - (c) Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and
  - (d) If the Contracting Agency permitted negotiations in accordance with Rule 137-049-0650, the Contracting Agency's completed evaluation of the initial Proposals and the Contracting Agency's completed evaluation of final Proposals.
- (4) **Contract Document.** The Contracting Agency shall deliver a fully executed copy of the final Contract to the successful Offeror.
- (5) **Bid Tabulations and Award Summaries.** Upon request of any Person the Contracting Agency shall provide tabulations of Awarded Bids or evaluation summaries of Proposals for a nominal charge which may be payable in advance. Requests must contain the Solicitation Document number and, if requested, be accompanied by a self-addressed, stamped envelope. Contracting Agencies may also provide tabulations

of Bids and Proposals Awarded on designated Web sites or on the Contracting Agency's Electronic Procurement System.

(6) **Availability of Solicitation Files.** The Contracting Agency shall make completed Solicitation files available for public review at the Contracting Agency.

(7) **Copies from Solicitation Files.** Any Person may obtain copies of material from Solicitation files upon payment of a reasonable copying charge.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & ORS 279C.375

#### **137-049-0410**

##### **Time for Contracting Agency Acceptance; Extension**

(1) **Time for Offer Acceptance.** An Offeror's Bid, or Proposal submitted as a Firm Offer (see Rule 137-049-0280), is irrevocable, valid and binding on the Offeror for not less than 30 Days from Closing unless otherwise specified in the Solicitation Document.

(2) **Extension of Acceptance Time.** A Contracting Agency may request, orally or in Writing, that Offerors extend, in Writing, the time during which the Contracting Agency may consider and accept their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375

#### **137-049-0420**

##### **Negotiation With Bidders Prohibited**

(1) **Bids.** Except as permitted by ORS 279C.340 and Rule 137-049-0430 when all bids exceed the cost estimate, a Contracting Agency shall not negotiate with any Bidder prior to Contract Award. After Award of the Contract, the Contracting Agency and Contractor may modify the Contract only by change order or amendment to the Contract in accordance with Rule 137-049-0910.

(2) **Requests for Proposals.** A Contracting Agency may conduct discussions or negotiations with Proposers only in accordance with the requirements of Rule 137-049-0650.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.340 & ORS 279C.375

#### **137-049-0430**

##### **Negotiation When Bids Exceed Cost Estimate**

(1) **Generally.** In accordance with ORS 279C.340, if all Responsive Bids from Responsible Bidders on a competitively Bid Project exceed the Contracting Agency's Cost Estimate, prior to Contract Award the Contracting Agency may negotiate Value Engineering and Other Options with the Responsible Bidder submitting the lowest, Responsive Bid in an attempt to bring the Project within the Contracting Agency's Cost Estimate. The subcontractor disclosure and substitution requirements of Rule 137-049-0360 do not apply to negotiations under this rule.

(2) **Definitions.** The following definitions apply to this administrative rule:

(a) **"Cost Estimate"** means the Contracting Agency's most recent pre-Bid, good faith assessment of anticipated Contract costs, consisting either of an estimate of an architect, engineer or other qualified professional, or confidential cost calculation Worksheets, where available, and otherwise consisting of formal planning or budgetary documents.

(b) **"Other Options"** means those items generally considered appropriate for negotiation in the RFP process, relating to the details of Contract performance as specified in Rule 137-049-0650, but excluding any material requirements previously announced in the Solicitation process that would likely affect the field of competition.

(c) **"Project"** means a Public Improvement.

(d) **"Value Engineering"** means the identification of alternative methods, materials or systems which provide for comparable function at reduced initial or life-time cost. It includes proposed changes to the plans, Specifications, or other Contract requirements which may be made, consistent with industry practice, under the original Contract by mutual agreement in order to take advantage of potential cost savings without impairing the essential functions or characteristics of the Public Improvement. Cost savings include those resulting from life cycle costing, which may either increase or decrease absolute costs over varying time periods.

(3) **Rejection of Bids.** In determining whether all Responsive Bids from Responsible Bidders exceed the Cost Estimate, only those Bids that have been formally rejected, or Bids from Bidders who have been formally disqualified by the Contracting Agency, shall be excluded from consideration.

(4) **Scope of Negotiations.** Contracting Agencies shall not proceed with Contract Award if the scope of the Project is significantly changed from the original Bid. The scope is considered to have been significantly changed if the pool of competition would likely have been affected by the change; that is, if other Bidders would have been expected by the Contracting Agency to participate in the Bidding process had the change been made during the Solicitation process rather than during negotiation. This rule shall not be construed to prohibit resolicitation of trade subcontracts.

(5) **Discontinuing Negotiations.** The Contracting Agency may discontinue negotiations at any time, and shall do so if it appears to the Contracting Agency that the apparent low Bidder is not negotiating in good faith or fails to share cost and pricing information upon request. Failure to rebid any portion of the project, or to obtain subcontractor pricing information upon request, shall be considered a lack of good faith.

(6) **Limitation.** Negotiations may be undertaken only with the lowest Responsive, Responsible Bidder pursuant to ORS 279C.340. That statute does not provide any additional authority to further negotiate with Bidders next in line for Contract Award.

(7) **Public Records.** To the extent that a Bidder's records used in Contract negotiations under ORS 279C.340 are public records, they are exempt from disclosure until after the negotiated Contract has been awarded or the negotiation process has been terminated, at which time they are subject to disclosure pursuant to the provisions of the Oregon Public Records Law, ORS 192.410 to 192.505.

Stat. Auth.: ORS 279C.340 & ORS 279A.065

Stats. Implemented: ORS 279C.340

#### **137-049-0440**

##### **Rejection of Offers**

###### **(1) Rejection of an Offer.**

(a) A Contracting Agency may reject any Offer upon finding that to accept the Offer may impair the integrity of the Procurement process or that rejecting the Offer is in the public interest.

(b) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offer:

(A) Is contingent upon the Contracting Agency's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

(B) Takes exception to terms and conditions (including Specifications);

(C) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;

(D) Offers Work or goods that fail to meet the Specifications of the Solicitation Document;

(E) Is late;

(F) Is not in substantial compliance with the Solicitation Documents;

(G) Is not in substantial compliance with all prescribed public Solicitation procedures.

(c) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offeror:

(A) Has not been prequalified under ORS 279C.430 and the Contracting Agency required mandatory prequalification;

(B) Has been Disqualified;

(C) Has been declared ineligible under ORS 279C.860 by the Commissioner of Bureau of Labor and Industries and the Contract is for a Public Work;

(D) Is listed as not qualified by the Construction Contractors Bd, if the Contract is for a Public Improvement;

(E) Has not met the requirements of ORS 279A.105 if required by the Solicitation Document;

(F) Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;

(G) Has failed to provide the certification required under section 3 of this rule;

(H) Is not Responsible. See Rule 137-049-0390(2) regarding Contracting Agency determination that the Offeror has met statutory standards of responsibility.

(2) **Form of Business.** For purposes of this rule, the Contracting Agency may investigate any Person submitting an Offer. The investigation may include that Person's officers, Directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this rule or to apply the Disqualification provisions of ORS 279C.440 to 279C.450 and Rule 137-049-0370.

(3) **Certification of Non-Discrimination.** The Offeror shall certify and deliver to the Contracting Agency Written certification, as part of the Offer that the Offeror has not discriminated and will not discriminate against any disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or business that a service-disabled veteran owns in obtaining any required subcontracts. Failure to do so shall be grounds for disqualification.

(4) **Notice.** Contracting Agency need not provide an Offeror with any notice in the event that its Offer is rejected. However, Contracting Agency will provide all Offerors with a Notice of Intent to Award, as required, pursuant to Rule 137-047-1610.

(5) **Rejection of all Offers.** A Contracting Agency may reject all Offers for good cause upon the Contracting Agency's Written finding it is in the public interest to do so. The Contracting Agency shall notify all Offerors of the rejection of all Offers, along with the good cause justification and finding.

(6) **Criteria for Rejection of All Offers.** The Contracting Agency may reject all Offers upon a Written finding that:

- (a) The content of or an error in the Solicitation Document, or the Solicitation process unnecessarily restricted competition for the Contract;
- (b) The price, quality or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;
- (c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;
- (d) Causes other than legitimate market forces threaten the integrity of the competitive Procurement process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct and inadvertent or intentional errors in the Solicitation Document;
- (e) The Contracting Agency cancels the Solicitation in accordance with Rule 137-049-0270; or
- (f) Any other circumstance indicating that Awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.105, ORS 279A.110, ORS 279C.375, ORS 279C.380 & ORS 279C.395,

#### **137-049-0450**

##### **Protest of Contractor Selection, Contract Award**

(1) **Purpose.** An adversely affected or aggrieved Offeror must exhaust all avenues of administrative review and relief before seeking judicial review of the Contracting Agency's Contractor selection or Contract Award decision. These administrative remedies apply to all public contracts awarded by Contracting Agency, including those awarded pursuant to an intermediate procurement.

(2) **Notice of Competitive Range.** Unless otherwise provided in the RFP, under Rule 137-049-0650, the Contracting Agency shall provide Written notice to all Proposers of the Contracting Agency's determination of the Proposers included in the Competitive Range. The Contracting Agency's notice of the Proposers included in the Competitive Range shall not be final until the later of the following:

- (a) Seven (7) Days after the date of the notice, unless otherwise provided therein; or
- (b) Until the Contracting Agency provides a Written response to all timely-filed protests that denies the protest and affirms the notice of the Proposers included in the Competitive Range.

(3) **Notice of Intent to Award.** The Contracting Agency shall provide Written notice to all Offerors of the Contracting Agency's intent to Award the Contract, as provided in Rule 137-049-0395.

##### **(4) Right to Protest Award.**

(a) To protest an Award, an adversely affected or aggrieved Offeror must submit to the Contracting Agency a Written protest within seven (7) Days after issuance of the notice of intent to Award the Contract, or Award of a Contract, whichever occurs first, unless a different protest period is provided under the Solicitation Document.

(b) The Offeror's protest must be in Writing and must specify the grounds upon which the protest is based.

(c) An Offeror is adversely affected or aggrieved only if the Offeror is eligible for Award of the Contract as the Responsible Bidder submitting the lowest Responsive Bid or the Responsible Proposer submitting the best Responsive Proposal and is next in line for Award, i.e., the protesting Offeror must claim that all lower Bidders or higher-scored Proposers are ineligible for Award:

- (A) Because their Offers were nonresponsive; or
- (B) The Contracting Agency committed a substantial violation of a provision in the Solicitation Document or of an applicable Procurement statute or administrative rule, and the protesting Offeror was unfairly evaluated and would have, but for such substantial violation, been the Responsible Bidder offering the lowest Bid or the Responsible Proposer offering the highest-ranked Proposal.

(d) The Contracting Agency shall not consider a protest submitted after the time period established in this rule or such different period as may be provided in the Solicitation Document. A Proposer may not protest a Contracting Agency's decision not to increase the size of the Competitive Range above the size of the Competitive Range set forth in the RFP.

##### **(5) Right to Protest Competitive Range.**

(a) An adversely affected or aggrieved Proposer may submit to the Contracting Agency a Written protest of the Contracting Agency's decision to exclude the Proposer from the Competitive Range within seven Days

after issuance of the notice of the Competitive Range, unless a different protest period is provided under the Solicitation Document. (See procedural requirements for the use of RFPs at Rule 137-049-0650.)

(b) The Proposer's protest shall be in Writing and must specify the grounds upon which the protest is based.

(c) A Proposer is adversely affected only if the Proposer is responsible and submitted a Responsive Proposal and is eligible for inclusion in the Competitive Range, i.e., the protesting Proposer must claim it is eligible for inclusion in the Competitive Range if all ineligible higher-scoring Proposers are removed from consideration, and that those ineligible Proposers are ineligible for inclusion in the Competitive Range because:

(A) Their Proposals were not responsive; or

(B) The Contracting Agency committed a substantial violation of a provision in the RFP or of an applicable Procurement statute or administrative rule, and the protesting Proposer was unfairly evaluated and would have, but for such substantial violation, been included in the Competitive Range.

(d) The Contracting Agency shall not consider a protest submitted after the time period established in this rule or such different period as may be provided in the Solicitation Document. A Proposer may not protest a Contracting Agency's decision not to increase the size of the Competitive Range above the size of the Competitive Range set forth in the RFP.

(6) **Authority to Resolve Protests.** The head of the Contracting Agency, or such Person's designee, may settle or resolve a Written protest submitted in accordance with the requirements of this rule.

(7) **Decision.** If a protest is not settled, the head of the Contracting Agency, or such Person's designee, shall promptly issue a Written decision on the protest. Judicial review of this decision will be available if provided by statute.

(8) **Award.** The successful Offeror shall promptly execute the Contract after the Award is final. The Contracting Agency shall execute the Contract only after it has obtained all applicable required documents and approvals.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, ORS 279C.380, ORS 279C.385 & ORS 279C.460

#### **137-049-0460**

##### **Performance and Payment Security; Waiver**

(1) **Public Improvement Contracts.** Unless the required performance bond is waived under ORS 279C.380(1)(a), excused in cases of emergency under ORS 279C.380(4), or unless the Contracting Agency's Contract Review Authority exempts a Contract or classes of contracts from the required performance bond and payment bond pursuant to ORS 279C.390, the Contractor shall execute and deliver to the Contracting Agency a performance bond and a payment bond each in a sum equal to the Contract Price for all Public Improvement Contracts. This requirement applies only to Public Improvement Contracts with a value, estimated by the Contracting Agency, of more than \$100,000 or, in the case of Contracts for highways, bridges and other transportation projects, more than \$50,000. See ORS 279C.380(5). Under ORS 279C.390(3)(b) the Director of the Oregon Department of Transportation may reduce the performance bond amount for contracts financed from the proceeds of bonds issued under ORS 367.620(3)(a). Also see Rule 137-049-0815 and BOLI rules at OAR 839-025-0015 regarding the separate requirement for a Public Works bond.

(2) **Other Construction Contracts.** A Contracting Agency may require performance security for other construction Contracts that are not Public Improvement Contracts. Such requirements shall be expressly set forth in the Solicitation Document.

(3) **Requirement for Surety Bond.** The Contracting Agency shall accept only a performance bond furnished by a surety company authorized to do business in Oregon unless otherwise specified in the Solicitation Document (i.e., the Contracting Agency may accept a cashier's check or certified check in lieu or all or a portion of the required performance bond if specified in the Solicitation Document). The payment bond must be furnished by a surety company authorized to do business in Oregon, and in an amount equal to the full contract price.

(4) **Time for Submission.** The apparent successful Offeror must promptly furnish the required performance security upon the Contracting Agency's request. If the Offeror fails to furnish the performance security as requested, the Contracting Agency may reject the Offer and Award the Contract to the Responsible Bidder with the next lowest Responsive Bid or the Responsible Proposer with the next highest-scoring Responsive Proposal, and, at the Contracting Agency's discretion, the Offeror shall forfeit its Bid or Proposal security.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, ORS 279C.380 & ORS 279C.390

**137-049-0470****Substitute Contractor**

If the Contractor provided a performance bond, the Contracting Agency, in its sole discretion, may afford the Contractor's surety the opportunity to provide a substitute contractor to complete performance of the Contract. A substitute contractor shall perform all remaining Contract Work and comply with all terms and conditions of the Contract, including the provisions of the performance bond and the payment bond. Such substitute performance does not involve the Award of a new Contract and shall not be subject to the competitive Procurement provisions of ORS Chapter 279C.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 279C.370, ORS 279C.375, ORS 279C.380 & ORS 279C.390

**137-049-0490****Foreign Contractor**

If the Contract Price exceeds \$10,000 and the Contractor is a Foreign Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be

forwarded to the Contracting Agency. The Contracting Agency Awarding the Contract shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.120

**ALTERNATIVE CONTRACTING METHODS****137-049-0600****Purpose**

Rules 137-049-0600 to 137-049-0690 are intended to provide guidance to Contracting Agencies regarding the use of Alternative Contracting Methods for Public Improvement Contracts, as may be directed by a Contracting Agency's Contract Review Authority under ORS 279C.335. Alternative Contracting Methods include, but are not limited to, Design-Build, Energy Savings Performance Contract (ESPC) and Construction Manager/General Contractor (CM/GC) forms of contracting. To the extent any such Alternative Contracting Methods (with the exception of CM/GC) are utilized within the competitive bidding process set forth at ORS 279C.335(1), Rules 137-049-0600 to 137-049-0690 are advisory only and need not be followed.

Stat. Auth.: ORS 279C.335, ORS 279A.065 & ORS 351.086

Stats. Implemented: ORS 279C.335, ORS 279C.337, ORS 279A.065 & ORS 351.086

**137-049-0610****Definitions for Alternative Contracting Methods**

The following definitions shall apply to these 137-049-0600 to 137-049-0690 rules, unless the context requires otherwise:

(1) "**Alternative Contracting Methods**" means innovative Procurement techniques for procuring or performing Public Improvement Contracts, utilizing processes other than the traditional method of Design-Bid-Build (with Award based solely on price, in which a final design is issued with formal Bid documents, construction services are obtained by sealed Bid Awarded to the lowest Responsive, Responsible Bidder, and the project is built in accordance with those documents). In industry practice, such methods commonly include variations of Design-Build contracting and CM/GC forms of contracting, which are specifically addressed in these 137-049-0600 to 137-049-0690 rules, as well as other developing techniques such as general "performance contracting" and "cost plus time" contracting (as more particularly described in ORS 279C.332(3)(b)(D)(iii)(I)) and "qualifications plus project approach" contracting (as more particularly described in ORS 279C.332(3)(b)(D)(iii)(II)). Procedural requirements are identified under these 137-049-0600 to 137-049-0690 rules, when a Contracting Agency uses an Alternative Contracting Method in a procurement that requires an exemption from competitive bidding under ORS 279C.335(2) or in an ESPC procurement that is excepted from competitive bidding under ORS 279.335(1).

(2) "**Construction Manager/General Contractor (or "CM/GC")**" has the meaning set forth in ORS 279C.332(2).



(3) **"Construction Manager/General Contractor Method (or "CM/GC Method)"** means the Alternative Method which involves a Contracting Agency's selection of a CM/GC to perform CM/GC Services for a project or projects.

(4) **"Construction Manager/General Contractor Services (or CM/GC Services)"** has the meaning set forth in ORS 279C.332(3).

(5) **"Design-Build"** means a form of Procurement that results in a Public Improvement Contract in which the construction Contractor also provides or obtains specified design services, participates on the project team with the Contracting Agency, and manages both design and construction. In this form of Contract, a single Person provides the Contracting Agency with all of the Personal Services and construction Work necessary to both design and construct the project.

(6) **"Guaranteed Maximum Price (or "GMP")"** has the meaning set forth in ORS 279C.332(4), pertaining to procurements for CM/GC Services. For Alternative Contracting Methods other than the CM/GC Method, "Guaranteed Maximum Price" (or "GMP") means the total maximum price provided to the Contracting Agency by the Contractor and accepted by the Contracting Agency that includes all reimbursable costs and fees for completion of the Contract Work and any particularly identified contingency amounts, as defined by the Public Improvement Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.332, ORS 279C.335 & ORS 279A.065

#### **137-049-0620**

##### **Use of Alternative Contracting Methods**

(1) **Competitive Bidding Exemptions.** ORS Chapter 279C requires a competitive Bidding process for Public Improvement Contracts unless a statutory exception applies, a class of Contracts has been exempted or an individual Contract has been exempted in accordance with ORS 279C.335 and any applicable Contracting Agency rules. Use of Alternative Contracting Methods may be directed by a Contracting Agency's Contract Review Authority as an exception to the prescribed Public Contracting practices in Oregon, and their use must be justified in accordance with the Code and these 137-049-0600 to 137-049-0690 rules. See Rule 137-049-0630 regarding required Findings and restrictions on class exemptions. Contracting Agency's Contract Review Authority has duly adopted class exemptions for the use of Requests for Proposals (RFP) and ESPC forms of contracting and authorized Contracting Agency to approve use of these alternative solicitation and contracting methods in accordance with Rules 137-049-0600 to 137-049-0690, as applicable.

(2) **Post-Project Evaluation.** Per ORS 279C.355 the Contracting Agency shall prepare a formal post-project evaluation of Public Improvement projects in excess of \$100,000 for which the competitive Bidding process was not used. The purpose of this evaluation is to determine whether it was actually in the Contracting Agency's best interest to use an Alternative Contracting Method. The evaluation must be delivered to the Contracting Agency's Contract Review Authority within 30 Days of the date the Contracting Agency "accepts" the Public Improvement project, as defined in the Contract. In the absence of such definition, acceptance of the Project occurs on the later of the date of final payment or the date of final completion of the Work. The evaluation shall address:

(a) Financial information, consisting of cost estimates, any Guaranteed Maximum Price, changes and actual costs;

(b) A narrative description of successes and failures during design, engineering and construction; and

(c) An objective assessment of the use of the Alternative Contracting Method as compared to the exemption Findings.

Stat. Auth.: ORS 279C.335 & ORS 279A.065

Stats. Implemented: ORS 279C.335, ORS 279A.065, ORS 279C.355 & ORS 351.086

#### **137-049-0630**

##### **Findings, Notice and Hearing**

(1) **"Cost Savings" and Other Substantial Benefits Factors.** When Findings are required under ORS 279C.335(2)(b) to exempt a Contract or class of Contracts from the competitive bidding requirements, the "substantial cost savings and other substantial benefits" criterion at 279C.335(2)(b) requires consideration of the type, cost and amount of the Contract and, to the extent applicable, the other factors set forth in 279C.335(2)(b). If a particular factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts, the local contract review board need not consider nor address that factor.

(2) **Required Information.** The statutory definition of "Findings" at ORS 279C.330(2), which applies to exemptions from competitive bidding under ORS 279C.335, means the justification for a Contracting

Agency's conclusion regarding the factors listed in both ORS 279C.335(2)(a) and either 279C.335(2)(b) or 279C.335(2)(c).

**(3) Addressing Cost Savings.** Accordingly, when the Contract or class of Contracts under consideration for an exemption contemplates the use of Alternative Contracting Methods, the "substantial cost savings and other substantial benefits" requirement may be addressed by a combination of:

(a) Specified Findings that address the factors and other information specifically identified by statute, including, but not limited to, an analysis or reasonable forecast of present and future cost savings and other substantial benefits; and

(b) Additional Findings that address industry practices, surveys, trends, past experiences, evaluations of completed projects required by ORS 279C.355 and related information regarding the expected benefits and drawbacks of particular Alternative Contracting Methods. To the extent practicable, such Findings shall relate back to the specific characteristics of the project or projects at issue in the exemption request.

(c) As an alternative to the "substantial cost savings and other substantial benefits" requirement in ORS 279C.335(2)(b), if an Alternative Contracting Method has not been previously used, Contracting Agency may make a Finding that identifies the project as a "pilot project" under ORS 279C.335(2)(c).

**(4) Favoritism and Competition.** The criteria at ORS 279C.335(2)(a) that the exemption "is unlikely to encourage favoritism" or "substantially diminish competition" may be addressed for Alternative Contracting Methods by specifying: (a) the manner in which an RFP process will be utilized; (b) that the Procurement will be formally advertised with public notice and disclosure of the planned Alternative Contracting Method; (c) that competition will be encouraged; and (d) that Award will be made based upon identified selection criteria and an opportunity to protest that Award provided.

**(5) Class Exemptions.** In making the findings supporting a class exemption the Contracting Agency shall clearly identify the "class" with respect to its defining characteristics, pursuant to the requirements of ORS 279.335(3). Those characteristics shall include some combination of Project descriptions or locations, time periods, contract values, method of procurement, or other factors that distinguish the limited and related class of Projects from a Contracting Agency's overall construction program. The Contracting Agency may not identify a class solely by funding source, such as a particular bond fund, or by the method of procurement, but shall identify the class using characteristics that reasonably relate to the exemption criteria of ORS 279C.335(2).

**(6) Public Hearing.** Before final adoption of Findings exempting a Public Improvement Contract or class of Contracts from the requirement of competitive bidding, a Contracting Agency shall give notice and hold a public hearing as required by ORS 279C.335(4). The hearing shall be for the purpose of receiving public comment on the Contracting Agency's draft Findings.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335 & ORS 279A.065

### **137-049-0640**

#### **General Alternative Bidding Procedures**

**(1) Proposal Evaluation.** Factors in addition to price may be considered in the selection process, but only as set forth in the RFP. Proposal evaluation shall be as objective as possible. Evaluation factors need not be precise predictors of future costs and performance, but to the extent possible such evaluation factors shall:

(a) Be reasonable estimates based on information available to the Contracting Agency;

(b) Treat all Proposals equitably; and

(c) Recognize that public policy requires that Public Improvements be constructed at the least overall cost to the Contracting Agency. See ORS 279C.305.

#### **(2) Evaluation Factors.**

(a) In basic negotiated construction contracting, where the only reason for an RFP is to consider factors other than price, those factors may consist of firm and personnel experience on similar projects, adequacy of equipment and physical plant, sources of supply, availability of key personnel, financial capacity, past performance, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service, and related matters that affect cost or quality.

(b) In CM/GC contracting, in addition to (a) above, those factors may also include any factors required by ORS 279C.337 and OAR 137-049-0690.

(c) In Design-Build contracting, in addition to (a) and (b) above, those factors may also include design professional qualifications, specialized experience, preliminary design submittals, technical merit, design-builder team experience and related matters that affect cost or quality.

**(3) Contract Negotiations.** Contract terms may be negotiated to the extent allowed by the RFP and Rules 137-049-0600 to 137-049-0690, provided that the general Work scope remains the same and that the field of competition does not change as a result of material changes to the requirements stated in the Solicitation Document. See Rule 137-049-0650. Terms that may be negotiated consist of details of Contract

performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters that affect cost or quality.

Stat. Auth.: ORS 279C.335 & ORS 279A.065

Stats. implemented: ORS 279C.335, ORS 279A.065 & ORS 351.086

### **137-049-0650**

#### **Requests for Proposals (RFP)**

##### **(1) Generally.**

(a) Contracting Agency may utilize the following RFP process for public improvement contracts to allow flexibility in both proposal evaluation and contract negotiation, subject to ORS 279C.400 to 279C.410, Rules 137-049-0200 to 137-049-0480, and 137-049-0640 to 137-049-0660, unless other applicable statutes or rules control a Contracting Agency's use of competitive proposals for public improvement contracts.

(b) Contracting Agency may issue a request for information, a request for interest, a request for qualifications or other preliminary documents to obtain information useful in the preparation or distribution of a Request for Proposals. ORS 279C.410(9).

**(2) Solicitation Documents.** In addition to the Solicitation Document requirements of Rule 137-049-0200, Public Improvement Contract Requests for Proposals shall include:

(a) Whether Contracting Agency reserves the right to Award to and Contract with more than one Proposer.

(b) All evaluation factors that will be considered by the Contracting Agency when evaluating the proposals, including the relative importance of price and any other evaluation factors. Evaluation factors may include, but are not limited to, such considerations as price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references and warranty provisions.

(c) The method of contractor selection, which may include, but is not limited to, Award without negotiation, negotiation with the highest ranked Proposer, competitive negotiations, multiple-tiered competition designed to either identify a class of Proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower ranked Proposers, or any combination of these methods;

(d) All required contractual terms and conditions. The Request for Proposals also may: (i) identify those contractual terms or conditions that Contracting Agency reserves, in the Request for Proposals, for negotiation with Proposers; (ii) request that Proposers propose contractual terms and conditions that relate to subject matter reasonably identified in the Request for Proposals; and (iii) contain or incorporate the form and content of the contract that the Contracting Agency will accept, or suggested contract terms and conditions that nevertheless may be the subject of negotiations with Proposers.

##### **(3) Evaluation of Proposals.**

(a) Evaluation. The Contracting Agency shall evaluate Proposals only in accordance with criteria set forth in the RFP and applicable law. The Contracting Agency shall evaluate Proposals to determine the Responsible Proposer or Proposers submitting the best Responsive Proposal or Proposals.

(A) Clarifications. In evaluating Proposals, a Contracting Agency may seek information from a Proposer to clarify the Proposer's Proposal. A Proposer must submit Written and Signed clarifications and such clarifications shall become part of the Proposer's Proposal.

(B) Limited Negotiation. If the Contracting Agency did not permit negotiation in its Request for Proposals, the Contracting Agency may, nonetheless, negotiate with the highest-ranked Proposer, but may then only negotiate the:

(i) Statement of Work; and

(ii) Contract Price as it is affected by negotiating the statement of Work.

(iii) The process outlined in subsections (5)(b) and (6) of this rule do not apply to this limited negotiation.

(b) Discussions; Negotiations. The Contracting Agency shall evaluate Proposals and, if applicable, establish the Competitive Range, before conducting discussions or negotiations in accordance with this rule.

(A) If the Solicitation Document provided that discussions or negotiations may occur at Contracting Agency's discretion, the Contracting Agency may forego discussions and negotiations and evaluate all Proposals in accordance with this rule.

(B) If the Contracting Agency proceeds with discussions or negotiations, the Contracting Agency may establish a negotiation committee which may include members with legal, technical or negotiating expertise.

(c) Cancellation/Rejection. Cancellation of the Solicitation or rejection of proposals shall be in accordance with ORS 279C.395.

##### **(4) Competitive Range; Protest; Award.**

###### **(a) Determining Competitive Range.**

(A) If the Contracting Agency does not cancel the Solicitation, after the Opening the Contracting Agency will evaluate all Proposals in accordance with the evaluation criteria set forth in the Request for Proposals and rank the Proposers in the Competitive Range.

(B) The Contracting Agency may increase the number of Proposers in the Competitive Range if the Contracting Agency's evaluation of Proposals establishes a natural break in the scores of Proposers indicating that a number of Proposers greater than the initial Competitive Range are closely competitive, or have a reasonable chance of being determined the best Proposer after the Contracting Agency's evaluation of revised Proposals submitted in accordance with the process described in this rule.

(b) Notice/Protests. Notice of Competitive Range and Award, and associated protest rights will be as established in Rule 137-049-0450.

(c) After the protest period provided in accordance with Rule 137-049-0450 expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency may commence final Contract negotiations with the highest-ranked Proposer in the Competitive Range; or engage in discussions with Proposers in the Competitive Range and accept revised Proposals from them, and, following such discussions and receipt and evaluation of revised Proposals, conduct negotiations with the Proposers in the Competitive Range.

(5) **Discussions; Revised Proposals**. If the Contracting Agency chooses to enter into discussions with and receive revised Proposals from the Proposers in the Competitive Range, the Contracting Agency shall proceed as follows:

(a) Initiating Discussions. The Contracting Agency shall initiate oral or Written discussions with all of the Proposers in the Competitive Range regarding their Proposals with respect to the provisions of the RFP that the Contracting Agency identified in the RFP as the subject of discussions. The Contracting Agency may conduct discussions for the following purposes:

(A) Informing Proposers of deficiencies in their initial Proposals;

(B) Notifying Proposers of parts of their Proposals for which the Contracting Agency would like additional information; and

(C) Otherwise allowing Proposers to develop revised Proposals that will allow the Contracting Agency to obtain the best Proposal based on the requirements and evaluation criteria set forth in the Request for Proposals.

(b) Conducting Discussions. The Contracting Agency may conduct discussions with each Proposer in the Competitive Range necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions with each Proposer. The Contracting Agency may terminate discussions with any Proposer in the Competitive Range at any time. However, the Contracting Agency shall offer all Proposers in the Competitive Range the opportunity to discuss their Proposals with Contracting Agency before the Contracting Agency notifies Proposers of the date and time pursuant to this section that revised Proposals will be due.

(A) In conducting discussions, the Contracting Agency:

(i) Shall treat all Proposers fairly and shall not favor any Proposer over another;

(ii) Shall not discuss other Proposers' Proposals;

(iii) Shall not suggest specific revisions that a Proposer should make to its Proposal, and shall not otherwise direct the Proposer to make any specific revisions to its Proposal.

(B) At any time during the time allowed for discussions, the Contracting Agency may:

(i) Continue discussions with a particular Proposer;

(ii) Terminate discussions with a particular Proposer and continue discussions with other Proposers in the Competitive Range; or

(iii) Conclude discussions with all remaining Proposers in the Competitive Range and provide notice to the Proposers in the Competitive Range to submit revised Proposals.

(c) Revised Proposals. If the Contracting Agency does not cancel the Solicitation at the conclusion of the Contracting Agency's discussions with all remaining Proposers in the Competitive Range, the Contracting Agency shall give all remaining Proposers in the Competitive Range notice of the date and time by which they must submit revised Proposals. This notice constitutes the Contracting Agency's termination of discussions, and Proposers must submit revised Proposals by the date and time set forth in the Contracting Agency's notice.

(A) Upon receipt of the revised Proposals, the Contracting Agency shall score the revised Proposals based upon the evaluation criteria set forth in the Request for Proposals, and rank the revised Proposals based on the Contracting Agency's scoring.

(B) The Contracting Agency may conduct discussions with and accept only one revised Proposal from each Proposer in the Competitive Range unless otherwise set forth in the Request for Proposals.

(d) Intent to Award; Protest. Written notice of intent to Award and associated protest rights are as established in Rule 137-049-0450. After the protest period expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency may commence final Contract negotiations.

(6) **Negotiations**.

(a) Initiating Negotiations. The Contracting Agency may determine to commence negotiations with the highest-ranked Proposer in the Competitive Range following the:

- (A) Initial determination of the Competitive Range; or
- (B) Conclusion of discussions with all Proposers in the Competitive Range and evaluation of revised Proposals.
- (b) Conducting Negotiations.
- (A) Scope. The Contracting Agency may negotiate:
  - (i) The statement of Work;
  - (ii) The Contract Price as it is affected by negotiating the statement of Work; and
  - (iii) Any other terms and conditions reasonably related to those authorized for negotiation in the Request for Proposals.
- (c) Terminating Negotiations. The Contracting Agency may terminate negotiations with any Proposer at any time, if the Contracting Agency reasonably believes that:
  - (A) The Proposer is not discussing or negotiating in good faith; or
  - (B) Further discussions or negotiations with the Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner.
- (d) Continuing Negotiations. If the Contracting Agency terminates negotiations with a Proposer, the Contracting Agency may then commence negotiations with the next highest scoring Proposer in the Competitive Range, and continue the process described in this rule until the Contracting Agency has either:
  - (A) Determined to Award the Contract to the Proposer with whom it is currently negotiating; or
  - (B) Completed at least one round of negotiations with all Proposers in the Competitive Range.
- (7) **Post Project Evaluation.** For projects over \$100,000, Contracting Agency shall complete a post project evaluation in compliance with ORS 279C.355 and Rule 137-049-0620(3).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.400 to ORS 279C.410

#### **137-049-0660**

##### **RFP Pricing Mechanisms**

- (1) A Request for Proposals may result in a lump sum Contract Price, as in the case of competitive Bidding. Alternatively, a cost reimbursement Contract with a GMP or some other maximum price specified in the Contract may be negotiated.
- (2) Economic incentives or disincentives may be included to reflect stated Contracting Agency purposes related to time of completion, safety or other Public Contracting objectives, including total least cost mechanisms such as life cycle costing.
- (3) A Guaranteed Maximum Price (GMP) *may be* used as the pricing mechanism for CM/GC where a total Contract Price is provided in the design phase in order to assist the Contracting Agency in determining whether the project scope is within the Contracting Agency's budget, and allowing for design changes during preliminary design rather than after final design Work has been completed.
  - (a) If this collaborative process is successful, the Contractor shall propose a final GMP, which may be accepted by the Contracting Agency and included within the Contract.
  - (b) If this collaborative process is not successful, and no mutually agreeable resolution on GMP can be achieved with the Contractor, then the Contracting Agency shall terminate the Contract. The public Contracting Agency may then proceed to negotiate a new Contract (and GMP) with the firm that was next ranked in the original selection process, or employ other means for continuing the project under ORS Chapter 279C.
- (4) When cost reimbursement Contracts are utilized, regardless of whether a GMP is included, the Contracting Agency shall provide for audit controls that will effectively verify rates and ensure that costs are reasonable, allowable and properly allocated.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335

#### **137-049-0670**

##### **Design-Build Contracts**

- (1) **General.** The Design-Build form of contracting, as defined in Rule 137-049-0610(3), has technical complexities that are not readily apparent. Contracting Agencies shall use this contracting method only with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to use the Design-Build process, the Contracting Agency must be able to reasonably anticipate the following types of benefits:
  - (a) Obtaining, through a Design-Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control and required documentation as a fully integrated function with a single point of responsibility;

- (b) Integrating value engineering suggestions into the design phase, as the construction Contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing Contract changes;
- (c) Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction Contractors building from designs in which they have had no opportunity for input, with the potential of reducing Contract claims;
- (d) Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance Work) commences prior to completion of a "Biddable" design, or where a design solution is still required (as in complex or phased projects); or
- (e) Obtaining innovative design solutions through the collaboration of the Contractor and design team, which would not otherwise be possible if the Contractor had not yet been selected.
- (2) **Authority.** Contracting Agencies shall utilize the Design-Build form of contracting only in accordance with the requirements of these 137-049-0600 to 137-049-0690 rules. See particularly Rule 137-049-0620 on "Use of Alternative Contracting Methods" and Rule 137-049-0680 pertaining to ESPCs.
- (3) **Selection.** Design-Build selection criteria may include those factors set forth above in Rule 137-049-0640(2)(a), (b) and (c).
- (4) **QBS Inapplicable.** Because the value of construction services predominates the Design-Build form of contracting, the qualifications based selection (QBS) process mandated by ORS 279C.110 for State Contracting Agencies in obtaining certain consultant services is not applicable.
- (5) **Licensing.** If a Design-Build Contractor is not an Oregon licensed design professional, the Contracting Agency shall require that the Design-Build Contractor disclose in its Written Offer that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction services.
- (6) **Performance Security.** ORS 279C.380(1)(a) provides that for Design-Build Contracts the surety's obligation on performance bonds, or the Bidder's obligation on cashier's or certified checks accepted in lieu thereof, includes the preparation and completion of design and related professional services specified in the Contract. This additional obligation, beyond performance of construction services, extends only to the provision of professional services and related design revisions, corrective Work and associated costs prior to final completion of the Contract (or for such longer time as may be defined in the Contract). The obligation is not intended to be a substitute for professional liability insurance, and does not include errors and omissions or latent defects coverage.
- (7) **Contract Requirements.** Contracting Agencies shall conform their Design-Build contracting practices to the following requirements:
  - (a) **Design Services.** The level or type of design services required must be clearly defined within the Procurement documents and Contract, along with a description of the level or type of design services previously performed for the project. The services to be performed shall be clearly delineated as either design Specifications or performance standards, and performance measurements must be identified.
  - (b) **Professional Liability.** The Contract shall clearly identify the liability of design professionals with respect to the Design-Build Contractor and the Contracting Agency, as well as requirements for professional liability insurance.
  - (c) **Risk Allocation.** The Contract shall clearly identify the extent to which the Contracting Agency requires an express indemnification from the Design-Build Contractor for any failure to perform, including professional errors and omissions, design warranties, construction operations and faulty Work claims.
  - (d) **Warranties.** The Contract shall clearly identify any express warranties made to the Contracting Agency regarding characteristics or capabilities of the completed project (regardless of whether errors occur as the result of improper design, construction, or both), including any warranty that a design will be produced that meets the stated project performance and budget guidelines.
  - (e) **Incentives.** The Contract shall clearly identify any economic incentives and disincentives, the specific criteria that apply and their relationship to other financial elements of the Contract.
  - (f) **Honoraria.** If allowed by the RFP, honoraria or stipends may be provided for early design submittals from qualified finalists during the Solicitation process on the basis that the Contracting Agency is benefited from such deliverables.

Stat. Auth.: ORS 279C.335 & ORS 279A.065

Stats. Implemented: ORS 279C.335, ORS 279A.065, ORS 279C.110 & ORS 351.086

#### **137-049-0680**

##### **Energy Savings Performance Contracts (ESPC)**

- (1) **Generally.** These 137-049-0600 to 137-049-0690 rules include a limited, efficient method for Contracting Agency to enter into ESPCs outside the competitive bidding requirements of ORS 279C.334. See ORS 279C.335(1)(f). If a Contracting Agency chooses not to utilize the ESPC Procurement method

provided for by these 137-049-0600 to 137-049-0690 rules, the Contracting Agency may still enter into an ESPC by complying with the competitive bidding exemption process set forth in ORS 279C.335, or by otherwise complying with the Procurement requirements applicable to any Contracting Agency not subject to all the requirements of ORS 279C.335.

**(2) ESPC Contracting Method.** The ESPC form of contracting, as defined at Rule 137-049-0610(6), has unique technical complexities associated with the determination of what ECMs are feasible for the Contracting Agency, as well as the additional technical complexities associated with a Design-Build Contract. Contracting Agencies shall only utilize the ESPC contracting method with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to utilize the ESPC contracting process, the Contracting Agency must be able to reasonably anticipate on or more of the following types of benefits:

(a) Obtaining, through an ESCO, the following types of integrated Personal Services and Work: facility profiling, energy baseline studies, ECMs. Technical Energy Audits, project development planning, engineering design, plan preparation, cost estimating, life cycle costing, construction administration, project management, construction, quality control, operations and maintenance staff training, commissioning services, M & V services and required documentation as a fully integrated function with a single point of responsibility;

(b) Obtaining through an ESCO, an Energy Savings Guarantee;

(c) Integrating the Technical Energy Audit phase and Project Development Plan phase into the design and construction phase of Work on the project;

(d) Reducing the risk of design flaws, misunderstandings and conflicts inherent in the construction process, through the integration of ESPC Personal Services and Work;

(e) Obtaining innovative design solutions through the collaboration of the members of the ESCO integrated ESPC team;

(f) Integrating cost-effective ECMs into an existing building or structure, so that the ECMs pay for themselves through savings realized over the useful life of the ECMs;

(g) preliminary design, development, implementation and an Energy Savings Guarantee of ECMs into an existing building or structure that is being performed under a separate remodeling Contract; and

(h) Satisfying local energy efficiency design criteria or requirements.

**(3) Authority.** Contracting Agency may utilize the ESPC form of contracting only in accordance with the requirements of these 137-049-0600 to 137-049-0690 rules.

**(4) No Findings Required.** A Contracting Agency is only required to comply with the ESPC contracting procedures set forth in these 137-049-0600 to 137-049-0690 rules in order for the ESPC to be exempt from the competitive bidding process of ORS 279C.335. No Findings are required for an ESPC to be exempt from the competitive bidding process for Public Improvement Contracts pursuant to ORS 279C.335, unless the Contracting Agency is subject to the requirements of ORS 279C.335 and chooses not to comply with the ESPC contracting procedures set forth in 137-049-0600 to 137-049-0690 of these rules.

**(5) Selection.** ESPC selection criteria may include those factors set forth above in Rule 137-049-0640(2)(a), (b), (c) and (d). Since the Energy Savings Guarantee is such a fundamental component in the ESPC contracting process, Proposers must disclose in their Proposals the identity of any Person providing (directly or indirectly) any Energy Savings Guarantee that may be offered by the successful ESCO during the course of the performance of the ESPC, along with any financial statements and related information pertaining to any such Person.

**(6) QBS Inapplicable.** Because the value of construction Work predominates in the ESPC method of contracting, the qualifications based selection (QBS) process mandated by ORS 279C.110 for State Contracting Agencies in obtaining certain consultant services is not applicable.

**(7) Licensing.** If the ESCO is not an Oregon licensed design professional, the Contracting Agency shall require that the ESCO disclose in the ESPC that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction Work.

**(8) Performance Security.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the ESCO must provide a performance bond and a payment bond, each for 100% of the full Contract Price, including the construction Work and design and related Personal Services specified in the ESPC Design-Build Contract, pursuant to ORS 279C.380(1)(a). For ESPC Design-Build Contracts, these "design and related services" include conventional design services, commissioning services, training services for the Contracting Agency's operations and maintenance staff, and any similar Personal Services provided by the ESCO's Energy Savings Guarantee are not included in these 279C.380(1)(a) "design and related services." Nevertheless, a Contracting Agency may require that the ESCO provide performance security for M & V services and any Personal Services or Work associated with the ESCO's Energy Savings Guarantee, if the Contracting Agency so provides in the RFP.

(9) **Contracting Requirements.** Contracting Agencies shall conform their ESPC contracting practices to the following requirements:

(a) **General ESPC Contracting Practices.** An ESPC involves a multi-phase project, which includes the following contractual elements:

(A) A contractual structure which includes general Contract terms describing the relationship of the parties, the various phases of the Work, the contractual terms governing the Technical Energy Audit for the project, the contractual terms governing the final design and construction of the project, the contractual terms governing the performance of the M & V services for the project, and the detailed provisions of the ESCO's Energy Savings Guarantee for the project.

(B) The various phases of the ESCO's Work will include the following:

(i) The Technical Energy Audit phase of the Work;

(ii) The Project Development Plan phase of the Work;

(iii) A third phase of the Work that constitutes a Design-Build Contract, during which the ESCO completes any plans and Specifications required to implement the ECMs that have been agreed to by the parties to the ESPC, and the ESCO performs all construction, commissioning, construction administration and related Personal Services or Work to actually construct the project; and

(iv) A final phase of the Work, whereby the ESCO, independently or in cooperation with an independent consultant hired by the Contracting Agency, performs M & V services to ensure that the Energy Savings Guarantee identified by the ESCO in the earlier phases of the Work and agreed to by the parties has actually been achieved.

(b) **Design-Build Contracting Requirements in ESPCs.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the Contracting Agency shall conform its Design-Build contracting practices to the Design-Build contracting requirements set forth in Rule 137-040-0560(7) above.

(c) **Pricing Alternatives.** The Contracting Agency may utilize one of the following pricing alternatives in an ESPC:

(A) A fixed price for each phase of the Personal Services and Work to be provided by the ESCO;

(B) A cost reimbursement pricing mechanism, which a maximum not-to-exceed price or a GMP; or

(C) A combination of a fixed fee for certain components of the Personal Services to be performed, a cost reimbursement pricing mechanism for the construction Work to be performed with a GMP, a single or annual fixed fee for M & V services to be performed for an identified period after final completion of the construction Work, and a single or annual Energy Savings Guarantee fixed fee payable for an identified time period after final completion of the construction Work that is conditioned on certain energy savings being achieved at the facility by the ECMs that have been implemented by the ESCO during the project (in the event an annual M & V services fee and annual Energy Savings Guarantee fee is utilized by the parties, the parties may provide in the Design-Build Contract that, at the sole option of the Contracting Agency, the ESCO's M & V services may be terminated prior to the completion of the M & V/Energy Savings Guarantee period and the Contracting Agency's future obligation to pay the M & V services fee and Energy Savings Guarantee fee will likewise be terminated, under terms agreed to by the parties).

(d) **Permitted ESPC Scope of Work.** The scope of Work under the ESPC is restricted to implementation and installation of ECMs, as well as other Work on building systems or building components that are directly related to the ECMs, and that, as an integrated unit, will pay for themselves over the useful life of the ECMs installed. The permitted scope of Work for ESPCs resulting from a solicitation under these 137-049-0600 to 137-049-0690 rules does not include maintenance services for the project facility.

Stat. Auth.: ORS 279C.335 & ORS 279A.065

Stats. Implemented: ORS 279C.335, ORS 279A.065, ORS 279C.110 & ORS 351.086

#### **137-049-0690**

##### **Construction Manager/General Contractor (CM/GC)**

Contracting Agency shall use a Construction Manager/General Contractor (CM/GC) form of contracting, as defined in Rule 137-049-0610(3), only in accordance with ORS 279C.337 and OAR 137-049-0690.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335, ORS 279C.337 & ORS 279C.380(2)



## CONTRACT PROVISIONS

### 137-049-0800

#### **Required Contract Clauses**

Contracting Agencies shall include in all formal Solicitations for Public Improvement Contracts all of the ORS Chapter 279C required Contract clauses, as set forth in the checklist contained in Rule 137-049-0200(1)(c) regarding Solicitation Documents. The following series of rules provide further guidance regarding particular Public Contract provisions.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.505 to ORS 279C.545 & ORS 279C.800 to 279C.870

### 137-049-0810

#### **Waiver of Delay Damages Against Public Policy**

Contracting Agencies shall not place any provision in a Public Improvement Contract purporting to waive, release, or extinguish the rights of a Contractor to damages resulting from a Contracting Agency's unreasonable delay in performing the Contract. However, Contract provisions requiring notice of delay, providing for alternative dispute resolution such as arbitration (where allowable) or mediation, providing other procedures for settling contract disputes, or providing for reasonable liquidated damages, are permissible.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.315

### 137-049-0815

#### **BOLI Public Works Bond**

Pursuant to ORS 279C.830(3), the specifications for every Public Works Contract shall contain a provision stating that the Contractor and every subcontractor must have a Public Works bond filed with the Construction Contractors Board before starting Work on the project, unless otherwise exempt. This bond is in addition to performance bond and payment bond requirements. See BOLI rule at OAR 839-025-0015.

Stat. Auth. ORS 279A.065

Stats. Implemented: ORS 279C.830

### 137-049-0820

#### **Retainage**

(1) **Withholding of Retainage.** Except to the extent a Contracting Agency's enabling laws require otherwise, a Contracting Agency shall not retain an amount in excess of five percent of the Contract Price for Work completed. If the Contractor has performed at least 50 percent of the Contract Work and is progressing satisfactorily, upon the Contractor's submission of Written application containing the surety's Written approval, the Contracting Agency may, in its discretion, reduce or eliminate retainage on any remaining progress payments. The Contracting Agency shall respond in Writing to all such applications within a reasonable time. When the Contract Work is 97-1/2 percent completed, the Contracting Agency may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the remaining unperformed Contract Work. A Contracting Agency may at any time reinstate retainage. Retainage shall be included in the final payment of the Contract Price.

(2) **Form of Retainage.** Unless a Contracting Agency that reserves an amount as retainage finds in writing that accepting a bond or instrument described in part (a) or (b) of this section poses an extraordinary risk that is not typically associated with the bond or instrument, the Contracting Agency, in lieu of withholding moneys from payment, shall accept from the Contractor:

(a) Bonds, securities or other instruments that are deposited and accepted as provided in subsection (4)(a) of this rule; or

(b) A surety bond deposited as provided in subsection (4)(b) of this rule.

(3) **Deposit in interest-bearing accounts.** Upon request of the Contractor, a Contracting Agency shall deposit cash retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association, for the benefit of the Contracting Agency. Earnings on such account shall accrue to the Contractor.

(4) **Alternatives to cash retainage.** In lieu of cash retainage to be held by a Contracting Agency, the Contractor may substitute one of the following:

(a) Deposit of bonds, securities or other instruments:

(A) The Contractor may deposit bonds, securities or other instruments with the Contracting Agency or in any bank or trust company to be held for the benefit of the Contracting Agency. If the Contracting Agency

accepts the deposit, the Contracting Agency shall reduce the cash retainage by an amount equal to the value of the bonds and securities, and reimburse the excess to the Contractor.

(B) Bonds, securities or other instruments deposited or acquired in lieu of cash retainage must be of a character approved by the Oregon Department of Administrative Services, which may include, without limitation:

- (i) Bills, certificates, notes or bonds of the United States.
- (ii) Other obligations of the United States or agencies of the United States.
- (iii) Obligations of a corporation wholly owned by the Federal Government.
- (iv) Indebtedness of the Federal National Mortgage Association.
- (v) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon.
- (vii) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

(C) Upon the Contracting Agency's determination that all requirements for the protection of the Contracting Agency's interests have been fulfilled, it shall release to the Contractor all bonds and securities deposited in lieu of retainage.

(b) Deposit of surety bond. A Contracting Agency, at its discretion, may allow the Contractor to deposit a surety bond in a form acceptable to the Contracting Agency in lieu of all or a portion of funds retained or to be retained. A Contractor depositing such a bond shall accept surety bonds from its subcontractors and suppliers in lieu of retainage. In such cases, retainage shall be reduced by an amount equal to the value of the bond, and the excess shall be reimbursed.

(5) **Recovery of Costs.** A Contracting Agency may recover from the Contractor all costs incurred in the proper handling of retainage by reduction of the final payment.

(6) **Additional Retainage When Certified Payroll Statements Not Filed.** Pursuant to ORS 279C.845(7), if a Contractor is required to file certified payroll statements and fails to do so, the Contracting Agency shall retain 25 percent of any amount earned by the Contractor on a Public Works Contract until the Contractor has filed such statements with the Contracting Agency. The Contracting Agency shall pay the Contractor the amount retained under this provision within 14 days after the Contractor files the certified statements, regardless of whether a subcontractor has filed such statements (but see ORS 279C.845(1) regarding the requirement for both contractors and subcontractors to file certified statements with the Contracting Agency). See BOLI rule at OAR 839-025-0010.

Stat. Auth.: ORS 279A.065 & ORS 279C.845

Stats. Implemented: ORS 279C.560, ORS 279C.570 & ORS 701.420

#### **137-049-0830**

##### **Contractor Progress Payments**

(1) **Request for progress payments.** Each month the Contractor shall submit to the Contracting Agency its Written request for a progress payment based upon an estimated percentage of Contract completion. At the Contracting Agency's discretion, this request may also include the value of material to be incorporated in the completed Work that has been delivered to the premises and appropriately stored. The sum of these estimates is referred to as the "value of completed Work." With these estimates as a base, the Contracting Agency will make a progress payment to the Contractor, which shall be equal to: (i) the value of completed Work; (ii) less those amounts that have been previously paid; (iii) less other amounts that may be deductible or owing and due to the Contracting Agency for any cause; and (iv) less the appropriate amount of retainage.

(2) **Progress payments do not mean acceptance of Work.** Progress payments shall not be construed as an acceptance or approval of any part of the Work, and shall not relieve the Contractor of responsibility for defective workmanship or material.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570

#### **137-049-0840**

##### **Interest**

(1) **Prompt payment policy.** A Contracting Agency shall pay promptly all payments due and owing to the Contractor on Contracts for Public Improvements.

(2) **Interest on progress payments.** Late payment interest shall begin to accrue on payments due and owing on the earlier of 30 Days after receipt of invoice or 15 Days after Contracting Agency approval of payment (the "Progress Payment Due Date"). The interest rate shall equal three times the discount rate on 90-day commercial paper in effect on the Progress Payment Due Date at the Federal Reserve Bank in the Federal Reserve district that includes Oregon, up to a maximum rate of 30 percent.

(3) **Interest on final payment.** Final payment on the Contract Price, including retainage, shall be due and owing no later than 30 Days after Contract completion and acceptance of the Work. Late-payment interest on such final payment shall thereafter accrue at the rate of one and one-half percent per month until paid.

(4) **Settlement or judgment interest.** In the event of a dispute as to compensation due a Contractor for Work performed, upon settlement or judgment in favor of the Contractor, interest on the amount of the settlement or judgment shall be added to, and not made part of, the settlement or judgment. Such interest, at the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District that includes Oregon, shall accrue from the later of the Progress Payment Due Date, or thirty Days after the Contractor submitted a claim for payment to the Contracting Agency in Writing or otherwise in accordance with the Contract requirements.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570

#### **137-049-0850**

##### **Final Inspection**

(1) **Notification of Completion; inspection.** The Contractor shall notify the Contracting Agency in Writing when the Contractor considers the Contract Work completed. Within 15 Days of receiving Contractor's notice, the Contracting Agency will inspect the project and project records, and will either accept the Work or notify the Contractor of remaining Work to be performed.

(2) **Acknowledgment of acceptance.** When the Contracting Agency finds that all Work required under the Contract has been completed satisfactorily, the Contracting Agency shall acknowledge acceptance of the Work in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570(8)

#### **137-049-0860**

##### **Public Works Contracts**

(1) **Generally.** ORS 279C.800 to 279C.870 regulates Public Works Contracts, as defined in 279C.800(6), and requirements for payment of prevailing wage rates. Also see administrative rules of the Bureau of Labor and Industries (BOLI) at OAR Chapter 839.

(2) **Required Contract Conditions.** As detailed in the above statutes and rules, every Public Works Contract must contain the following provisions:

(a) Contracting Agency authority to pay certain unpaid claims and charge such amounts to Contractors, as set forth in ORS 279C.515(1).

(b) Maximum hours of labor and overtime, as set forth in ORS 279C.520(1).

(c) Employer notice to employees of hours and days that employees may be required to work, as set forth in ORS 279C.520(2).

(d) Contractor required payments for certain services related to sickness or injury, as set forth in ORS 279C.530.

(e) A requirement for payment of prevailing rate of wage, as set forth in ORS 279C.830(1). If both state and federal prevailing rates of wage apply, the contract and every subcontract must provide that all workers must be paid the higher of the applicable state or federal prevailing rate of wage.

(f) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

(3) **Requirements for Specifications.** The Specifications for every Public Works Contract, consisting of the procurement package (such as the project manual, Bid or Proposal booklets, request for quotes or similar procurement Specifications), must contain the following provisions:

(a) The state prevailing rate of wage, and, if applicable, the federal prevailing rate of wage, as required by ORS 279C.830(1)(a):

(A) Physically contained within or attached to hard copies of procurement Specifications;

(B) Included by a statement incorporating the applicable wage rate publication into the Specifications by reference, in compliance with OAR 839-025-0020; or,

(C) When the rates are available electronically or by Internet access, the rates may be incorporated into the Specifications by referring to the rates and providing adequate information on how to access them in compliance with OAR 839-025-0020.

(b) If both state and federal prevailing rates of wage apply, a requirement that the contractor shall pay the higher of the applicable state or federal prevailing rate of wage to all workers. See BOLI rules at OAR 839-025-0020 and 0035.

(c) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.800 – ORS 279C.870

#### **137-049-0870**

##### **Specifications; Brand Name Products**

(1) **Generally.** The Contracting Agency's Solicitation Document shall not expressly or implicitly require any product by brand name or mark, nor shall it require the product of any particular manufacturer or seller, except pursuant to an exemption granted under ORS 279C.345(2).

(2) **Equivalents.** A Contracting Agency may identify products by brand names so long as the following language: "approved equal"; "or equal"; "approved equivalent" or "equivalent," or similar language is included in the Solicitation Document. The Contracting Agency shall determine, in its sole discretion, whether an Offeror's alternate product is "equal" or "equivalent."

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345

#### **137-049-0880**

##### **Records Maintenance; Right to Audit Records**

(1) **Records Maintenance; Access.** Contractors and subcontractors shall maintain all fiscal records relating to Contracts in accordance with generally accepted accounting principles ("GAAP"). In addition, Contractors and subcontractors shall maintain all other records necessary to clearly document (i) their performance; and (ii) any claims arising from or relating to their performance under a Public Contract. Contractors and subcontractors shall make all records pertaining to their performance and any claims under a Contract (the books, fiscal records and all other records, hereafter referred to as "Records") accessible to the Contracting Agency at reasonable times and places, whether or not litigation has been filed as to such claims.

(2) **Inspection and Audit.** A Contracting Agency may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the Records of any Person that has submitted cost or pricing data according to the terms of a Contract to the extent that the Records relate to such cost or pricing data. If the Person must provide cost or pricing data under a Contract, the Person shall maintain such Records that relate to the cost or pricing data for 3 years from the date of final payment under the Contract, unless a shorter period is otherwise authorized in Writing.

(3) **Records Inspection; Contract Audit.** The Contracting Agency, and its authorized representatives, shall be entitled to inspect, examine, copy, and audit any Contractor's or subcontractor's Records, as provided in section 1 of this rule. The Contractor and subcontractor shall maintain the Records and keep the Records accessible and available at reasonable times and places for a minimum period of 3 years from the date of final payment under the Contract or subcontract, as applicable, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later, unless a shorter period is otherwise authorized in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030, ORS 279C.375, ORS 279C.380 & ORS 279C.440

#### **137-049-0890**

##### **Contracting Agency Payment for Unpaid Labor or Supplies**

(1) **Contract incomplete.** If the Contract is still in force, the Contracting Agency may, in accordance with ORS 279C.515(1), pay a valid claim to the Person furnishing the labor or services, and charge the amount against payments due or to become due to the Contractor under the Contract. If a Contracting Agency chooses to make such a payment as provided in ORS 279C.515(1), the Contractor and the Contractor's surety shall not be relieved from liability for unpaid claims.

(2) **Contract completed.** If the Contract has been completed and all funds disbursed to the prime Contractor, all claims shall be referred to the Contractor's surety for resolution. The Contracting Agency shall not make payments to subcontractors or suppliers for Work already paid for by the Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.515

### 137-049-0900

#### **Contract Suspension; Termination Procedures**

- (1) **Suspension of Work.** In the event a Contracting Agency suspends performance of Work for any reason considered by the Contracting Agency to be in the public interest other than a labor dispute, the Contractor shall be entitled to a reasonable extension of Contract time, and to reasonable compensation for all costs, including a reasonable allowance for related overhead, incurred by the Contractor as a result of the suspension.
- (2) **Termination of Contract by mutual agreement for reasons other than default.**
- (a) **Reasons for termination.** The parties may agree to terminate the Contract or a divisible portion thereof if:
- (A) The Contracting Agency suspends Work under the Contract for any reason considered to be in the public interest (other than a labor dispute, or any judicial proceeding relating to the Work filed to resolve a labor dispute); and
- (B) Circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Work.
- (b) **Payment.** When a Contract, or any divisible portion thereof, is terminated pursuant to this section (2), the Contracting Agency shall pay the Contractor a reasonable amount of compensation for preparatory Work completed, and for costs and expenses arising out of termination. The Contracting Agency shall also pay for all Work completed, based on the Contract Price. Unless the Work completed is subject to unit or itemized pricing under the Contract, payment shall be calculated based on percent of Contract completed. No claim for loss of anticipated profits will be allowed.
- (3) **Public interest termination by Contracting Agency.** A Contracting Agency may include in its Contracts terms detailing the circumstances under which the Contractor shall be entitled to compensation as a matter of right in the event the Contracting Agency unilaterally terminates the Contract for any reason considered by the Contracting Agency to be in the public interest.
- (4) **Responsibility for completed Work.** Termination of the Contract or a divisible portion thereof pursuant to this rule shall not relieve either the Contractor or its surety of liability for claims arising out of the Work performed.
- (5) **Remedies cumulative.** The Contracting Agency may, at its discretion, avail itself of any or all rights or remedies set forth in these rules, in the Contract, or available at law or in equity.
- (6) Application of this rule does not apply to suspension of the work or termination of the Contract as a result of Contractor's violation of any provision of law or Contract term.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.650, ORS 279C.655, ORS 279C.660, ORS 279C.665 & ORS 279C.670

### 137-049-0910

#### **Changes to the Work and Contract Amendments**

- (1) **Definitions for Rule.** As used in this rule:
- (a) **"Amendment"** means a Written modification to the terms and conditions of a Public Improvement Contract, other than by Changes to the Work, within the general scope of the original Procurement that requires mutual agreement between the Contracting Agency and the Contractor.
- (b) **"Changes to the Work"** means a mutually agreed upon change order, or a construction change directive or other Written order issued by the Contracting Agency or its authorized representatives to the Contractor requiring a change in the Work within the general scope of a Public Improvement Contract and issued under its changes provisions in administering the Contract and, if applicable, adjusting the Contract Price or contract time for the changed work.
- (2) **Changes Provisions.** Changes to the Work are anticipated in construction and, accordingly, Contracting Agencies shall include changes provisions in all Public Improvement Contracts that detail the scope of the changes clause, provide pricing mechanisms, authorize the Contracting Agency or its authorized representatives to issue Changes to the Work and provide a procedure for addressing Contractor claims for additional time or compensation. When Changes to the Work are agreed to or issued consistent with the Contract's changes provisions they are not considered to be new Procurements and an exemption from competitive bidding is not required for their issuance by Contracting Agencies.
- (3) **Change Order Authority.** Contracting Agencies may establish internal limitations and delegations for authorizing Changes to the Work, including dollar limitations. Dollar limitations on Changes to the Work are not set by these Rules, but such changes are limited by the above definition of that term.
- (4) **Contract Amendments.** Contract Amendments within the general scope of the original Procurement are not considered to be new Procurements and an exemption from competitive bidding is not required in order to add components or phases of Work reasonably related to the work described in the Solicitation Document. Amendments to a Public Improvement Contract may be made only when:
- (a) They are within the general scope of the original Procurement;

(b) The field of competition and Contractor selection would not likely have been affected by the Contract modification. Factors to be considered in making that determination include similarities in Work, project site, relative dollar values, differences in risk allocation and whether the original Procurement was accomplished through Competitive Bidding, Competitive Proposals, competitive quotes, sole source or Emergency contract;

(c) In the case of a Contract obtained under an Alternative Contracting Method, any additional Work was specified or reasonably implied within the findings supporting the competitive bidding exemption; and

(d) The Amendment is made consistent with applicable legal requirements.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, ORS 279C.335 & ORS 279C.400(1)

## **PUBLIC CONTRACTING RULES - 2016**

### **CLASS EXEMPTIONS**

#### **E-1 Purpose and Statutory Authority**

These rules establish classes of public contracts which are exempt from the formal competitive solicitation requirements of the Public Contracting Code. These exemptions may be used by Contracting Agency without additional findings of fact except as otherwise set forth herein. These exemptions are in addition to all contracting exemptions as set forth in the Code and Contracting Agency's Public Contracting Rules, Divisions 46, 47, 48, and 49. Additional contracts or classes of contracts may be expressly exempted from competitive solicitation requirements by ordinance or resolution of Contracting Agency pursuant to Contracting Agency Rules and ORS 279B.085 or 279C.335.

#### **E-2 Advertising Contracts**

Contracting Agency may purchase advertising without a competitive process, regardless of dollar value and including that intended for the purpose of giving public or legal notice.

#### **E-3 Equipment Repair and Overhaul**

Contracting Agency may enter into a public contract for the purchase of services, equipment or supplies for maintenance, repair or conversion of existing equipment, if required for efficient utilization of such equipment.

#### **E-4 Contracts for Price Regulated Items**

Contracting Agency may, regardless of dollar value and without competitive bidding, contract for the direct purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.

#### **E-5 Copyrighted Materials**

Contracting Agency may, without competitive bidding and regardless of dollar amount, purchase copyrighted materials if there is only one supplier available within a reasonable purchase area for such goods. Examples of copyrighted materials covered by this exemption may include, but are not necessarily limited to, new books, periodicals, workbooks, curriculum materials, reference materials, audio and visual media, and non-mass-marketed software.

#### **E-6 Investment Contracts**

Contracting Agency may, without competitive bidding, and regardless of dollar amount, contract for the purpose of the investment of public funds or the borrowing of funds by Contracting Agency when such investment or borrowing is contracted pursuant to duly enacted statute, ordinance, charter, or Constitution.

#### **E-7 Requirements Contracts**

(1) Contracting Agency may enter into requirements contracts whereby it is agreed to purchase goods or services for an anticipated need at particular prices, provided the original contract is let by a competitive procurement process.

(2) Purchase may also be made at prices established by a requirement contract or other agreement between another public body and a contractor, if the requirement contract was established by a competitive procurement process.

(3) The term of any requirement contract, including renewals, shall not exceed five years.

#### **E-8 Office Copier Purchases**

(1) Contracting Agency may enter into multiple requirements contracts for either the purchase, rental or lease of office copying equipment. Except for this multiple award exemption, such contracts shall otherwise conform to the requirements of Public Contracting Rule E-7.

(2) In exercising this exemption, Contracting Agency shall fully consider the operating capabilities, limitations and cost of each brand or model and select the brand which will produce the best combination of performance and cost per copy for each application.

#### **E-9 Manufacturer Direct Supplies**

Contracting Agency may purchase goods directly from a manufacturer without a competitive solicitation process if a large volume purchase is required and the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s). Procurements of this type are made on a contract-by-contract basis, and are not requirements contracts.

#### **E-10 Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt**

Contracting Agency is exempt from formal competitive procurement requirements for the purchase of gasoline, diesel fuel, heating oil, lubricants and asphalts if Contracting Agency conducts an intermediate procurement and Contracting Agency awards the Contract to the Offeror offering the least expensive goods, and retains written justification for the purchase made.

#### **E-11 Hazardous Material Removal; Oil Cleanup**

Contracting Agency may enter into public contracts without competitive bidding, regardless of dollar amount, when ordered to clean up oil or hazardous waste pursuant to the authority granted the Department of Environmental Quality (DEQ) under ORS Chapter 466, and such DEQ order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous material that have created an emergency condition. Comprehensive cleanup rules are set forth at OAR 340-122-205 to 340-122-360. In exercising its authority under this exemption Contracting Agency shall:

(a) To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;

(b) Make written findings describing the circumstances requiring cleanup or a copy of the DEQ order ordering such cleanup;

(c) Record the measures taken under subsection (a) of this section to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selecting the contractor selected.

#### **E-12 Insurance, Employee Benefit**

Contracting Agency may purchase employee benefit insurance without a competitive solicitation process, regardless of dollar amount.



### **E-13 Medical and Laboratory Supplies**

Contracting Agency is not required to purchase the following specified laboratory and medical supplies on the basis of a single award to the lowest responsible bidder, but instead may purchase different brands of the same item by awarding contracts, after competitive bidding, to the lowest responsible bidder for each brand. The laboratory and medical supplies affected by this rule include, but are not limited to:

- (1) Drugs, biologicals, blood fractions, and blood components;
- (2) Intravenous solutions and associated supplies for administration;
- (3) Microbiologicals, biochemicals, and diagnostic reagents;
- (4) Surgical dressings;
- (5) Heart valves;
- (6) E.E.G., E.K.G., electrodes, charts, and associated supplies;
- (7) Sterilizing wraps;
- (8) Catheters, medical tubes, and associated supplies;
- (9) Surgical and orthopedic instruments;
- (10) Hearing aids;
- (11) Pacemakers;
- (12) Dental supplies;
- (13) Laboratory small package chemicals;
- (14) Biology supplies; and
- (15) Therapeutic or cosmetic implants.

### **E-14 Concession Agreements**

(1) A concession agreement is a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon land owned or controlled by Contracting Agency, and under which the concessionaire makes payments to Contracting Agency based, in whole or in part, on the concessionaire's sales revenues. The term "concession agreement" does not include an agreement which is merely a flat-fee or per-foot rental, lease, license, permit, or other arrangement for the use of public property.

(2) Concession agreements are not required to be competitively bid. However, when it is in Contracting Agency's best interests to do so and in Contracting Agency's sole discretion, Contracting Agency may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.

## **USED PERSONAL PROPERTY**

### **E-15 Used Personal Property, Purchase of**

(1) Subject to the provisions of this rule, Contracting Agency may purchase used property or equipment without competitive bidding and without obtaining competitive quotes, if it has determined that the purchase will be unlikely to encourage favoritism or substantially diminish competition, and will either result in cost savings to Contracting Agency or the public, or otherwise promote the public interest in a manner that could not be realized by a formal competitive solicitation process.

(2) "Used personal property or equipment" is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as "used," at the time of Contracting Agency purchase. "Used personal property or equipment" generally does not include property or equipment if Contracting Agency was the previous user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement.

(3) For purchases of used personal property or equipment, Contracting Agency shall, where feasible, obtain three competitive quotes, unless Contracting Agency has determined and documented that a purchase without obtaining competitive quotes will be unlikely to encourage favoritism or substantially diminish competition and will either result in substantial cost savings to Contracting Agency or the public, or otherwise promote public interest in a manner that could not be realized by a formal competitive solicitation process.

#### **E-16 Surplus Personal Property, Disposition of**

(1) Contracting Agency may dispose of surplus personal property by any means determined to be in the best interest of Contracting Agency, including but not limited to: transfer to other departments; donation to other government agencies, or non-profit organizations; negotiated or advertised sale; trade; auction; liquidation through commercially recognized third party liquidator; or destruction.

(2) Prior to surplus property, Contracting Agency must find that the chosen disposition will substantially promote the public interest in a manner that could not practicably be realized by a competitive solicitation process and either that the disposition will result in a cost savings to Agency or will probably result in a higher net return than if the property were sold by a competitive solicitation process.

(3) All items of personal property having a residual value of more than \$10,000 are subject to prior authorization of the Contract Review Authority.

### **PERSONAL SERVICES**

#### **E-17 Personal Services for Other than Architect, Engineer, Photogrammetrist, Transportation Planner, and Land Surveying Services**

(1) Either the following procedures or those set forth in Contracting Agency's Public Contracting Rules, Division 47, will be used to retain the services of independent contractors, other than architects, engineers, land surveyors, or other professionals otherwise exempt from these Rules or the Code.

(2) Nothing in this section shall apply to the employment of regular Contracting Agency employees unless otherwise approved by the Contract Review Authority or its designee, or personal service contract.

(3) Unless otherwise approved by Contracting Agency, personal service contracts shall require the contractor to defend, indemnify, and hold harmless Contracting Agency, its officers, agents and employees from and against any and all claims or demands for damages of any kind arising out of or connected in any way with the contractor's performance thereunder and shall include a waiver of contractor's right to indemnification and defense under the Oregon Tort Claims Act.

(4) Unless otherwise approved by Contracting Agency, all personal service contracts shall contain a provision requiring the person or entity providing the service to obtain and maintain liability insurance coverage in at least Contracting Agency's tort liability limits, naming Contracting Agency as an additional named insured during the life of the contract.

(5) All personal service contracts shall contain all contract provisions mandated by State law. These provisions may be incorporated in the personal service contract by reference to State law, unless State law provides otherwise. Contracting Agency's Attorney's Office will prepare model contract provisions for use in Contracting Agency personal service contracts.

(6) The following procedure shall be observed in the selection of personal service contractors:

- (a) For personal service contracts involving an anticipated fee of \$10,000 or less per annum, Contracting Agency may negotiate a contract for such services with any qualified contractor it selects.
- (b) For personal service contracts involving an anticipated fee of more than \$10,000 per annum, Contracting Agency shall solicit at least three (3) prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment, and determine the prospective contractor's interest and ability to perform the proposed assignment.
- (c) Contracting Agency may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate Contracting Agency employee or by an interview committee.
- (d) Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, Contracting Agency may select the prospective contractor, and shall prepare a personal service contract.
- (7) The above provisions regarding selection procedures do not apply to extensions, amendments, modifications or supplements to executed personal service contracts.
- (8) Criteria to be considered in the evaluation and selection of a personal service contractor may include, but is not limited to:
- (a) Total cost of services to Contracting Agency.
- (b) Specialized experience in the type of work to be performed.
- (c) Capacity and capability to perform the work, including any specialized services within the time limitations for the work.
- (d) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration, where applicable.
- (e) Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of design or techniques peculiar to it, where applicable.
- (f) Any other factors relevant to the particular contract.
- (9) The selection procedures described in this section may be waived by Contracting Agency, in its discretion, where an emergency exists that could not have been reasonably foreseen which requires such prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of these selection procedures.
- (10) Contracting Agency or its designee is authorized to sign all personal service contracts, unless otherwise established by Contracting Agency policy.
- (11) Nothing contained in this section shall preclude Contracting Agency from complying with provisions of Federal or State law that require Contracting Agency to utilize a different selection or contracting procedure.

#### **E-18 Liability Insurance Contracts**

Contracts for insurance where either the annual or aggregate premium exceeds \$10,000 must be let using one of the following procedures:

- (1) **Agent of Record:** Contracting Agency may appoint a licensed insurance agent ("agent of record") to perform insurance services in connection with more than one insurance contract. Among the services to be provided is the securing of competitive proposals from insurance carriers for all coverages for which the agent of record is given responsibility.
- (a) Prior to the selection of an agent of record, Contracting Agency shall make reasonable efforts to inform known insurance agents in the competitive market area that it is considering such a selection. Such efforts may include one or more of the following methods: direct mailed notice, publishing notice in a newspaper of general

circulation, or posting notice on Contracting Agency's website. Any such notice shall generally describe the nature of the insurance that the Contracting Agency will require.

(b) Any appointment period shall not exceed five years. Agents may serve more than one appointment period. Agents must qualify for appointment prior to each period as if each appointment period were the first.

(c) In selecting an agent of record, Contracting Agency shall select the agent(s) most likely to perform the most cost-effective services.

(2) Specific Proposals for Insurance Contracts: Contracting Agency may solicit proposals from licensed insurance agents or licensed insurers for the purpose of acquiring specific insurance contracts subject to the following conditions:

(a) Contracting Agency shall make reasonable efforts to inform known insurance agents or insurers in the competitive market area of the subject matter of the contract, and to solicit proposals for providing the services required in connection with the contract. Such efforts may include one or more of the following methods: direct mailed notice, publishing notice in a newspaper of general circulation, or posting notice on Contracting Agency's website.

(b) Contracting Agency shall select an agent or insurer on the basis of the most competitive offer considering coverage, premium cost, and service to be provided.



DATE: June 13, 2019

TO: W. John Moore, Mayor  
Yachats City Council

FROM: Shannon Beaucaire, City Manager

SUBJECT: USDA Grant Funding Application

---

The City of Yachats has applied for the USDA Rural Development Rural Housing Service Community Facility Grant. Based upon the City's Median Household Income (MHI), we are eligible for up to 55% of the total project cost in grant funds but are applying for the maximum grant available of \$50,000.

A public hearing on the application, with the opportunity for the public to comment, is a requirement of the application. A resolution is also required and is attached.

The grant required matching funds and requires that City funds be utilized prior to grants funds. The \$75,000 allocated in the City's 2019-20 CIP plan provided the ability to apply for this grant.



United States Department of Agriculture

Rural Development

Oregon State Office

1220 SW Third Ave  
Suite 1801  
Portland, OR 97204

Voice: (503) 414-3300  
Fax: (866) 824-6181

**USDA RURAL DEVELOPMENT**  
**RURAL HOUSING SERVICE**  
**COMMUNITY FACILITY (CF) GRANTS**

[www.rurdev.usda.gov](http://www.rurdev.usda.gov)

Essential community facilities - such as health care clinics, police and fire stations, schools, and childcare facilities are essential to the quality of life in any rural community. Through its Community Facilities Grant program, the Rural Housing Service (RHS) of USDA Rural Development is striving to ensure that such facilities are readily available to all rural Americans. This USDA commitment is at the core of its mission and promise to help build stronger more vibrant rural communities across the Nation.

**WHO MAY APPLY?** Grants are available to public entities such as municipalities, counties and special purpose districts as well as to nonprofit corporations and tribal governments. In addition, applicants must:

1. Be unable to obtain needed funds from commercial sources at reasonable rates and terms;
2. Have the legal authority necessary for construction, operation, and maintenance of the proposed facility;
3. Propose facilities that are necessary for orderly community development and consistent with Strategic plan;
4. Be located in a rural community having a population of 20,000 or less and serve primarily rural areas with a population of 20,000 or less; and
5. Serve areas where the median household income of the population to be served by the proposed facility below the higher of the poverty line or 90 percent of the State Nonmetropolitan median household income.

**HOW MAY FUNDS BE USED?** Grant funds may be used to assist in the development of essential community facilities. Grant funds can be used to construct, enlarge, or improve community facilities for health care, public safety, and community and public services. This can include the purchase of equipment required for a facility's operation. A grant may be in combination with other community facilities financial assistance such as a direct or guaranteed loan, applicant contribution, or loans and grants from other sources. Examples of essential community facilities include but are not limited to:

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

| HEALTH CARE                | TELECOMMUNICA-<br>TIONS    | PUBLIC SAFETY             | PUBLIC SERVICES        |
|----------------------------|----------------------------|---------------------------|------------------------|
| Clinic – Nursing Homes     | Medical or Educational     | Communications<br>Centers | Child Care Centers     |
| Rehabilitation Centers     | Telecommunication<br>Links | Police or Fire Stations   | Adult Day Care Centers |
| Ambulatory Care<br>Centers |                            | Fire Trucks - Jails       | Airports - Libraries   |
|                            |                            | Rescue Vehicles           | City Halls - Schools   |

**WHAT IS THE MAXIMUM GRANT?** Grant assistance may be available for a range of 15 to 75 percent of project costs. A scale has been developed to predetermine grant funding limitations based on population and income. Grant assistance may be further limited to the minimum amount sufficient to provide economic feasibility to the proposed project and either \$50,000 or 50 percent of a State annual allocation, whichever is greater.

**WHAT ARE THE FUNDING PRIORITIES?** Projects will be selected based on a priority point system. Projects that will receive priority are those that:

1. Serve small communities with the highest priority going to those with a population of 5000 or less;
2. Serve very low-income communities with the highest priority going to communities with a median household income below the higher of the poverty line or 60 percent of the nonmetropolitan median household income; and
3. Provide health care, public safety services, or services identified as necessary in the State strategic plan.

**LIMITATIONS ON GRANT FUNDS.** Grant funds cannot be used to:

1. Pay any annual recurring costs, including purchase or rentals that are generally considered to be operating and maintenance expenses;
2. Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale;
3. Refinance existing indebtedness, pay interest, or loan/grant finder's fees;
4. Pay costs to construct facilities to be used for commercial rental where the applicant has no control over tenants and services offered.
5. Construct facilities primarily for the purpose of housing State, Federal, or quasi-Federal agencies.
6. Finance recreation facilities or community antenna television services or facilities.

**HOW ARE APPLICATIONS PROCESSED?** The application process is a two-stage procedure. An applicant must submit documentation to support its eligibility status and available funding before making a formal application. RD Instruction 3570-B explains the application procedure in greater detail. After determining the order of funding priorities, the RHS will tentatively determine eligibility and ask applicants to assemble and submit a formal application. See "What Are the Funding Priorities?"

**GRANT CLOSINGS AND DISBURSEMENT OF FUNDS.** If grants are authorized in combination with the CF direct and guaranteed loan programs, loans and grants will be closed simultaneously after determining applicable administrative actions and work required of the applicant have been completed. All borrower funds and other CF financial assistance (direct or guaranteed funds) must be expended before grant funds are made available. Grant funds will not be disbursed from the Treasury until they are actually needed by the applicant.

**WHERE IS APPLICATION MADE?** Detailed information and applications are available through local USDA Rural Development State and Area Offices or from the National Office: Community Programs Division, USDA, Rural Housing Service, South Building, 1400 Independence Avenue, SE, Mail Stop 3222, Washington, D.C. 20250. The National Office telephone number is (202) 720-1490; FAX (202) 690-0471.

## CF GRANT THRESHOLDS OREGON

| <b>SNMHI<br/>GRANT<br/>\$52,855</b> |     | <b>COMMUNITY<br/>POPULATION</b> |   | <b>MAXIMUM CF<br/>(% of Dev. Cost)</b> |
|-------------------------------------|-----|---------------------------------|---|----------------------------------------|
| \$0-\$31,712<br>< 60% SNMHI         | and | 5,000 or less                   | = | 75 percent                             |
| \$31,713-\$36,998<br>< 70% SNMHI    | and | 12,000 or less                  | = | 55 percent                             |
| \$45,283-\$36,999<br>< 80% SNMHI    | and | 20,000 or less                  | = | 35 percent                             |
| \$45,284-\$47,569<br>< 90% SNMHI    | and | 20,000 or less                  | = | 15 percent                             |

### Partial List of Examples:

1. Community with a population of 412 has \$29,050 MHI. The maximum federal grant is 75 percent.
2. Community with a population of 750 has \$32,100 MHI. The maximum CF Grant is 55 percent
3. Community with a population of 3,350 has \$38,825 MHI. The maximum CF Grant is 35 percent
4. Community with a population of 18,000 has \$46,500 MH. The maximum CF Grant is 15 percent.
5. Town of 22,100 has \$30,000 MHI. The maximum CF grant is 0 percent.

The State non-metro median household income (SNMHI) for Oregon is derived from the 2006-2010 American Community Survey, as adjusted by RD for eligible communities within metropolitan statistical area counties. The community population is based on the 2010 Census data.

The maximum CF grant is also limited to the greater of one-half of State allocation or \$50,000 and by availability of funds. Annual allocations for Oregon range from \$100,000 to \$250,000. Funds are targeted toward the smallest and poorest communities. The maximum total federal grant participation in a project is limited to 75% with limited exceptions.



**City of Yachats**  
**CF Grant-City Hall Renovation Project**  
**Simplified Preliminary Architectural Report (PAR)**

**1. Current Situation & Need for Project**

The City of Yachats' current City Hall is located at 441 Hwy 101 North. The building was originally built in the 1930s as a schoolhouse and was used primarily as a school until the 1980s. The City purchased the building in the 1990s to serve as a City Hall and a community center. Currently, the building is referred to as "Yachats Commons" and houses City Hall, an afterschool/daycare center, the council chambers, and space for community activities and private rentals. The City Hall space in the building no longer serves the needs of the City or its staff. The reception area is small and inefficient, there's no designated office space for the city manager, and other staffers share small and cramped working spaces. Work spaces for contract and part-time employees is limited and there's no more workspaces should the City need to hire additional staff.

**2. Feasible Alternatives**

**a. Alternative 1- Renovate Existing City Hall.**

The first alternative to consider is renovating the existing city hall facility. This is possible and would likely cost less than renovating another building.

**Cost:** \$0. The initial cost may be \$0, but the Commons building is 85 years old, and due to its age, may require more frequent repairs than a newer facility.

**b. Alternative 2- Renovate Adjacent Bank Building**

The City purchased a building adjacent to the current city hall with the intention of renovating and using the building as new city hall. The building was previously a bank and is in good condition but needs some renovations to make it suitable for use as a city hall including adding a reception area, council chambers, space for a sheriff's deputy, etc.

**Cost:** \$125,000. The building is already owned by the City. \$125,000 is the estimated cost for renovations.

**c. Alternative 3- Purchase Another Building.**

**Cost:** N/A

**3. Evaluate and Compare Alternatives**

**A. Alternative 1- Renovate Existing Building**

Renovating the facility may improve some of the work spaces, but it won't add much needed additional space. The community spaces within the building are used frequently and cannot be converted to office spaces. The building is also a historic structure with local significance so major renovations is not ideal. Alternative 1 is not the preferred alternative.

**B. Alternative 2- Renovate Adjacent Bank Building**

The adjacent building is considered ideal for the new City Hall. It has adequate space, is ADA accessible, and has plenty of parking for public meeting. It's also adjacent to the existing city hall facility and community center, which is useful for creating a center "public services" area within the City. Previously a bank, the building is also attractive and has the appearance of a municipal building. This is the preferred alternative.

**C. Alternative 3- Purchase Another Building**

There are no other facilities within the city that could serve as a city hall facility. Yachats is a small community and has limited commercial buildings. The bank building purchased was the only option, and no other alternatives are available. Alternative 3 is not the preferred alternative.

**4. Selected Alternative**

The adjacent building is the preferred alternative for the New City Hall. It has adequate space for existing staff, as well as the needed space for staffing positions to be filled. The appearance of a municipal building is already there, the renovations just need to be done on the interior, for the space to be used by the City's staff efficiently. Renovation will be, building Council chambers, a half wall to separate staff from the public, stations/offices for staff. The building has an open floor plan as of now. See attached Conceptual plan.

**Proposed Funding Sources**

\$ 50,000- USDA Community Facility Grant

\$ 75,000- City Contribution

\$125,000- Total project cost

\*Based on the City's MHI, we're eligible for up to 55% of the total project cost in grant funds, but are applying for the maximum grant available of \$50,000.

**5. Proposed Project Budget**

\$80,000 - Construction

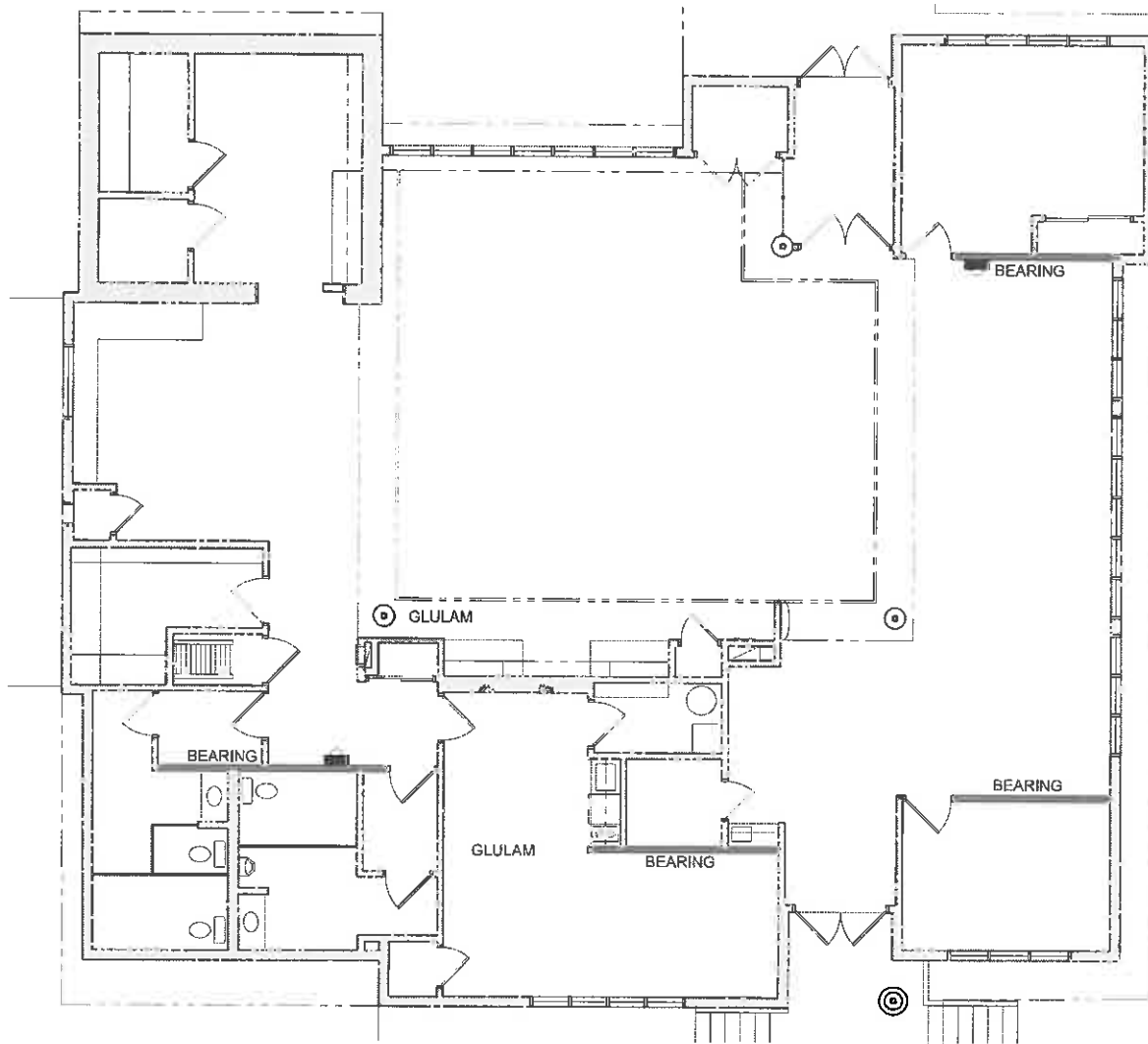
\$30,000 – IT/Equipment

\$15,000 - Contingency

\$125,000- Total project cost

Signature \_\_\_\_\_ Date \_\_\_\_\_

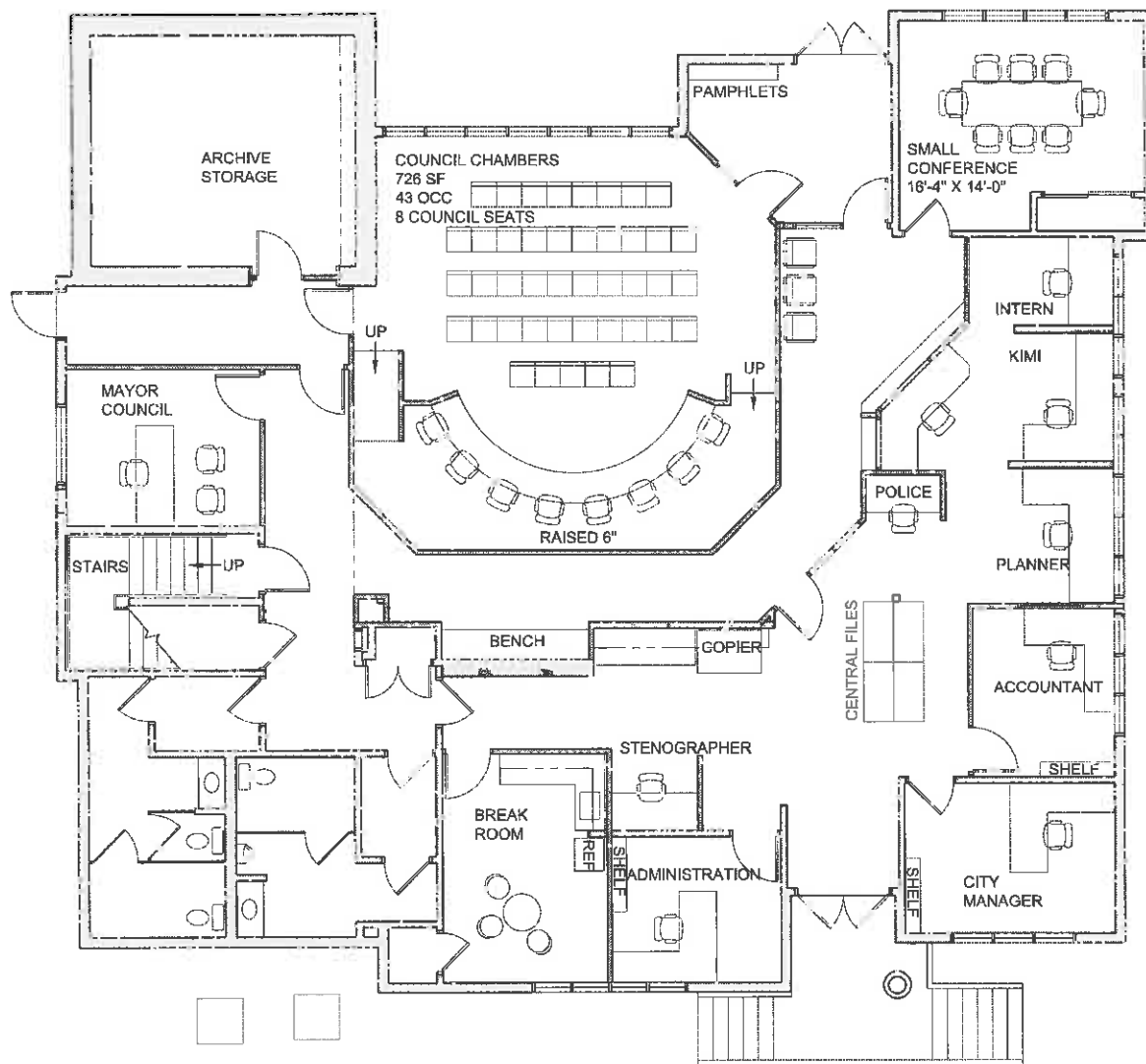
Report Prepared by: \_\_\_\_\_  
(Name) (Title)



# **YACHATS CITY HALL BANK EXISTING**

*Conceptual Design*

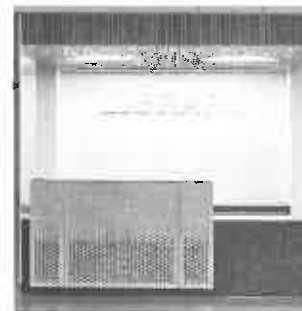
February 19, 2019



## DESIGN INSPIRATION



Conference room



Reception design



Stadium Seating in Council Chambers



Council Chambers Dais

## YACHATS CITY HALL OPTION 1

*Conceptual Design*

February 19, 2019



USDA  
Form RD 1942-47  
(Rev. 12-97)

**LOAN RESOLUTION**  
**(Public Bodies)**

FORM APPROVED  
OMB NO. 0575-0015

A RESOLUTION OF THE

City Council

OF THE

City of Yachats

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

City Hall Renovation

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the

City of Yachats

(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

\$0 (no loan funds, grant funds only)

pursuant to the provisions of

ORS 221

; and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U. S. C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$ 10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
  - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
  - (b) Repairing or replacing short-lived assets.
  - (c) Making extensions or improvements to the facility.Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ 70,000

under the terms offered by the Government; that the City Manager  
and Council of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee

The vote was: Yeas \_\_\_\_\_ Nays \_\_\_\_\_ Absent \_\_\_\_\_.

IN WITNESS WHEREOF, the City Council of the  
City of Yachats has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

(SEAL)

Attest:

By \_\_\_\_\_

Title Mayor

Council President  
Title



**CITY OF YACHATS  
RESOLUTION NO. 2019-73  
A RESOLUTION ADOPTING THE 2019-20  
CITY OF YACHATS URBAN RENEWAL AGENCY BUDGET**

BE IT RESOLVED the Board of Directors of the Yachats Urban Renewal Agency hereby adopts the budget for fiscal year 2019-20 in the total of \$582,756, now on file at City Hall for City of Yachats.

**Making Appropriations**

BE IT RESOLVED that the amounts for the fiscal year beginning July 1, 2019, and for the purposes shown below are hereby appropriated:

**General Fund**

|                             |                   |
|-----------------------------|-------------------|
| Personnel Services          | \$ 0              |
| Materials and Services      | \$ 2,300          |
| Capital Outlay              | \$ 0              |
| Interfund Revenue Transfers | \$ 233,000        |
| Operating Contingency       | <u>\$ 347,456</u> |
| FUND TOTAL                  | \$ 582,756        |

**Declaration of Tax Increment**

BE IT RESOLVED that the Board of Directors of the Yachats Urban Renewal Agency hereby resolves to certify to the Lincoln County Assessor a request for the Yachats Urban Renewal District Plan Area for the maximum amount of revenue that may be raised, by dividing the taxes under Section 1c, Article IX, of the Oregon Constitution and ORS Chapter 457.

PASSED AND ADOPTED by the Yachats Urban Renewal Agency on June 19, 2019.

APPROVED by the Chair of the Agency on June 19, 2019.

CITY OF YACHATS

By: \_\_\_\_\_  
W. John Moore, Chair

ATTESTED TO BY:

\_\_\_\_\_  
Shannon Beaucaire, City Manager

# Urban Renewal Agency Proposed Fiscal Year 19-20 Budget

| Historical Data       |                      |                |                       | Budget for Next Year 2019-20                 |                            |                              |                         | Notes                                                                                                        |
|-----------------------|----------------------|----------------|-----------------------|----------------------------------------------|----------------------------|------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------|
| Actual                |                      | Adopted Budget | Estimated YTD Actuals | Resource Description                         | Proposed by Budget Officer | Approved by Budget Committee | Adopted by City Council |                                                                                                              |
| Second Preceding Year | First Preceding Year |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 2016-17               | 2017-18              | 2018-19        | 2018-19               |                                              | 2019-20                    | 2019-20                      | 2019-20                 |                                                                                                              |
| 62,003                | 68,236               | 185,000        | 207,433               | Beginning Fund Balance                       | 274,756                    | 274,756                      |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 672                   | -                    | -              | -                     | Interest Earned                              | -                          | -                            |                         |                                                                                                              |
| 242,691               | 271,473              | 265,000        | 290,200               | Property Taxes - Current Year                | 268,000                    | 303,000                      |                         | Taxes July - Dec                                                                                             |
| 8,752                 | 6,845                | 6,000          | 5,400                 | Property Taxes - Prior Year                  | 5,000                      | 5,000                        |                         | Prior yr Taxes July - Dec                                                                                    |
| 137                   | 3,417                | -              | -                     | Earnings from Temporary Investments          | -                          | -                            |                         | The \$3,417 is actually an adjustment from the audit & not an earnings from a temporary investment for 17/18 |
| -                     | -                    | -              | -                     | Other Local Sources                          | -                          | -                            |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 252,253               | 281,735              | 271,000        | 295,600               | Total Revenue                                | 273,000                    | 308,000                      |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| -                     | -                    | 13,000         | 13,000                | Admin Fee                                    | 13,000                     | 13,000                       |                         | 100-100                                                                                                      |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 20                    | -                    | 1,000          | 277                   | Dues/Memberships/Fees                        | 300                        | 300                          |                         |                                                                                                              |
| -                     | -                    | -              | -                     | Insurance                                    | -                          | -                            |                         |                                                                                                              |
| 1,000                 | 1,538                | 2,000          | 2,000                 | Auditor                                      | 2,000                      | 2,000                        |                         |                                                                                                              |
| -                     | -                    | -              | -                     | Legal Notices                                | -                          | -                            |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 1,020                 | 1,538                | 3,000          | 2,277                 | Total Materials and Services                 | 2,300                      | 2,300                        |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| -                     | -                    | -              | -                     | Reserved for Future Exenditures              | -                          | -                            |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 95,000                | 95,000               | 95,000         | 95,000                | Interfund Transfer - Sewer Plant Debt        | 95,000                     | 95,000                       |                         | 155-176                                                                                                      |
| 150,000               | 46,000               | 10,000         | 10,000                | Interfund Transfer - Capital Reserve Streets | -                          | -                            |                         | 150-121                                                                                                      |
| -                     | -                    | 8,000          | 8,000                 | Interfund Transfer - Capital Reserve Parks   | -                          | -                            |                         | 150-125                                                                                                      |
| -                     | -                    | 100,000        | 100,000               | Interfund Transfer - South Tank Debt         | 100,000                    | 100,000                      |                         | 155-168                                                                                                      |
| -                     | -                    | -              | -                     | Interfund Transfer - Wastewater              | -                          | 25,000                       |                         | 150-170                                                                                                      |
| 245,000               | 141,000              | 213,000        | 213,000               | Total Transfers                              | 195,000                    | 220,000                      |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 6,233                 | 139,196              | 42,000         | 67,323                | Net Fund Revenue(Expense)                    | 62,700                     | 72,700                       |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
|                       | -                    | 100,000        | -                     | Reserved for Contingencies                   | -                          | -                            |                         |                                                                                                              |
|                       |                      |                |                       |                                              |                            |                              |                         |                                                                                                              |
| 68,236                | 207,433              | 227,000        | 274,756               | Ending Fund Balance                          | 337,456                    | 347,456                      |                         |                                                                                                              |





**CITY OF YACHATS  
RESOLUTION NO. 2019-74  
A RESOLUTION DECLARING THE CITY OF YACHATS  
ELECTION TO RECEIVE STATE REVENUES**

The City of Yachats resolves as follows:

Section 1. Pursuant to ORS 221.770, the city hereby elects to receive state revenues for fiscal year 2019-2020.

Passed by the Yachats City Council on the 19<sup>th</sup> day of June, 2019.

Approved by the Mayor this 19<sup>th</sup> day of June, 2019.

CITY OF YACHATS

By: \_\_\_\_\_  
W. John Moore, Chair

ATTESTED TO BY:

\_\_\_\_\_  
Shannon Beaucaire, City Manager

I certify that a public hearing before the Budget Committee was held on May 15, 2019 and a public hearing before the City Council was held on June 19, 2019 giving citizens an opportunity to comment on use of State Revenue Sharing.

\_\_\_\_\_  
Shannon Beaucaire, City Recorder/Manager



**CITY OF YACHATS  
RESOLUTION NO. 2019-75  
A RESOLUTION ADOPTING A FIVE-YEAR CAPITAL IMPROVEMENT PLAN**

**WHEREAS**, the Yachats City Council appointed members to serve on a Capital Improvement Plan (CIP) Committee (also known as the Finance Committee) to meet and discuss future improvement project for the City of Yachats and prepare a recommended five-year plan for City Council consideration, and

**WHEREAS**, the CIP Committee developed a five-year plan for City Council Consideration, and

**WHEREAS**, the Budget Committee held a public hearing on the recommended plan on May 15, 2019, and

**WHEREAS**, the City Council held a public hearing on the recommended plan on June 19, 2019,

**NOW THEREFORE**, THE City of Yachats resolves the attached five-year plan, marked "Exhibit A" is hereby adopted and the Budget Officer is directed to include the adopted plan in the municipal budget for the fiscal year 2019-20.

Passed and adopted June 19, 2019. This Resolution is effective upon adoption.

CITY OF YACHATS

By: \_\_\_\_\_  
W. John Moore, Chair

ATTESTED TO BY:

\_\_\_\_\_  
Shannon Beaucaire, City Manager

## **APPENDIX A**

### **Yachats Capital Improvement Plan**

A portion of the total City budget is for building or improving the City infrastructure to handle growth. Capital Improvement Projects and their total costs are detailed below. Expenditures for capital projects may vary dramatically between years, depending on the particular projects in process.

**City of Yachats Finance Committee****5 Year CIP Plan****Cost Estimates****2019-2020 Planning Cycle**

|                                                      | 2017-18               |                      | 2018-19               |                      | Amount Expended as of Printing Date | 5 Year Capital Plan |                  |                |                |                |
|------------------------------------------------------|-----------------------|----------------------|-----------------------|----------------------|-------------------------------------|---------------------|------------------|----------------|----------------|----------------|
|                                                      | Original Capital Plan | Amended Capital Plan | Original Capital Plan | Amended Capital Plan |                                     | 2019-20             | 2020-21          | 2021-22        | 2022-23        | 2023-24        |
| Library                                              | 0                     | 20,000               | 50,000                | 14,415               | \$14,415                            | 60,585              | 0                | 0              | 0              | 0              |
| Museum                                               | 35,000                | 0                    | 150,000               | 2,000                | \$98                                | 148,000             | 150,000          | 0              | 0              | 0              |
| Commons/Trails                                       | 0                     | 30,000               | 65,000                | 115,000              | \$101,717                           | 50,000              | 60,500           | 24,500         | 24,500         | 24,500         |
| Water                                                | 195,000               | 178,000              | 310,000               | 115,000              | \$23,999                            | 380,000             | 505,500          | 438,000        | 613,120        | 500,000        |
| Wastewater                                           | 80,000                | 163,000              | 240,000               | 175,000              | \$84,821                            | 368,000             | 110,000          | 100,000        | 105,000        | 80,000         |
| Storm Drains                                         | 0                     | 7,000                | 0                     | 2,000                | \$2,000                             | 40,000              | 40,000           | 40,000         | 40,000         | 40,000         |
| City Hall                                            | 20,000                | 20,000               | 55,000                | 55,000               | \$36,703                            | 114,000             | 39,000           | 22,000         | 12,000         |                |
| Streets                                              | 0                     | 42,500               | 203,500               | 114,000              | \$15,391                            | 385,000             | 100,000          | 100,000        | 100,000        | 100,000        |
| <b>Total Gross Proposed Fiscal Year Capital Plan</b> | <b>330,000</b>        | <b>480,500</b>       | <b>1,073,500</b>      | <b>592,415</b>       | <b>\$258,943</b>                    | <b>1,555,585</b>    | <b>1,005,000</b> | <b>724,500</b> | <b>894,620</b> | <b>744,500</b> |

**Alternative Funding Sources**

|                                          |         |
|------------------------------------------|---------|
| FY19 Visitor Amenities Fund - LLC&M      | 112,000 |
| Small Cities Grant - E. Second Street    | 100,000 |
| Visitor Amenities Fund - Streets: Paving | 25,000  |
| Visitor Amenities Fund - Commons/Trails: |         |
| Ocean View Drive Trail                   | 50,000  |

**Total Net Proposed Fiscal Year Capital Plan 1,268,585**

**City of Yachats Finance Committee****5 Year CIP Plan****Cost Estimates****2019-2020 Planning Cycle**

| 5 Year CIP Plan                                             |                       |                      |                       |                      |                       | 5 Year Capital Improvement Plan                                                                                                                                                                   |                       |                       |                       |                       |
|-------------------------------------------------------------|-----------------------|----------------------|-----------------------|----------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Cost Estimates                                              | 2017-18               | 2017-18              | 2018-19               | 2018-19              | 2019-20               | Notes                                                                                                                                                                                             | 2020-21               | 2021-22               | 2022-23               | 2023-24               |
| 2019-2020 Planning Cycle                                    | Original Capital Plan | Amended Capital Plan | Original Capital Plan | Amended Capital Plan | Proposed Capital Plan |                                                                                                                                                                                                   | Proposed Capital Plan | Proposed Capital Plan | Proposed Capital Plan | Proposed Capital Plan |
| Capital Spending Category                                   |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| <u>Library</u>                                              |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
|                                                             |                       |                      |                       |                      |                       | 18/19: Reserve balance \$3,600; transfer from General Fund \$42,500<br>Request: \$50,000 from 18/19, minus expenses with \$25,000 allotted from 19/20 added.<br>\$14,414.80 expended as of 3/8/19 |                       |                       |                       |                       |
| Relocation/Renovation/Configuration                         | -                     | 20,000               | 50,000                | 14,415               | 60,585                |                                                                                                                                                                                                   | -                     | -                     | -                     | -                     |
| <u>Little Log Church and Museum</u>                         |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
|                                                             |                       |                      |                       |                      |                       | 18/19: Reserve balance \$4,800; transfer from General Fund \$112,000<br>Request: \$150,000 not expended in 18/19;<br>\$150,000 for 19/20. \$97.50 expended as of 3/8/19                           |                       |                       |                       |                       |
| Building Repairs<br>Funded by Visitor Amenities (\$112,000) | 35,000                |                      | 150,000               | 2,000                | 148,000               |                                                                                                                                                                                                   | 150,000               |                       |                       |                       |
| <u>Commons</u>                                              |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
|                                                             |                       |                      |                       |                      |                       | 18/19: Reserve balance \$35,500                                                                                                                                                                   |                       |                       |                       |                       |
| Urinals - Update Men's Room                                 |                       | 10,000               | -                     | -                    | -                     |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Wind machine - Electrical Generator #2                      |                       | -                    |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Fitness Trail                                               |                       | -                    |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| New Roof                                                    |                       |                      | 65,000                | 81,000               |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Support Beam under City offices                             |                       | 10,000               |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Stage Area Electrical Upgrades                              |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Commons Building Code Upgrades                              |                       | 10,000               |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Balance of List - Not Prioritized                           |                       |                      |                       |                      |                       | Items in Commons Master Plan                                                                                                                                                                      | 10,000                | 10,000                | 10,000                | 10,000                |
| Community Garden                                            |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Entry Portals - 4 @ 14,500                                  |                       |                      |                       |                      |                       |                                                                                                                                                                                                   | 14,500                | 14,500                | 14,500                | 14,500                |
| Fire Circle                                                 |                       |                      |                       |                      |                       |                                                                                                                                                                                                   | 5,000                 |                       |                       |                       |
| Native American Court                                       |                       |                      |                       |                      |                       |                                                                                                                                                                                                   | 5,000                 |                       |                       |                       |
| YYFAP Courtyard                                             |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Ball Field                                                  |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Main Entry Improvements                                     |                       |                      |                       |                      |                       |                                                                                                                                                                                                   | 26,000                |                       |                       |                       |
| Path/Bridge to cross Marine Drive at 101                    |                       |                      |                       |                      |                       | Easement Issue                                                                                                                                                                                    |                       |                       |                       |                       |
|                                                             |                       |                      |                       |                      |                       | Generator, stage lighting, sound equipment, see Operational budget                                                                                                                                |                       |                       |                       |                       |
| Updates to Commons Equipment                                |                       |                      |                       |                      |                       | Funded by Visitor Amenities                                                                                                                                                                       |                       |                       |                       |                       |
| Yachats Ocean View Drive Trail                              |                       |                      |                       |                      | 50,000                |                                                                                                                                                                                                   |                       |                       |                       |                       |
| New Floor - MP room (\$8500 from Alsea Bay)                 |                       |                      |                       | 34,000               |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Commons CIP Total                                           | -                     | 30,000               | 65,000                | 115,000              | 50,000                |                                                                                                                                                                                                   | 60,500                | 24,500                | 24,500                | 24,500                |
| Total Gross Proposed Fiscal Year Capital Plan               | 35,000                | 50,000               | 265,000               | 131,415              | 258,585               |                                                                                                                                                                                                   | 210,500               | 24,500                | 24,500                | 24,500                |
| <u>Alternative Funding Sources</u>                          |                       |                      |                       |                      |                       |                                                                                                                                                                                                   |                       |                       |                       |                       |
| Visitor Amenities Fund - LLC&M                              |                       |                      |                       |                      | 112,000               |                                                                                                                                                                                                   | 113,000               |                       |                       |                       |
| Total Net Proposed Fiscal Year Capital Plan                 |                       |                      |                       |                      | 146,585               |                                                                                                                                                                                                   |                       |                       |                       |                       |

## City of Yakima Finance Committee

## 5 Year CIP Plan

## Cost Estimates

## 2019-2020 Planning Cycle

## Capital Spending Category

## Water Projects

Chemical Pump added late in year

Backwash Pumping Line - Funded 100% by SDC's

South Reservoir - Funded through IFA

Repairs to Shop Doors (not shared with Sewer Fund)

W 3rd Street Waterline + all new service lines

Upgrade Accounting System

Hydrants x2

King Street Waterline and all new service lines

Update Conservation &amp; Curb/Manhole &amp; Water Master Plan

Enclose Blackstone Booster Station (all 3)

Radio Road Meter Replacement System Wide

Earthquake Valve and Water Tank

SCADA Upgrade

Radar and 7th Street Waterline &amp; service lines 200k Reservoir to Hwy 101

Gender Waterline and new service lines

Windy Way Waterline and service lines

E. 2nd Street Waterline &amp; new service lines (S D C Funds)

Miscellaneous Leaks of Waterlines in URD

Upgrade Size of Waterlines in URD

Driftwood Waterline W 4th to 1st (behind Commons)

Pontiac Waterline W 4th to W 1st

Spruce Ave Waterline and new service lines

Loma Ave Waterline and new service lines

New Water Plant out of Treatment Zone (Palo Alto Plant)

Water Plant is now 25 years old - Systems replace/improve

Final Phase - New Water Storage Capacity

Purchase Watershed or other Protection Agreement

Water Rate Study

Project Sub-Totals

Water Equipment

5 yd dump truck

Back-hoe

Trailer to carry little excavator

Bucket Truck

Replacement Water Department Vehicle - Replace pickup that was totaled in 2017

Replacement Van, Truck - split vehicle

Equipment Sub-Totals

Total Gross Proposed Fiscal Year Capital Plan

## 5 Year Capital Improvement Plan

## 2020-21

## 2021-22

## 2022-23

## 2023-24

## 2024-25

## 2025-26

## Notes

## Processed Capital Plan

## Processed Capital Plan

## Processed Capital Plan

## Processed Capital Plan

## Processed Capital Plan

Covered by SDC

30,000

80,000

moved to operations

119,000

\$30,000 expended as of 3/8/18

20,000

20,000

30,000

2 valves 1 at the Bridge 1 at the Tank

80,000

40,000

276,600

50,000

50,000

Verify SDC funding

260,000

131,500

131,500

Removed from 18/19 Plan

750,000

10,000

2,000,000

600,000

20,000

115,000

85,000

220,000

113,000

275,000

605,000

438,000

613,120

500,000

2,000,000

750,000

20,000

60,000

3,000

25,000

60,000

80,000

85,000

90,000

115,000

185,000

178,000

310,000

115,000

389,000

605,000

438,000

613,120

600,000

2,000,000

750,000

| City of Yachats Finance Committee<br>5 Year CIP Plan<br>Cost Estimates<br>2018-2019 Planning Cycle                               | 2017-18                     | 2017-18                    | 2018-19                     | 2018-19                    | 2019-20                     | Notes                                                                              | 5 Year Capital Improvement Plan |                             |                             |                             |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------|----------------------------|-----------------------------|----------------------------|-----------------------------|------------------------------------------------------------------------------------|---------------------------------|-----------------------------|-----------------------------|-----------------------------|
|                                                                                                                                  | Original<br>Capital<br>Plan | Amended<br>Capital<br>Plan | Original<br>Capital<br>Plan | Amended<br>Capital<br>Plan | Proposed<br>Capital<br>Plan |                                                                                    | Proposed<br>Capital<br>Plan     | Proposed<br>Capital<br>Plan | Proposed<br>Capital<br>Plan | Proposed<br>Capital<br>Plan |
| <b>Capital Spending Category</b>                                                                                                 |                             |                            |                             |                            |                             |                                                                                    |                                 |                             |                             |                             |
| <b>Wastewater</b>                                                                                                                |                             |                            |                             |                            |                             |                                                                                    |                                 |                             |                             |                             |
| I & I Basin Rehab 20-30 manholes/yr<br>Basin by basin basis - manholes and pipelines                                             | -                           | -                          | -                           | -                          | -                           | For Contractor Work that Public<br>Works can't do                                  | 30,000                          | 30,000                      | 30,000                      | 30,000                      |
| Sewer Collection Lines extended - net<br>Septic Tank elimination                                                                 | -                           | -                          | -                           | -                          | -                           |                                                                                    | 50,000                          | 50,000                      | 50,000                      | 50,000                      |
| Sludge Handling Bldg Side Cover<br>became Pole Building                                                                          | -                           | -                          | -                           | -                          | -                           |                                                                                    |                                 |                             |                             |                             |
| Air valve Actuator for SBR#1 upgrade                                                                                             | -                           | -                          | -                           | -                          | 8,000                       | Replace current air valve with an<br>upgraded valve for better operator<br>control |                                 |                             |                             |                             |
| SCADA Replacement<br>computer is 7 years old and software is obsolete                                                            | -                           | -                          | -                           | -                          | -                           |                                                                                    |                                 |                             |                             |                             |
| Side Gate for PWD fence                                                                                                          | -                           | -                          | -                           | -                          | 7,000                       | Larger sized gate that allows large<br>equipment through                           |                                 |                             |                             |                             |
| Sewer Line Crestview - same trench solution<br>(Paid by SDC fees)                                                                | -                           | 100,000                    | 50,000                      | 70,000                     | -                           | \$63,395 expended as of 3/8/19                                                     |                                 |                             |                             |                             |
| Solid Pole Bldg to Cover Truck during Processing keep dry<br>while filling and protects truck from weather (preventing<br>waste) | -                           | -                          | 60,000                      | 80,000                     | 80,000                      | Blending into fiscal year 19/20                                                    |                                 |                             |                             |                             |
| Sliding doors on U.V. Building to fully enclose and protect<br>U.V. equipment                                                    | -                           | -                          | -                           | -                          | 15,000                      | Dust & grit blowing in damaging UV<br>sleeves                                      |                                 |                             |                             |                             |
| 1/2 of Radio Read Project                                                                                                        | -                           | -                          | 16,000                      | -                          | -                           | Approximately \$120K project                                                       | 30,000                          |                             |                             |                             |
| Repairs to roll-up Doors on PW Shop wind locks are<br>corroded and popping out - total cost to be split with water               | -                           | -                          | -                           | -                          | 30,000                      |                                                                                    |                                 |                             |                             |                             |
| Waste/Water Master Plan Update - Last master plan project<br>completed in 2009                                                   | -                           | -                          | -                           | -                          | 90,000                      |                                                                                    |                                 |                             |                             |                             |
| Water Rate Study                                                                                                                 | -                           | -                          | -                           | -                          | 20,000                      |                                                                                    |                                 |                             |                             |                             |
| I&I Basin Rehab                                                                                                                  | -                           | -                          | -                           | -                          | 30,000                      |                                                                                    |                                 |                             |                             |                             |
| Air Actuator Valve                                                                                                               | -                           | -                          | -                           | -                          | -                           | Added per Budget Committee                                                         |                                 |                             |                             |                             |
| <b>Project Sub-Totals</b>                                                                                                        | -                           | 100,000                    | 125,000                     | 150,000                    | 278,000                     |                                                                                    | 110,000                         | 80,000                      | 80,000                      | 80,000                      |
| <b>Wastewater Equipment</b>                                                                                                      |                             |                            |                             |                            |                             |                                                                                    |                                 |                             |                             |                             |
| 5 yd dump truck - current truck needs brakes, constant<br>repairs - total cost to be split with water                            | 20,000                      | 20,000                     | -                           | -                          | -                           |                                                                                    |                                 |                             |                             |                             |
| Towable Spreader                                                                                                                 | -                           | -                          | -                           | -                          | -                           | Moved forward - looking at other<br>options                                        |                                 | 20,000                      |                             |                             |
| Back-hoe                                                                                                                         | 80,000                      | 60,000                     | -                           | -                          | -                           |                                                                                    |                                 |                             |                             |                             |
| Re-Side Public Works Building                                                                                                    | -                           | -                          | -                           | -                          | -                           |                                                                                    |                                 |                             | 25,000                      |                             |
| Bucket Truck                                                                                                                     | -                           | 3,000                      | -                           | -                          | -                           |                                                                                    |                                 |                             |                             |                             |
| 2,000 gallon water truck (Biosolids) - back up in case dump<br>truck or screw press fails                                        | -                           | -                          | 25,000                      | 35,000                     | -                           |                                                                                    |                                 |                             |                             |                             |
| Replacement Vac Truck - split cost w/water                                                                                       | -                           | -                          | 90,000                      | -                          | 90,000                      | Removed from 18/19 Plan                                                            |                                 |                             |                             |                             |
| <b>Equipment Sub-Totals</b>                                                                                                      | 80,000                      | 83,000                     | 115,000                     | 25,000                     | 90,000                      |                                                                                    |                                 | 20,000                      | 25,000                      | -                           |
| <b>Total Gross Proposed Fiscal Year Capital Plan</b>                                                                             | 80,000                      | 183,000                    | 240,000                     | 175,000                    | 368,000                     |                                                                                    | 110,000                         | 100,000                     | 105,000                     | 80,000                      |

City of Yachats Finance Committee5 Year CIP PlanCost Estimates2019-2020 Planning CycleStorm Drains5 Year Capital Improvement Plan2020-21 2021-22 2022-23 2023-24 later Years**Capital Spending Category**

|                                             | <b>2017-18</b>               | <b>2017-18</b>              | <b>2018-19</b>               | <b>2018-19</b>              | <b>2019-20</b>               | <b>Notes</b>                                                       | <b>Proposed Capital Plan</b> | <b>Proposed Capital Plan</b> | <b>Proposed Capital Plan</b> | <b>Proposed Capital Plan</b> |               |               |               |               |               |
|---------------------------------------------|------------------------------|-----------------------------|------------------------------|-----------------------------|------------------------------|--------------------------------------------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|---------------|---------------|---------------|---------------|---------------|
|                                             | <b>Original Capital Plan</b> | <b>Amended Capital Plan</b> | <b>Original Capital Plan</b> | <b>Amended Capital Plan</b> | <b>Proposed Capital Plan</b> |                                                                    |                              |                              |                              |                              |               |               |               |               |               |
| Equipment                                   | -                            | -                           | -                            | -                           | -                            |                                                                    | -                            | -                            | -                            | -                            | -             | -             | -             | -             | -             |
| Storm Drain/Culverts Build-Out/Improvements | -                            | -                           | -                            | -                           | 40,000                       | Funded by General Fund                                             | 40,000                       | 40,000                       | 40,000                       | 40,000                       | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        |
| Storm Drain added late in 17/18 (Hanley)    | -                            | 7,000                       | -                            | 2,000                       | -                            | \$2,000 transferred from General Fund 11/14/18 Supplemental Budget | -                            | -                            | -                            | -                            | -             | -             | -             | -             | -             |
| <b>Total</b>                                | <b>-</b>                     | <b>7,000</b>                | <b>-</b>                     | <b>2,000</b>                | <b>40,000</b>                |                                                                    | <b>40,000</b>                | <b>40,000</b>                | <b>40,000</b>                | <b>40,000</b>                | <b>40,000</b> | <b>40,000</b> | <b>40,000</b> | <b>40,000</b> | <b>40,000</b> |



City of Yachats Finance Committee5 Year CIP PlanCost Estimates2018-2019 Planning Cycle

City Hall

## Capital Spending Category

|                                                          | 2017-18               | 2017-18              | 2018-19               | 2018-19              | 2019-20               | Notes                                                                                                        | 5 Year Capital Improvement Plan  |                                  |                                  |                                  |
|----------------------------------------------------------|-----------------------|----------------------|-----------------------|----------------------|-----------------------|--------------------------------------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
|                                                          | Original Capital Plan | Amended Capital Plan | Original Capital Plan | Amended Capital Plan | Proposed Capital Plan |                                                                                                              | 2020-21<br>Proposed Capital Plan | 2021-22<br>Proposed Capital Plan | 2022-23<br>Proposed Capital Plan | 2023-24<br>Proposed Capital Plan |
| Information Technology Development - Hardware & Software | 20,000                | 20,000               | 20,000                | 20,000               | 29,000                | Merged information Systems & Web development. Includes Web design payments, Business license, tax collection | 19,000                           | 7,000                            | 7,000                            | 7,000                            |
| Hardware Upgrade                                         | -                     | -                    | 10,000                | 10,000               | -                     |                                                                                                              | -                                | -                                | -                                | -                                |
| Web Development/App Deployment                           | -                     | -                    | 20,000                | 20,000               | -                     |                                                                                                              | 5,000                            | 5,000                            | 5,000                            |                                  |
| Office Furniture/layout/equipment upgrade                | -                     | -                    | -                     | -                    | 75,000                |                                                                                                              | 15,000                           | -                                | -                                | -                                |
| Upgrade Accounting Systems                               | -                     | -                    | -                     | -                    | -                     |                                                                                                              | -                                | 10,000                           | -                                | -                                |
| Meter read interface to Muni system                      | -                     | -                    | -                     | -                    | 10,000                |                                                                                                              | -                                | -                                | -                                | -                                |
| Update Emergency Plan                                    | -                     | -                    | 5,000                 | -                    | -                     |                                                                                                              | -                                | -                                | -                                | -                                |
| Total                                                    | 20,000                | 20,000               | 55,000                | 50,000               | 114,000               |                                                                                                              | 39,000                           | 22,000                           | 12,000                           | 7,000                            |

## Revenue Sources

General fund

Grants

City of Yachats Finance Committee5 Year CIP PlanCost Estimates2019-2020 Planning Cycle

| Street Name                                          | 2017-18               | 2017-18              | 2018-19               | 2018-19              | 2019-20               | Notes                                                                                                                               | 5 Year Capital Improvement Plan |                       |                       |                       |
|------------------------------------------------------|-----------------------|----------------------|-----------------------|----------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------|-----------------------|-----------------------|
|                                                      | Original Capital Plan | Amended Capital Plan | Original Capital Plan | Amended Capital Plan | Proposed Capital Plan |                                                                                                                                     | 2020-21                         | 2021-22               | 2022-23               | 2023-24               |
|                                                      |                       |                      |                       |                      |                       |                                                                                                                                     | Proposed Capital Plan           | Proposed Capital Plan | Proposed Capital Plan | Proposed Capital Plan |
| W 1st Street                                         |                       |                      |                       |                      | 100,000               | 18/19: Reserve balance \$4,000; transfer from General Fund \$112,000                                                                |                                 |                       |                       |                       |
| Driftwood                                            |                       |                      |                       |                      | 60,000                |                                                                                                                                     |                                 |                       |                       |                       |
| Oceanview Drive                                      |                       |                      |                       |                      | 50,000                |                                                                                                                                     |                                 |                       |                       |                       |
| Horizon Hill Stabilization Study                     |                       |                      |                       | 20,000               | 50,000                |                                                                                                                                     |                                 |                       |                       |                       |
| E 2nd Street                                         |                       |                      |                       |                      | 100,000               |                                                                                                                                     |                                 |                       |                       |                       |
| Gender                                               |                       |                      |                       |                      |                       |                                                                                                                                     | 50,000                          |                       |                       |                       |
| Windy Way                                            |                       |                      |                       |                      |                       |                                                                                                                                     | 50,000                          |                       |                       |                       |
| Street Improvements - PWD Allocation                 |                       | 36,500               | 203,500               | 20,000               | 360,000               |                                                                                                                                     | 100,000                         | 100,000               | 100,000               | 100,000               |
| Engineering & Geotech Study                          |                       | -                    | -                     | 30,000               | -                     |                                                                                                                                     |                                 |                       |                       |                       |
| Street Speed Signs added late in year                |                       | 6,000                | -                     | -                    | -                     |                                                                                                                                     |                                 |                       |                       |                       |
| South Gateway Sign                                   |                       | -                    | -                     | 14,000               | -                     | \$14,000 transferred from Streets Reserve Fund 11/14/18 Supplemental Budget 4th Street/Ballfield Paving Funded by Visitor Amenities |                                 |                       |                       |                       |
| Paving                                               |                       | -                    | -                     | 50,000               | 25,000                |                                                                                                                                     |                                 |                       |                       |                       |
| <b>Total Gross Proposed Fiscal Year Capital Plan</b> | -                     | 42,500               | 203,500               | 114,000              | 385,000               |                                                                                                                                     | 100,000                         | 100,000               | 100,000               | 100,000               |
| <b>Revenue Sources</b>                               | <b>FY19</b>           |                      |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Gen. Fund                                            |                       |                      |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| State                                                |                       |                      |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Wastewater Transfer                                  |                       | 5,000                |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Water Transfer                                       |                       | 5,000                |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Grants                                               |                       | -                    |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Reserve Carryover                                    |                       | 4,000                |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Urban Renewal                                        |                       | 10,000               |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Visitor Amenities                                    |                       | 50,000               |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
|                                                      |                       | <u>74,000</u>        |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| <b>Alternative Funding Sources</b>                   |                       |                      |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| Small Cities Grant - E. Second Street                |                       |                      |                       |                      | 100,000               |                                                                                                                                     |                                 |                       |                       |                       |
| 2nd Small cities grant to be applied for August 2019 |                       |                      |                       |                      |                       |                                                                                                                                     |                                 |                       |                       |                       |
| <b>Total Net Proposed Fiscal Year Capital Plan</b>   |                       |                      |                       |                      | <b>285,000</b>        |                                                                                                                                     |                                 |                       |                       |                       |

## LIBRARY RELOCATION AND EXPANSION

|                            |                            |                      |            |
|----------------------------|----------------------------|----------------------|------------|
| <b>Department:</b>         | General Fund - Library     | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project - Building |                      |            |
| <b>Total Project Cost:</b> | \$ 375,000                 | <b>Status</b>        | In Process |

| Ranking Criteria Met                     |                                                      | Project Type                           |
|------------------------------------------|------------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement      | <input type="checkbox"/> Maintenance   |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership | <input type="checkbox"/> Replacement   |
| <input type="checkbox"/> Health & Safety | <input type="checkbox"/> Upgrade Serviceability      | <input type="checkbox"/> New/Expansion |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                   |
|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | Construction of a 400 sq. ft. addition to the existing Yachats Public Library. The project will include, but not be limited to, foundation, framing, roofing, siding, painting and the finishing of the interior. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Current library sq. ft. 2,016. Finished sq. ft. 2,416. IFMA guidelines \$3.50/sq. ft. for general maintenance = \$8,416/yr.                                                                                       |



**Yachats Public Library  
New Addition**

| % of Project Budget Assigned to Funding Source |                |                                                     |           |
|------------------------------------------------|----------------|-----------------------------------------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source                                      | Funding % |
| Previous                                       | \$ 14,415      | Expended as of 3/8/19 – Library reserves            | 3.8       |
| FY19-20                                        | \$ 60,585      | General Fund (50k minus exp in FY19 + 25k for FY20) | 16.2      |
|                                                | \$ 75,000      | Library Reserves (Hall Bequest)                     | 20        |
|                                                | \$ 20,000      | Friends of Library & Grants                         | 5.3       |
|                                                | \$ 205,000     | Forthcoming grants                                  | 55        |
| FY20-21+                                       | \$             |                                                     |           |

# LITTLE LOG CHURCH AND MUSEUM

|                            |                            |                      |            |
|----------------------------|----------------------------|----------------------|------------|
| <b>Department:</b>         | General Fund - LLCM        | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project - Building |                      |            |
| <b>Total Project Cost:</b> | \$ 300,000                 | <b>Status</b>        | In Process |

| Ranking Criteria Met                                |                                                                 | Project Type                                    |
|-----------------------------------------------------|-----------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement                 | <input checked="" type="checkbox"/> Maintenance |
| <input type="checkbox"/> Master Plan                | <input checked="" type="checkbox"/> Outside Funding/Partnership | <input checked="" type="checkbox"/> Replacement |
| <input checked="" type="checkbox"/> Health & Safety | <input type="checkbox"/> Upgrade Serviceability                 | <input type="checkbox"/> New/Expansion          |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                   |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | The project will include, but not be limited to, the demolition and removal of the existing building. The rebuilding from the ground up of an exact as possible replica of the Little Log Church. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Current & Finished LLCM sq. ft. 2,604. IFMA guidelines \$3.50/sq. ft. for general maintenance = \$9,114/yr.                                                                                       |



| % of Project Budget Assigned to Funding Source |                |                   |           |
|------------------------------------------------|----------------|-------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source    | Funding % |
| Previous                                       | \$ 2,000       |                   | 0.7       |
| FY19-20                                        | \$ 112,000     | Visitor Amenities | 37.3      |
|                                                | \$ 36,000      | General Fund      | 12        |
| FY20-21+                                       | \$ 150,000     |                   | 50        |

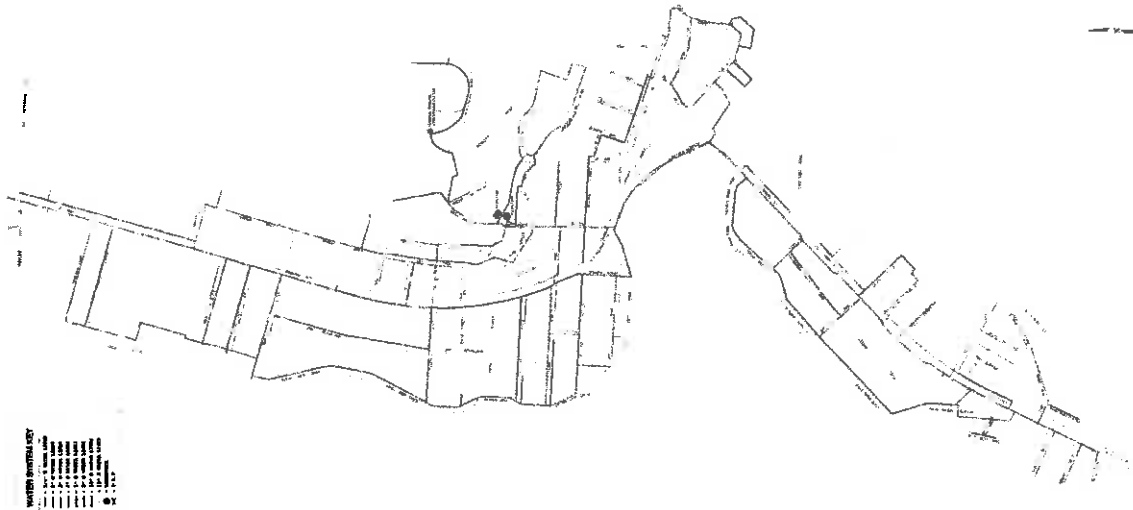
# WATER MASTER PLAN

|                            |                 |                      |            |
|----------------------------|-----------------|----------------------|------------|
| <b>Department:</b>         | Water           | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project |                      |            |
| <b>Total Project Cost:</b> | \$ 90,000       | <b>Status</b>        | In Process |

| Ranking Criteria Met                              |                                                      | Project Type                                    |
|---------------------------------------------------|------------------------------------------------------|-------------------------------------------------|
| <input checked="" type="checkbox"/> Council Goals | <input type="checkbox"/> Regulatory Requirement      | <input type="checkbox"/> Maintenance            |
| <input checked="" type="checkbox"/> Master Plan   | <input type="checkbox"/> Outside Funding/Partnership | <input checked="" type="checkbox"/> Replacement |
| <input type="checkbox"/> Health & Safety          | <input type="checkbox"/> Upgrade Serviceability      | <input type="checkbox"/> New/Expansion          |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | The Water Master Plan is designed to <b>address the needs of the Water system over the next 20 years</b> . It is designed to help in establishing a capital improvement and capital maintenance plan for the water system. The report provides descriptions of the recommended improvements and an opinion of probable project cost for each item. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Council Goals 10 (Protect Natural Resources) & Goal 15 (Water Security).                                                                                                                                                                                                                                                                           |



| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       | \$ 30,000      | Water Reserves | 33        |
| FY19-20                                        | \$ 60,000      | Water Reserves | 67        |
| FY20-21+                                       |                |                |           |

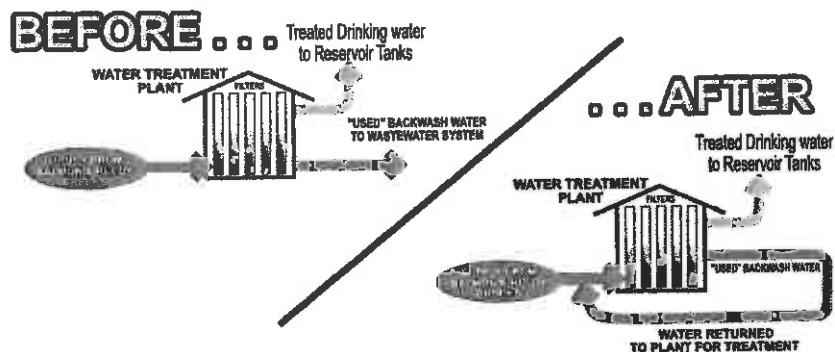
## BACKWASH RECYCLE

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Water           | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 45,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                              |                                                      | Project Type                                      |
|---------------------------------------------------|------------------------------------------------------|---------------------------------------------------|
| <input checked="" type="checkbox"/> Council Goals | <input type="checkbox"/> Regulatory Requirement      | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan              | <input type="checkbox"/> Outside Funding/Partnership | <input type="checkbox"/> Replacement              |
| <input type="checkbox"/> Health & Safety          | <input type="checkbox"/> Upgrade Serviceability      | <input checked="" type="checkbox"/> New/Expansion |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | <p>As a water conservation measure, backwash water can be recycled in the confines of regulation 22.40-22.43. The purpose of the regulation was to improve the control of microbial contaminants such as Cryptosporidium by reducing the potential for recycled product streams to upset the removal efficiency of the main treatment processes. The regulation requires that spent filter backwash water be recycled to the front of the treatment plant so that all available particle removal treatment processes can be employed to remove the microbial and particulate material from the backwash water.</p> <p>This project will introduce the recycled water in front of the treatment plant process. The water plant uses 30,000 to 60,000 gallons of water daily during high demands in the summer. Since drought conditions happen almost every summer, recycling water will help mitigate droughts.</p> |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Council Goals 10 (Protect Natural Resources) & Goal 15 (Water Security).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |



| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       |                |                |           |
| FY19-20                                        | \$ 45,000      | SDCs           | 100%      |
| FY20-21+                                       |                |                |           |

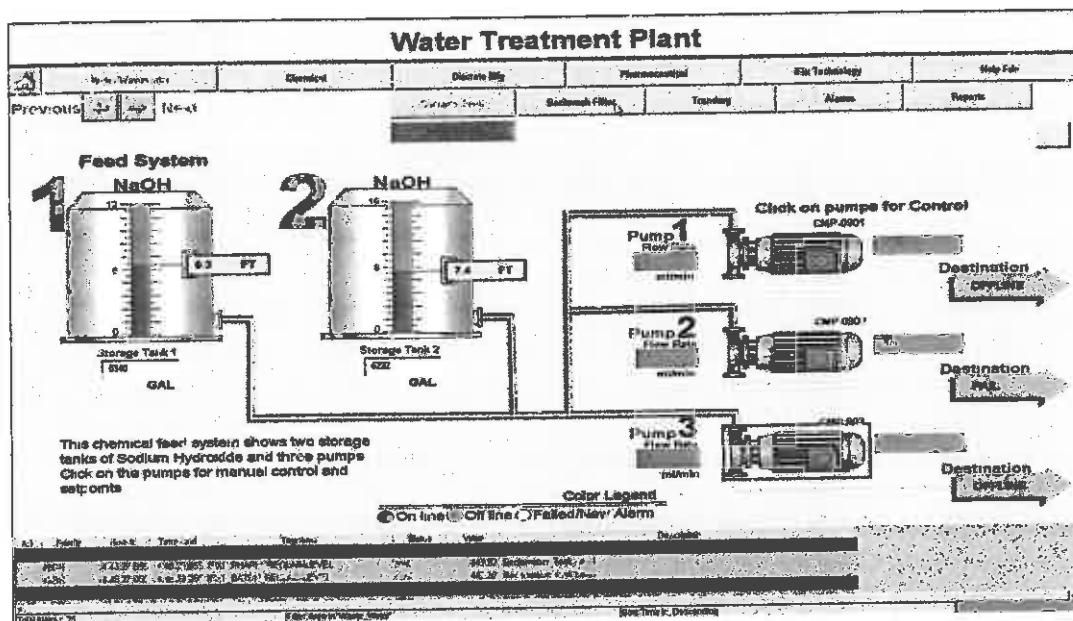
## SCADA UPGRADES

|                     |                 |               |             |
|---------------------|-----------------|---------------|-------------|
| Department:         | Water           | MP Project #: | n/a         |
| Category:           | Capital Project |               |             |
| Total Project Cost: | \$ 10,000       | Status        | Not Started |

| Ranking Criteria Met                     |                                                            | Project Type                                    |
|------------------------------------------|------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement            | <input checked="" type="checkbox"/> Maintenance |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement            |
| <input type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion          |

|          |                               |                                      |                                            |                                     |                              |
|----------|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------|------------------------------|
| Priority | <input type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input checked="" type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|----------|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | Supervisory Control and Data Acquisition (SCADA) is a control system architecture that uses computers, networked data communications and graphical user interfaces for high-level process supervisory management but uses other peripheral devices such as programmable logic controller (PLC) and discrete PID controllers to interface with the process water plant. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                                                                                                                                        |



| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       |                |                |           |
| FY19-20                                        | \$ 10,000      | Water Reserves | 20        |
| FY20-21+                                       | \$ 40,000      | Water Reserves | 80        |

## WATER PLANT SYSTEM IMPROVEMENTS AND UPGRADES

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Water           | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 50,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                            | Project Type                                    |
|-----------------------------------------------------|------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input checked="" type="checkbox"/> Maintenance |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement            |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion          |

|                 |                               |                                      |                                            |                                     |                              |
|-----------------|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input checked="" type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                           |
|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | The water plant is now 28 years old and many of the process controls and pumps are antiquated. These improvements and upgrades will help ensure the water plant has a long-life span and continue to produce high quality drinking water. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                           |

No Photo Available

| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       |                |                |           |
| FY19-20                                        | \$ 50,000      | Water Reserves | 100%      |
| FY20-21+                                       | \$ 50,000      |                |           |



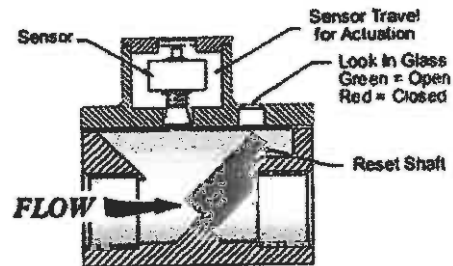
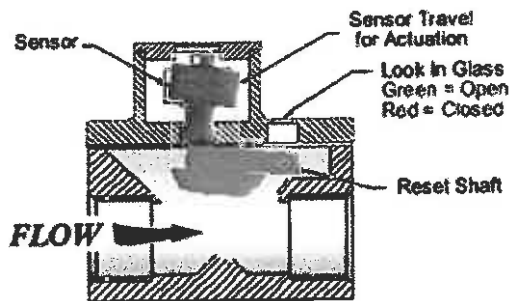
## EARTHQUAKE VALVE AND WATER TAP

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Water           | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 60,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                      | Project Type                                      |
|-----------------------------------------------------|------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement      | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership | <input type="checkbox"/> Replacement              |
| <input checked="" type="checkbox"/> Health & Safety | <input type="checkbox"/> Upgrade Serviceability      | <input checked="" type="checkbox"/> New/Expansion |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                    |
|---------------------------------------------------------|------------------------------------|
| <b>Project Description:</b>                             | 1 valve at bridge. 1 valve at tank |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                    |



| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       |                |                |           |
| FY19-20                                        | \$ 60,000      | Water Reserves | 100       |
| FY20-21+                                       |                |                |           |

## WATER DEPARTMENT VEHICLE REPLACEMENT

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Water           | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 25,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                     |                                                      | Project Type                                      |
|------------------------------------------|------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement      | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership | <input type="checkbox"/> Replacement              |
| <input type="checkbox"/> Health & Safety | <input type="checkbox"/> Upgrade Serviceability      | <input checked="" type="checkbox"/> New/Expansion |

|                 |                               |                                      |                                 |                                     |                                         |
|-----------------|-------------------------------|--------------------------------------|---------------------------------|-------------------------------------|-----------------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input checked="" type="checkbox"/> Low |
|-----------------|-------------------------------|--------------------------------------|---------------------------------|-------------------------------------|-----------------------------------------|

|                                                         |                                                |
|---------------------------------------------------------|------------------------------------------------|
| <b>Project Description:</b>                             | Replace department pick-up truck lost in 2017. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                |

No Photo Available

| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       |                |                |           |
| FY19-20                                        | \$ 25,000      | Water Reserves | 100       |
| FY20-21+                                       |                |                |           |

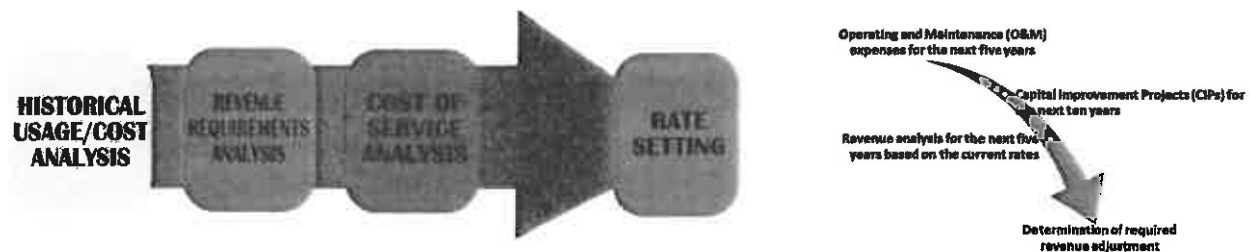
## WATER RATE STUDY

|                            |                     |                      |             |
|----------------------------|---------------------|----------------------|-------------|
| <b>Department:</b>         | Water<br>Wastewater | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project     |                      |             |
| <b>Total Project Cost:</b> | \$ 40,000           | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                            | Project Type                                      |
|-----------------------------------------------------|------------------------------------------------------------|---------------------------------------------------|
| <input checked="" type="checkbox"/> Council Goals   | <input checked="" type="checkbox"/> Regulatory Requirement | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement              |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input checked="" type="checkbox"/> New/Expansion |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                        |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | Audit water rates and determine best rate structure to cover water and wastewater services, <u>maintenance</u> , and <u>upgrades</u> . |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Promotes protection of valuable water resources, water and wastewater assets.                                                          |



**Note:** A quote from Oregon Association for Water Utilities was received on April 18, 2019. The water rate study is quoted at approximately \$13,000 and \$11,000 for wastewater rates. The study is estimated to take 6-8 weeks to complete.

| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 20,000      | Water Reserves      | 50        |
|                                                | \$ 20,000      | Wastewater Reserves | 50        |
| FY20-21+                                       |                |                     |           |

## REPLACEMENT VAC TRUCK

|                            |                     |                      |             |
|----------------------------|---------------------|----------------------|-------------|
| <b>Department:</b>         | Water<br>Wastewater | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project     |                      |             |
| <b>Total Project Cost:</b> | \$ 180,000          | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                            | Project Type                                    |
|-----------------------------------------------------|------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance            |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input checked="" type="checkbox"/> Replacement |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion          |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | <p>A replacement Vac truck will be purchased in FY2019-20. This piece of equipment has become Public Works most valuable asset, not only in cost but in labor savings as well. For example, it would take two workers 2-3 hours to pot-hole for underground utilities where now it might take 0.5 -1 hour with the Vac truck. The ability to clean and clear sewer mains fast and efficiently is another highlight.</p> <p>The current Vac truck used at Public Works has become unreliable. The crew can spend 30 minutes or more priming the pressure pump. The truck recently broke down on private property while working on a project.</p> |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |



| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 90,000      | Water Reserves      | 50        |
|                                                | \$ 90,000      | Wastewater Reserves | 50        |
| FY20-21+                                       |                |                     |           |

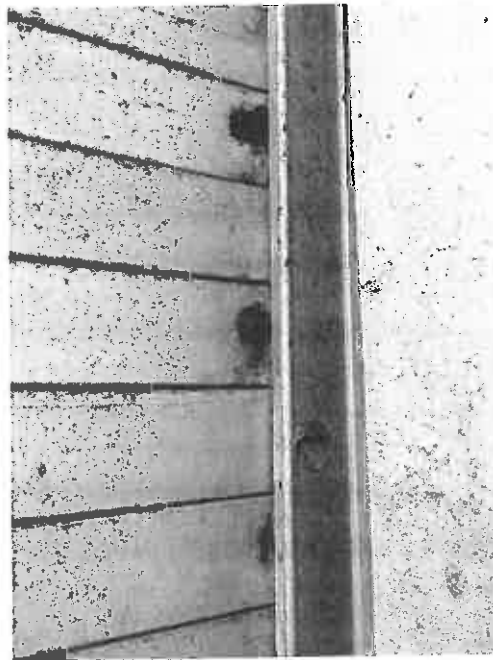
## PUBLIC WORKS SHOP DOORS

|                            |                    |                      |            |
|----------------------------|--------------------|----------------------|------------|
| <b>Department:</b>         | Water & Wastewater | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project    |                      |            |
| <b>Total Project Cost:</b> | \$ 60,000          | <b>Status</b>        | In Process |

| Ranking Criteria Met                     |                                                            | Project Type                                    |
|------------------------------------------|------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement            | <input checked="" type="checkbox"/> Maintenance |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement            |
| <input type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion          |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | The roll-up doors on the Public Works building have corroded wind-locks (guides) on the sides on each door. This causes the guide to break off resulting in the door hanging up when raising and lowering the doors. The new doors will be made of stainless steel. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                                     |



| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 30,000      | Water Reserves      | 50        |
|                                                | \$ 30,000      | Wastewater Reserves | 50        |
| FY20-21+                                       |                |                     |           |

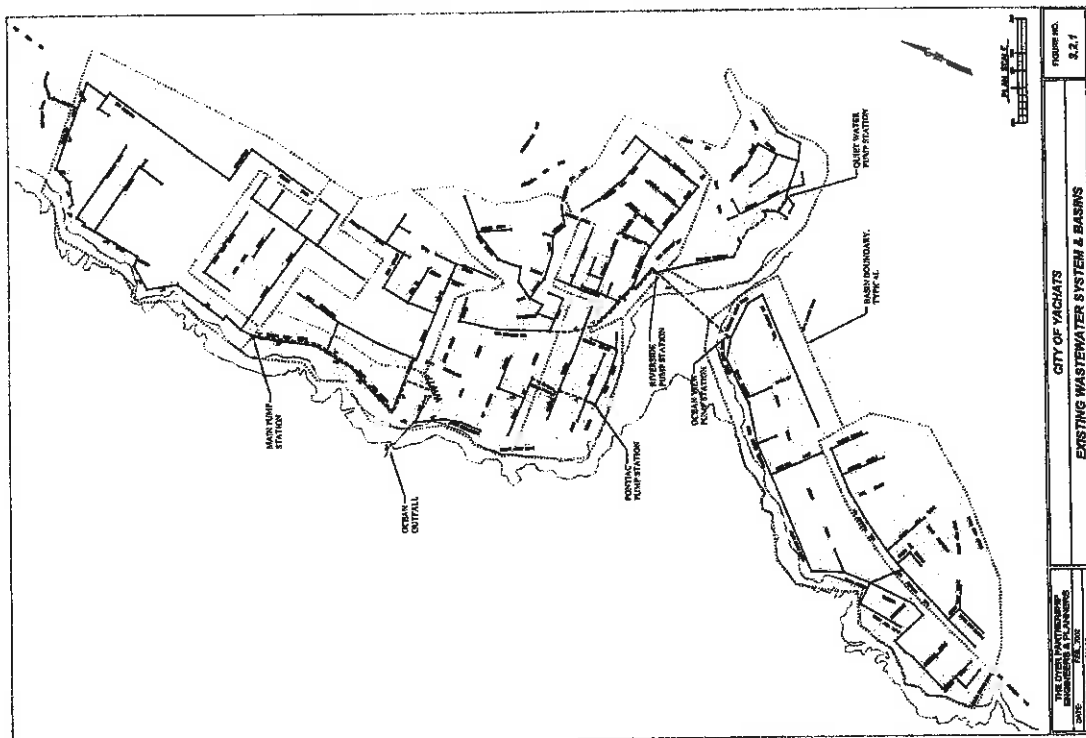
# WASTEWATER MASTER PLAN

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Wastewater      | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 90,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                            | Project Type                                    |
|-----------------------------------------------------|------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance            |
| <input checked="" type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership       | <input checked="" type="checkbox"/> Replacement |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion          |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                    |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | The previous Wastewater Master Plan was completed in 2009 when the new wastewater plant was brought online. The new Wastewater Master Plan will identify any improvements, upgrades and repair issues that may be needed in the wastewater system. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                    |



| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 90,000      | Wastewater Reserves | 100       |
| FY20-21+                                       |                |                     |           |

## AIR VALVE ACTUATOR FOR SBR#2

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Wastewater      | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 6,000        | <b>Status</b>        | Not Started |

| Ranking Criteria Met                     |                                                            | Project Type                                    |
|------------------------------------------|------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance            |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership       | <input checked="" type="checkbox"/> Replacement |
| <input type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion          |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                          |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | An upgraded air actuator for SBR #2. This valve will give better operator control as well as provide a spare replacement once the old valve is repaired. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                          |

No Photo Available

| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 6,000       | Wastewater Reserves | 100       |
| FY20-21+                                       |                |                     |           |

## SIDE GATE FOR PUBLIC WORKS DEPARTMENT FENCE

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Wastewater      | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 5,000        | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                            | Project Type                                      |
|-----------------------------------------------------|------------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement              |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input checked="" type="checkbox"/> New/Expansion |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | A new 20-foot slide gate is needed to widen the entry to the biosolids processing building at Public Works on 7th St. The equipment used in that area barely fits though the current gate. One parking space will need to be removed to accommodate the new gate entryway. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                                            |

No Photo Available

| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 5,000       | Wastewater Reserves | 100       |
| FY20-21+                                       |                |                     |           |



## SOLIDS POLE BUILDING

|                            |                 |                      |            |
|----------------------------|-----------------|----------------------|------------|
| <b>Department:</b>         | Wastewater      | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project |                      |            |
| <b>Total Project Cost:</b> | \$ 80,000       | <b>Status</b>        | In Process |

| Ranking Criteria Met                                |                                                            | Project Type                           |
|-----------------------------------------------------|------------------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance   |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement   |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | The solids pole building was scheduled for FY 2018-19 but was delayed until the Library could decide how much to expand their building towards the Public Works fence. This delay has moved the project into the 2019-20 fiscal year. Currently, the goal is to build a 32x48 foot pole building. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                                                                   |



| % of Project Budget Assigned to Funding Source |                |                |           |
|------------------------------------------------|----------------|----------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source | Funding % |
| Previous                                       |                |                |           |
| FY19-20                                        | \$ 80,000      |                | 100       |
| FY20-21+                                       |                |                |           |

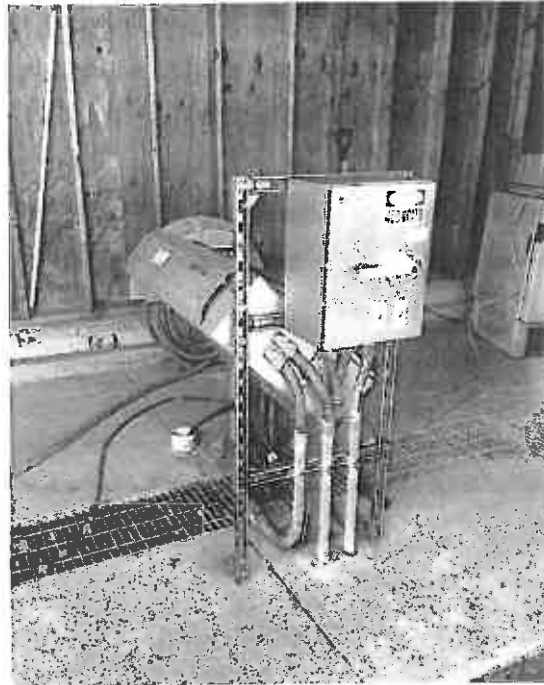
## SLIDING DOORS ON UV BUILDING

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Wastewater      | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 15,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                                |                                                            | Project Type                                      |
|-----------------------------------------------------|------------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement              |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input checked="" type="checkbox"/> New/Expansion |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | Sliding doors on the U.V. Building are needed reduce the amount of dust and grit blowing into the U.V. channel. This material settles on the U.V. glass sleeves and will scratch the tubes during the automated cleaning process. The result is higher maintenance costs and reduced disinfection of the treated wastewater effluent. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> |                                                                                                                                                                                                                                                                                                                                       |



| % of Project Budget Assigned to Funding Source |                |                     |           |
|------------------------------------------------|----------------|---------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source      | Funding % |
| Previous                                       |                |                     |           |
| FY19-20                                        | \$ 15,000      | Wastewater Reserves | 100       |
| FY20-21+                                       |                |                     |           |

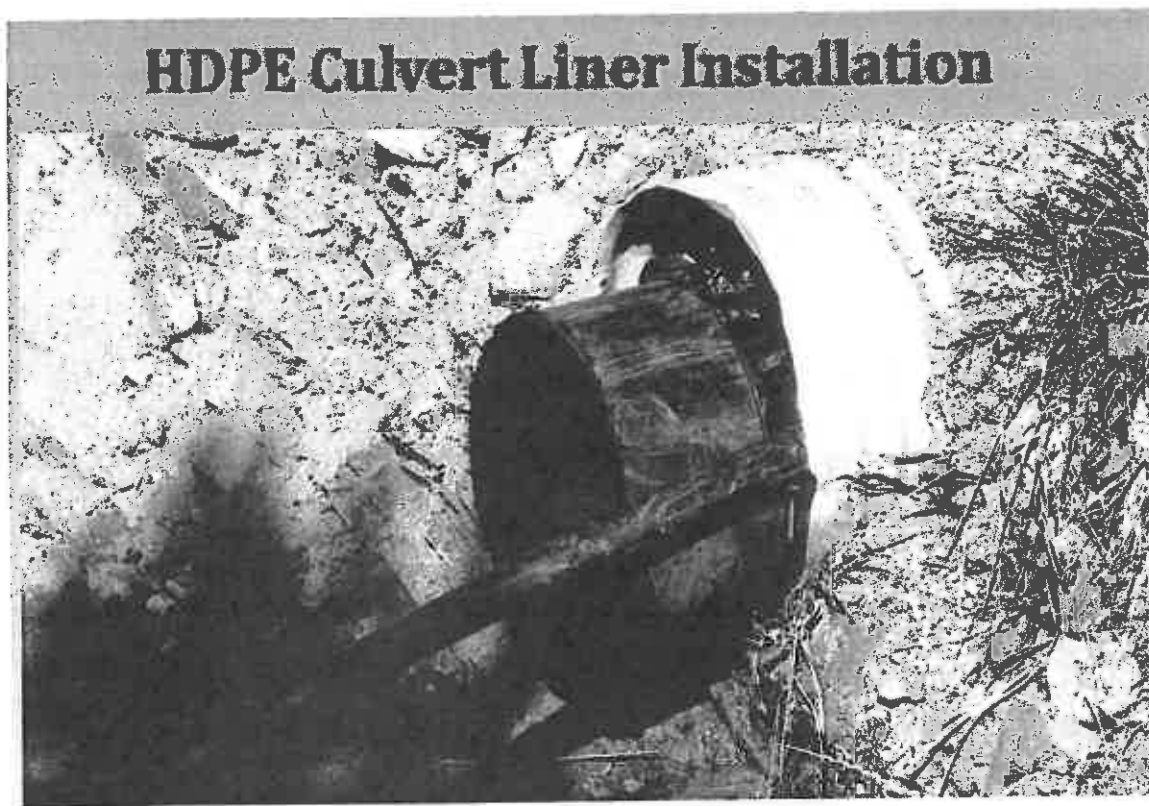
## STORM DRAINS AND CULVERTS BUILDOUT

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | Storm Drains    | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 45,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                     |                                                            | Project Type                                      |
|------------------------------------------|------------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance              |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement              |
| <input type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input checked="" type="checkbox"/> New/Expansion |

|                 |                               |                                      |                                            |                                     |                              |
|-----------------|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input checked="" type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------|------------------------------|

|                                                         |                                         |
|---------------------------------------------------------|-----------------------------------------|
| <b>Project Description:</b>                             | Storm Drain Build-outs and Improvements |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Annual cost of \$ 40,000                |



| % of Project Budget Assigned to Funding Source |                |                         |           |
|------------------------------------------------|----------------|-------------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source          | Funding % |
| Previous                                       |                |                         |           |
| FY19-20                                        | \$ 40,000      | General Fund            | 100       |
| FY20-21+                                       | \$ 40,000      | Annual maintenance cost |           |

## INFORMATION SYSTEMS DEVELOPMENT

|                            |                 |                      |            |
|----------------------------|-----------------|----------------------|------------|
| <b>Department:</b>         | City Hall       | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project |                      |            |
| <b>Total Project Cost:</b> | \$ 50,000       | <b>Status</b>        | In Process |

| Ranking Criteria Met                              |                                                            | Project Type                           |
|---------------------------------------------------|------------------------------------------------------------|----------------------------------------|
| <input checked="" type="checkbox"/> Council Goals | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance   |
| <input type="checkbox"/> Master Plan              | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement   |
| <input type="checkbox"/> Health & Safety          | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                       |
|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | Development of new website, business license and tax collection modules, accounting system compatibility and upgrade. |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | \$ 19,000 in FY20-21 and \$ 7,000 for 3 years thereafter                                                              |

### Licensing Capabilities

- ✓ Best Practice Templates Available
- ✓ Inspection App Support
- ✓ Electronic Payment Support for Citizen Portal
- ✓ Renewal Schedules are Unlimited
- ✓ Fee Schedules from Basic to Complex
- ✓ Delinquency Charges are Supported (Ind. Grace Period)
- ✓ Renewal Notices via Paper or Electronic Notification

### Accela Tax

#### Flexible business and property tax collection

Our Business Tax and Property Tax solutions are flexible enough to meet your state's tax collection requirements. Business Tax helps local governments automate traditionally cumbersome processes, while allowing citizens to prepare, file and pay local business taxes online or in person. Property Tax manages the entire financial cycle, including resident record management, imports, billing, fees and collections.

| % of Project Budget Assigned to Funding Source |                |                    |           |
|------------------------------------------------|----------------|--------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source     | Funding % |
| Previous                                       |                |                    |           |
| FY19-20                                        | \$ 29,000      | City Hall Reserves | 47.5      |
| FY20-21+                                       | \$ 21,000      | City Hall Reserves | 52.5      |

## OFFICE FURNITURE, EQUIPMENT, AND UPGRADES

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | City Hall       | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 90,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                     |                                                      | Project Type                           |
|------------------------------------------|------------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement      | <input type="checkbox"/> Maintenance   |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership | <input type="checkbox"/> Replacement   |
| <input type="checkbox"/> Health & Safety | <input type="checkbox"/> Upgrade Serviceability      | <input type="checkbox"/> New/Expansion |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                             |
|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | Refurbish 501 Building with flooring, paint, windows, and division wall for relocating City Hall in FY20 and upgrade select furniture and equipment in FY21 |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | Initial Designs received from Architect. Current & Finished 501 Bldg. sq. ft. 4,579. IFMA guidelines \$3.50/sq. ft. for general maintenance = 16,027/yr.    |

**Note:** Grants are being sought to pursue this project. First grant meeting May 2, 2019.

| % of Project Budget Assigned to Funding Source |                |                    |           |
|------------------------------------------------|----------------|--------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source     | Funding % |
| Previous                                       |                |                    |           |
| FY19-20                                        | \$ 75,000      | City Hall Reserves | 83        |
| FY20-21+                                       | \$ 15,000      | City Hall Reserves | 17        |

## WATER BILLING SYSTEM METER READ INTERFACE

|                            |                 |                      |             |
|----------------------------|-----------------|----------------------|-------------|
| <b>Department:</b>         | City Hall       | <b>MP Project #:</b> | n/a         |
| <b>Category:</b>           | Capital Project |                      |             |
| <b>Total Project Cost:</b> | \$ 10,000       | <b>Status</b>        | Not Started |

| Ranking Criteria Met                     |                                                            | Project Type                           |
|------------------------------------------|------------------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Council Goals   | <input type="checkbox"/> Regulatory Requirement            | <input type="checkbox"/> Maintenance   |
| <input type="checkbox"/> Master Plan     | <input type="checkbox"/> Outside Funding/Partnership       | <input type="checkbox"/> Replacement   |
| <input type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input type="checkbox"/> New/Expansion |

|                 |                               |                                                 |                                 |                                     |                              |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input type="checkbox"/> High | <input checked="" type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|-------------------------------|-------------------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                       |                                                                  |
|-------------------------------------------------------|------------------------------------------------------------------|
| <b>Project Description:</b>                           | Upgrade interface between meter reads and utility billing system |
| <b>Ongoing Maintenance<br/>Estimated Annual Cost:</b> |                                                                  |



| % of Project Budget Assigned to Funding Source |                |                    |           |
|------------------------------------------------|----------------|--------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source     | Funding % |
| Previous                                       |                |                    |           |
| FY19-20                                        | \$ 10,000      | City Hall Reserves | 100       |
| FY20-21+                                       |                |                    |           |

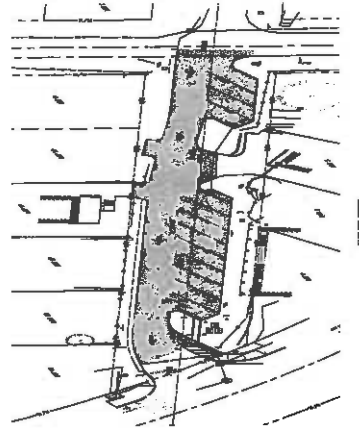
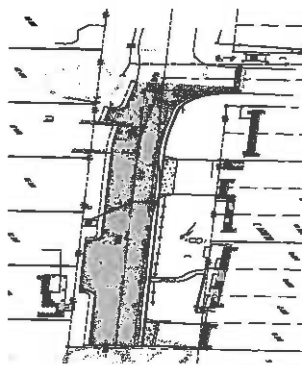
## STREETS

|                            |                 |                      |            |
|----------------------------|-----------------|----------------------|------------|
| <b>Department:</b>         | Streets         | <b>MP Project #:</b> | n/a        |
| <b>Category:</b>           | Capital Project |                      |            |
| <b>Total Project Cost:</b> | \$ 380,000      | <b>Status</b>        | In Process |

| Ranking Criteria Met                                |                                                            | Project Type                                      |
|-----------------------------------------------------|------------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Council Goals              | <input type="checkbox"/> Regulatory Requirement            | <input checked="" type="checkbox"/> Maintenance   |
| <input type="checkbox"/> Master Plan                | <input type="checkbox"/> Outside Funding/Partnership       | <input checked="" type="checkbox"/> Replacement   |
| <input checked="" type="checkbox"/> Health & Safety | <input checked="" type="checkbox"/> Upgrade Serviceability | <input checked="" type="checkbox"/> New/Expansion |

|                 |                                          |                                      |                                 |                                     |                              |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|
| <b>Priority</b> | <input checked="" type="checkbox"/> High | <input type="checkbox"/> Medium-High | <input type="checkbox"/> Medium | <input type="checkbox"/> Medium-Low | <input type="checkbox"/> Low |
|-----------------|------------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|------------------------------|

|                                                         |                                                                                                                                                                                                |
|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Description:</b>                             | W 1 <sup>st</sup> Street - \$100,000<br>Driftwood - \$60,000<br>Oceanview Drive - \$50,000<br>Horizon Hill Stabilization - \$70,000 (\$20,000 in FY19)<br>E 2 <sup>nd</sup> Street - \$100,000 |
| <b>Ongoing Maintenance &amp; Estimated Annual Cost:</b> | \$100K Grant received for 2 <sup>nd</sup> Street. Grants being pursued through OR State Transportation & Growth Management & Small Cities Allotment.                                           |



| % of Project Budget Assigned to Funding Source |                |                                                 |           |
|------------------------------------------------|----------------|-------------------------------------------------|-----------|
| Fiscal Year                                    | Funding Amount | Funding Source                                  | Funding % |
| Previous                                       | \$ 20,000      | (Horizon Hill Study)                            | 5.3       |
| FY19-20                                        | \$ 112,000     | General Fund Transfer                           | 29        |
|                                                | \$ 4,000       | FY19 Reserve Balance                            | 1.1       |
|                                                | \$             | Urban Renewal District                          |           |
|                                                | \$ 25,000      | Visitor Amenities – for paving                  | 6.6       |
|                                                | \$ 100,000     | Small Cities Grant for E 2 <sup>nd</sup> Street | 26        |
| FY20-21+                                       |                |                                                 |           |

## RESOLUTION 2019-76

### RESOLUTION ADOPTING THE BUDGET

BE IT RESOLVED that the City Council of the City of Yachats hereby adopts the budget for fiscal year 2019-2020 in the total amount of \$9,978,807.00.\* This budget is now on file at 441 Hwy 101 N, Room 2 in Yachats, Oregon.

### RESOLUTION MAKING APPROPRIATIONS

BE IT RESOLVED that the amounts shown below are hereby appropriated for the fiscal year beginning July 1, 2019, for the following purposes:

#### General Fund

|                                                         |                    |
|---------------------------------------------------------|--------------------|
| <u>Organizational Unit or Program:</u>                  |                    |
| <b>City Hall</b>                                        | 383,500            |
| <b>501 Bldg</b>                                         | 32,727             |
| <b>Marketing/Amenities</b>                              | 111,600            |
|                                                         | 0                  |
| <u>Not Allocated to Organizational Unit or Program:</u> |                    |
| Personnel Services.....                                 | 0                  |
| Materials & Services.....                               | 0                  |
| Capital Outlay.....                                     | 0                  |
| Debt Service .....                                      | 0                  |
| Special Payments.....                                   | 55,000             |
| Transfers Out.....                                      | 656,844            |
| Contingency.....                                        | 16,000             |
| <b>Total.....</b>                                       | <b>\$1,255,671</b> |

#### Visitor Amenities Fund

|                          |                  |
|--------------------------|------------------|
| Org. Unit/Program: _____ | 0                |
| Special Payments.....    | 0                |
| Transfers Out.....       | 277,033          |
| Contingency.....         | 0                |
| <b>Total.....</b>        | <b>\$277,033</b> |

#### Capital Reserve Fund

|                          |                    |
|--------------------------|--------------------|
| Org. Unit/Program: _____ | 0                  |
| Capital Outlay           | 1,555,585          |
| Transfers Out.....       | 395,294            |
| Contingency.....         | 0                  |
| <b>Total.....</b>        | <b>\$1,950,879</b> |

#### Debt Service Fund

|                   |                  |
|-------------------|------------------|
| Debt Service      | 545,764          |
| <b>Total.....</b> | <b>\$545,764</b> |

#### Water Revenue Bond Fund

|                   |                 |
|-------------------|-----------------|
| Debt Service      | 42,850          |
| <b>Total.....</b> | <b>\$42,850</b> |

#### GO Water Bond Fund

|                   |                 |
|-------------------|-----------------|
| Debt Service      | 44,755          |
| <b>Total.....</b> | <b>\$44,755</b> |

#### System Development Charges

|                          |                 |
|--------------------------|-----------------|
| Org. Unit/Program: _____ | 0               |
| Special Payments.....    | 0               |
| Transfers Out.....       | 85,000          |
| Contingency.....         | 0               |
| <b>Total.....</b>        | <b>\$85,000</b> |

#### City Amenities

|                                |                  |
|--------------------------------|------------------|
| Personnel/Materials & Services | 249,026          |
| Special Payments.....          | 0                |
| Transfers Out.....             | 35,200           |
| Contingency.....               | 10,000           |
| <b>Total.....</b>              | <b>\$294,226</b> |



**City Streets**

|                                |                  |
|--------------------------------|------------------|
| Personnel/Materials & Services | 112,500          |
| Special Payments.....          | 0                |
| Transfers Out.....             | 3,000            |
| Contingency.....               | 0                |
| <b>Total.....</b>              | <b>\$115,500</b> |

**Storm Drains**

|                                |                 |
|--------------------------------|-----------------|
| Personnel/Materials & Services | 42,000          |
| Special Payments.....          | 0               |
| Transfers Out.....             | 0               |
| Contingency.....               | 0               |
| <b>Total.....</b>              | <b>\$42,000</b> |

**Water System**

|                                |                  |
|--------------------------------|------------------|
| Personnel/Materials & Services | 527,900          |
| Special Payments.....          | 0                |
| Transfers Out.....             | 148,000          |
| Contingency.....               | 60,000           |
| <b>Total.....</b>              | <b>\$735,900</b> |

**Water Construction Fund**

|                                |            |
|--------------------------------|------------|
| Personnel/Materials & Services | 0          |
| Capital Outlay                 | 0          |
| Transfers Out.....             | 0          |
| Contingency.....               | 0          |
| <b>Total.....</b>              | <b>\$0</b> |

**WasteWater System Fund**

|                                |                  |
|--------------------------------|------------------|
| Personnel/Materials & Services | 552,500          |
| Special Payments.....          | 0                |
| Transfers Out.....             | 145,000          |
| Contingency.....               | 60,000           |
| <b>Total.....</b>              | <b>\$757,500</b> |

|                                             |                    |
|---------------------------------------------|--------------------|
| <b>Total APPROPRIATIONS, All Funds ....</b> | <b>\$6,147,078</b> |
|---------------------------------------------|--------------------|

|                                                                 |                  |
|-----------------------------------------------------------------|------------------|
| <b>Total Unappropriated and Reserve Amounts, All Funds ....</b> | <b>3,831,729</b> |
|-----------------------------------------------------------------|------------------|

|                                  |                    |
|----------------------------------|--------------------|
| <b>TOTAL ADOPTED BUDGET ....</b> | <b>\$9,978,807</b> |
|----------------------------------|--------------------|

(\*amounts with asterisks must match)

## **RESOLUTION IMPOSING THE TAX**

BE IT RESOLVED that the following ad valorem property taxes are hereby imposed upon the assessed value of all taxable property within the district for tax year 2019- 2020 :

- (1) at the rate of \$ .1717 per \$1000 of assessed value for permanent rate tax; and
- (2) In the amount of \$44,755.00 for debt service on general obligation bonds;

## **RESOLUTION CATEGORIZING THE TAX**

BE IT RESOLVED that the taxes imposed are hereby categorized for purposes of Article XI section 11b as:

### **Subject to the General Government Limitation**

Permanent Rate Tax..... \$ .1717/\$1,000

### **Excluded from Limitation**

General Obligation Bond Debt Service.....\$ 44,755.00

The above resolution statements were approved and declared adopted on June 19, 2019.

X \_\_\_\_\_  
Signature: W. John Moore, Mayor

Attest:

X \_\_\_\_\_  
Signature: Shannon Beaucaire, City Manager



**CITY OF YACHATS  
RESOLUTION NO. 2019-80  
A RESOLUTION OF THE CITY OF YACHATS, OREGON, AUTHORIZING  
TRANSFERRING OF MONIES BETWEEN OBJECTS OF EXPENDITURE**

BE IT RESOLVED that the City Council of the City of Yachats, Oregon, hereby transfers the following monies between objects of expenditure for the 2018-2019 budget, as follows:

|          |       |                   |                                  |
|----------|-------|-------------------|----------------------------------|
| \$10,000 | From: | 100-101-5-50-5800 | General Fund Contingencies       |
|          | To:   | 100-101-5-20-5259 | IT Vender Support                |
| \$10,000 | From: | 660-100-5-50-5800 | Water System Contingencies       |
|          | To:   | 660-100-5-20-5259 | IT Vender Support                |
| \$10,000 | From: | 670-100-5-50-5800 | Wastewater Systems Contingencies |
|          | To:   | 240-123-5-10-5160 | IT Vender Support                |

Passed and adopted June 19, 2019. This Resolution is effective upon adoption.

CITY OF YACHATS

By: \_\_\_\_\_  
W. John Moore, Chair

ATTESTED TO BY:

\_\_\_\_\_  
Shannon Beaucaire, City Manager



## CITY OF YACHATS

### CITY COUNCIL WORK SESSION & REGULAR MEETING

May 1, 2019

#### Draft Minutes

#### **WORK SESSION**

##### **I. Meeting Call to Order**

Mayor W. John Moore called the May 1, 2019 work session and regular meeting of the City Council to order at 9:30 am in Room 1 of the Yachats Commons. Council members present: W. John Moore, Max Glenn, James Kerti, Jim Tooke, and Leslie Vaaler. Absent: none. Staff present: City Manager Shannon Beaucaire, Clerk Kimmie Jackson, and Facilities Manager Heather Hoen. Audience: 39.

Mayor Moore explained the process followed with the work session and regular meeting.

##### **II. Work Session Discussion Topics**

###### **A. Community Input on Ocean View Drive**

Mayor Moore stated Council needed to address the sections of Ocean View Drive from W 2<sup>nd</sup> to W 7<sup>th</sup> Streets and from the State Park to Pontiac Street. He reported he did not hear significant opposition to the one-way 2<sup>nd</sup> to 7<sup>th</sup> section in the public testimony. Councilor Vaaler stated making 2<sup>nd</sup> to 7<sup>th</sup> section one-way northbound made sense. She recalled Stanley's suggestion to end at W 4<sup>th</sup> Street and noted this opinion was an outlier. Councilor Glenn concurred with Vaaler. Councilor Kerti added that the proposed direction would increase safety. Councilor Tooke noted one-way traffic would help protect the natural resources and reduce erosion.

Regarding the separation of pedestrian and vehicle traffic, Mayor Moore recalled the options discussed at previous meetings, including barriers, low curbing (Lincoln County Public Works had concerned over tripping hazard), and striping (recommended by Lincoln County Public Works).

Vaaler noted she has heard from many citizens on the topic. She suggested a barrier of two to three feet high planters intermittently positioned. She noted a citizen suggested individuals could help maintain them and they would be desirable for people who could not bend over. Vaaler indicated she asked Shelly Shrock, who organized the Highway 101 beds, about that possibility, and Shrock indicated it could be feasible and there might be grant money. Mayor Moore noted they could start with a stripe and add planters later. Glenn asked about some type of rumble strip

1 between the stripes to warn vehicles and pedestrians. Kerti liked the planter idea but had  
2 questions over the implementation. Tooke favored striping, noting there would be a much wider  
3 lane for pedestrians to help with safety. Tooke also stated it was important to get the paving  
4 done soon and wanted to keep the issue simple. He also noted the problems with curbs at E 2<sup>nd</sup>  
5 and Beach Streets. Tooke suggested reducing the speed limit to 15 mph in the 2<sup>nd</sup> to 7<sup>th</sup> section.  
6

7 Mayor Moore summarized Council wanted to instruct the County to stripe Ocean View Drive  
8 one-way northbound from 2<sup>nd</sup> to 7<sup>th</sup> Streets.  
9

10 Mayor Moore added that rumble strips could be done via epoxied bumps or grinding into the  
11 pavement. Manager Beaucaire indicated she would ask the County about this option and noted  
12 she had seen the epoxied “turtles” breaking away. Vaaler also mentioned the possibility of speed  
13 bumps. Kerti and Tooke also favored grooved over epoxied rumble strips. Tooke noted the fire  
14 department might have issues with speed bumps. Vaaler asked to get cost information before  
15 making a final decision on the rumble strips. Vaaler asked if they could get cost information by  
16 the next Council meeting. Tooke agreed they could ask about whether the County would do it  
17 and what it would cost before the next meeting.  
18

19 Kerti asked if Council needed to make a decision about truck traffic at this time. Mayor Moore  
20 suggested they could address that topic later.  
21

22 Mayor Moore recalled there was a suggestion to have traffic flow on Ocean View Drive one-way  
23 between Pontiac Street into the State Park. He noted the concerns about turning around in the  
24 State Park and added that most of the traffic into the Park enters from 2<sup>nd</sup> Street. He explained  
25 they could put up “Do Not Enter” signs and speculated that visitors might not see the signs.  
26 Kerti wanted to ensure there were safe exits from the Park and suggested an eastbound one-way  
27 flow from the State Park to Pontiac. Tooke clarified that the area from Pontiac to Highway 101  
28 would remain two-way. Glenn agreed with the eastbound to Pontiac flow.  
29

30 Vaaler proposed that they not allow RVs enter the park and to close the section from Pontiac to  
31 the Park. Vaaler read from an engineer’s report from 2017 that recommended a closure of that  
32 section via three options and noting the Fire Department would need to be consulted. She had  
33 concern for the mix of pedestrians and vehicles in such a narrow strip presented safety issues.  
34 Mayor Moore suggested another option to have the County proceed with paving and striping,  
35 then have a professional company conduct a traffic flow analysis to recommend the best option.  
36 Manager Beaucaire stated Mayor Moore’s idea was possible as the County’s goal at this point  
37 was to get the paving done. Tooke noted once the City gets control of the road, the City has  
38 flexibility to make decisions to update the plan. Kerti had concern over keeping this section two-  
39 way. Glenn agreed to go one-way and possibly conduct a study. Vaaler suggested that if they  
40 were serious about keeping RVs out of the Park, they could add a height-limiting bar across the  
41 road. Vaaler questions paving the section from the Park to Pontiac if they were going to close  
42 that area. Glenn was hesitant to prohibit RVs as they are such a big part of Yachats’ tourism  
43 economy.  
44

## 45 **B. Single Use Plastic Ban Draft Ordinance**

1 Mayor Moore recalled the Council had wanted to see what the State was going to do with their  
2 proposed ban, noting the State did pass a plan in the House. Kerti noted HB 2509 passed the  
3 House on April 25, 2019 by a vote of 42-18, HB 2883 passed the House on April 23, 2019 by a  
4 vote of 32-28, and SB 90 on plastic straws passed the Senate on April 11, 2019 by a voted of 23-  
5 6. He suggested tabling the topic until the State legislature finishes their work. Council agreed.  
6

### 7 **C. Vacation Rental Ordinance Pilot Program**

8 Mayor Moore reported the previous Council passed an ordinance in 2017 on a pilot program for  
9 vacation rentals and Council would need to take action on the next steps. Kerti stated they  
10 should get input from vacation rental owners and the community. Kerti asked what kind of data  
11 they could get, such as complaint history/resolution and taxes collected. Glenn asked that they  
12 focus on the portions of the resolution that were changes and not the whole issues around  
13 licensing of vacation rentals. Vaaler suggested they examine the cap and whether it was at an  
14 appropriate level and looking at the license and violation fees. She wanted to know from  
15 neighbors if the quality of their neighborhood had changed over the past two years. Vaaler also  
16 expressed concern that vacation rentals use a disproportionately high volume of water when the  
17 City faces water shortages each year. She noted housing availability issues have continued to be  
18 problematic during this time. Tooke noted he had heard surprising little from citizens about  
19 vacation rentals since the implementation of the cap. Mayor Moore noted the City brought in  
20 \$30,000 in license fees and wanted to know the internal costs of processing and enforcing  
21 regulations to see if the fees covered the costs.  
22

### 23 **D. Parks and Commons Commission and Little Log Church**

24 Mayor Moore noted there was a request from Parks and Commons Commission Chair John  
25 Purcell to clarify the role of Parks and Commons and the Little Log Church. Mayor Moore  
26 reviewed the history of the Little Log Church, noting Little Log Church has historically operated  
27 independently. Several years ago, the Council wanted all Committees to report to a  
28 Commission, and decided the Little Log Church should report to the Parks and Commons  
29 Commission. Mayor Moore noted Council could address this issue now or take Tom Lauritzen's  
30 advice to evaluate the role of the Commissions. Mayor Moore believed this approach to look at  
31 the bigger issue fit with Purcell's request. Purcell stated the Little Log Church was stable as it  
32 exists today and agreed that the Commission role evaluation was warranted. Glenn noted the  
33 Round Table meeting with the City Manager and Commission Chairs might lend some insight  
34 into the operations of the Commissions. Manager Beaucaire indicated some chairs were new but  
35 she could still get input on the topic. Vaaler agreed the vacation rental topic was a priority but  
36 did not want to delay this Commissions discussed too far out. Tooke agreed this issue could be  
37 delayed. Kerti believed they could do both.  
38

39 Purcell noted Parks and Commons Commission was tasked with reviewing the Little Log Church  
40 budget and to take that to Finance. However, he was not certain if they were to get involved in  
41 the Little Log Church CIPs as well. He favored having the Little Log Church give regular  
42 reports to Parks and Commons.  
43

44 Mayor Moore indicated Council would address vacation rentals and a beginning discussion of  
45 organization structure with the Commissions at their next work session.  
46

1 **REGULAR MEETING**

2 **Announcements, Correspondence and Proclamations**

3 Mayor Moore announced there would be a program, “A Home for Everyone” in Newport about  
4 Eugene’s plans for addressing homelessness on Saturday, May 18, 2019 at St. Stephen’s  
5 Episcopal Church from 1:30 to 3:30 pm.

6  
7 Kerti announced the Yachats Academy of Arts and Sciences will have Dr. James Brau, a  
8 physicist, speak on a “journey to the beginning of time” on May 4, 2019 at 6:30 pm.

9  
10 Helen Anderson announced Yachats Pride begins on May 31, 2019.

11  
12 **A. Municipal Clerks Week: May 5-11, 2019**

13 Mayor Moore read a proclamation declaring May 5-11, 2019 as Municipal Clerks Week and  
14 recognized Kimmie Jackson for her service.

15  
16 Mayor Moore announced Clean Sweep was scheduled for June 20-23, 2019.

17  
18 **II. Public Comment (topics not on the agenda)**

19 Gary Hofer (905 Horizon Hill) raised the issue of opening the gate connecting Horizon Hill to  
20 Gimlet. He had spoken to other neighbors who would at least like a key or combination lock to  
21 get out in case of emergency. Manager Beaucaire stated she has contacted the City Engineer to  
22 have him evaluate the situation and make a recommendation.

23  
24 **III. New Business**

25 **A. Vote on Ocean View Drive Traffic Flow**

26 Tooke moved to recommend to Lincoln County to pave and restripe Ocean View Drive from 2<sup>nd</sup>  
27 to 7<sup>th</sup> for one-way northbound traffic and to request in-ground rumble strips in that section: Aye  
28 – 5; No – 0.

29  
30 Tooke moved to recommend to Lincoln County to pave and restripe Ocean View Drive from  
31 Pontiac to the State Park one-way eastbound to allow for separation of pedestrians and vehicles:  
32 Aye – 5; No – 0.

33  
34 Glenn was unclear if the paving on Ocean View Drive was to continue from Pontiac to Highway  
35 101, and Manager Beaucaire indicated she would get clarification on plans for that section of  
36 road.

37  
38 **A. Parks & Commons Farmer’s Market Recommendation**

39 Mayor Moore read a statement on the history of the establishing a group to operate the Farmers  
40 Market. Mayor Moore stated the Council wanted to hear from Starla Gade and Blythe Collins-  
41 Niskanen to explain their proposals.

42  
43 Blythe Collins-Niskanen stated she has been involved with the Farmers market since its  
44 inception. Collins-Niskanen handed out a revised application and Code of Conduct. She  
45 reported she was approached in February 2019 about taking over the Market. She reported she  
46 investigated insurance option in March and learned an individual had to be responsible to get

1 insurance. She noted the proposal they submitted has been the same that has been submitted for  
2 years. She noted the 50:50 ratio of farmers to crafts was important to retain the Farmer's Market  
3 Status rather than a Crafts market. She noted there has been issue around the manager role. She  
4 noted she has clearly established that complaints would go not to her nor the market manger but  
5 would go to a committee to resolve.  
6

7 George Mazeika stated Collins-Niskanen has asked him to be the market manager. He reported  
8 he has been Show Chair for the Oregon Coast Agate Collectors in Newport and has been  
9 involved in promotion with the Yachats Agate Festival. He appreciated the Council creating a  
10 fair and open method of reviewing the proposals. Mazeika noted one vendor had proposed  
11 farmer-run market without explaining what that is. He reported information from the Oregon  
12 farmer's market. Kelly Craine from the Oregon association told him there are no vendor-run  
13 markets in Oregon, but there are venders involved in the management of the market. He also  
14 asked about local government involvement in the markets. She stated most of the time the  
15 market was private structure. Mazeika noted the city's biggest asset was its people who have  
16 vast experience and expertise. He believed the market should have local management and local  
17 control.  
18

19 Kristi Meredith (9495 Highway 101 S) stated she has been a vendor for 10 years. She noted she  
20 spends her time and money in Yachats and wholly supports the community. She wanted to note  
21 that Collins-Niskanen believed and supported small businesses and wants to encourage vendors  
22 to operate as small businesses so that each vendor contributes to the growth of the market. She  
23 reported the most overwhelming comment from vendors was that they get their 10 x10 space  
24 without being encumbered with other obligations. She stressed that farmers would be very  
25 happy with Collins-Niskanen's proposal. Meredith also stated that the 50:50 farmers to vendors  
26 ratio was essential to the success of the market. She believed in community before commerce.  
27 She stressed the uniqueness of Yachats Farmers Market.  
28

29 Vaaler stated Council received many letters, including one from a 10-year-old girl. Vaaler asked  
30 about potential losses on running the market. Collins-Niskanen was emphatic that the market  
31 would not lose money. Collins-Niskanen stated that they were not going to charge produce  
32 vendors in May 2019 because their harvest was just starting. She stated the market was not  
33 about making money, it was about community. She reported she has been independent and  
34 selling at shows her entire working life. She explained her vision of the role of vendors in the  
35 market. Mazeika stated his background was in business and noted the costs were not very large.  
36 He wanted to ensure fiscal stability before pursuing significant expansion.  
37

38 Glenn stated he was 5<sup>th</sup> generation farmer from Oklahoma. He noted the volume of calls he has  
39 received and the comments from farmers expressing their concern for the continuance of the  
40 market. Glenn recalled he was approached several years ago about a vendor who was causing  
41 problems, and Glenn wanted to know how they would manage the trouble-makers. Mazeika  
42 stated problems arise when there was a lack of communication and understanding. He reported  
43 he would be clear with vendors. Collins-Niskanen noted there was a process described in the  
44 proposal where complaints would be made in writing. She added that if a vendor was to take  
45 matter to a Councilor or to the public, that vendor would lose their membership in the market.



1 She stated her motto of, “No Fighting. No Biting.” Meredith added that the relationship of the  
2 vendors to the market was voluntary.

3  
4 Kerti reported he heard from community members that there was concern about insurance  
5 requirements. Kerti asked for clarification on insurance requirements. Collins-Niskanen stated  
6 her insurance was a \$2 million liability policy for the market. Additionally, vendors who  
7 produce food have to have licenses and insurance by law. She indicated the same requirements  
8 were true for the ag industry. Mazeika stated he spoke with the extension service and learned  
9 that the market is only responsible that vendors be licensed. Kerti asked for details on the three  
10 paid positions: facilitator/manager, promotion, and book keeper. She noted she runs business by  
11 paying bills then giving the rest to advertising. She summarized their expenses to be rent,  
12 insurance, and three paid staff.

13  
14 Tooke stated he had not received comments from citizens and was loudly rebutted for suggesting  
15 rotating booth positions.

16  
17 Starla Gade stated she lives in Waldport and noted she recently held a meeting with 45 attendees.  
18 She stated the Farmers Market in Yachats played a vital role in the Community and for tourism.  
19 She has been a vendor for five years. She had previous experience in starting a Farmers Market  
20 and travels to go to markets. She indicated she has heard negative comments about non-  
21 responsiveness to phone calls and communications. She stated she had concerns that there  
22 would not be a clear process when Ellis Lampman turned the market over to Ron Vil. She stated  
23 whomever had been discussing the market with Facilities Manager Hoen was not communicating  
24 with all the vendors. While noting these comments might sound negative, there are problems  
25 with communicating with only a select few of the vendors.

26  
27 Gade stated most markets are run with a vendor-formed Board.

28  
29 Gade stated she did not prepare a statement as she was not told to prepare anything for this  
30 meeting. She claimed she was told not to talk to people or to Parks and Commons. She noted  
31 they have had 30 applications. She noted they are encouraging of produce vendors and there has  
32 never been a 50:50 proportion of farmers to other vendors. She explained they would be able to  
33 take debit cards through the market manager with a coin or token system. Gade stated she has  
34 heard concern from others that her group was too busy to be running a market. She stated she  
35 was busy but was able to do the coordination. She emphasized that the construction of their  
36 board was very clear in the proposal while that was not clear in the other proposal. She believed  
37 there were plenty of vendors who wanted to participate in governance. She had also talked to the  
38 Oregon Farmers Market Association. She explained her group emphasized openness.

39  
40 Enya Chavez from Siletz stated she was a farmer and was a founding member in the Lincoln  
41 City Market. She stated almost all farmers markets in Oregon are vendor-run and all decisions  
42 are made by the vendors. She stated the manager is to run the day-to-day but the vendor  
43 collective manages the overarching functions. She stated they have paid positions. She noted  
44 many vendors do advertising themselves. She stated the 50:50 has been proposed in other cities  
45 and has failed miserably, noting that Newport and Lincoln City tried and failed and the city lifted  
46 that requirement. She stated she was not listed as a farmer but she was a farmer. She stated she

1 has been working on the insurance since March 2019. She stated their insurance came with  
2 Board of Directors insurance. She explained the complaint management process. She stated  
3 their proposal included SNAP and WIC benefits which was very important to locals. She stated  
4 they were working to become a nonprofit and to have credit card processing. She stressed the  
5 vendors were the market. She believed she and other vendors should have a say in the operation  
6 of their business.

7  
8 Eileen Quinn stated she drives two hours to participate in this market and has been a vendor for  
9 eight years. She has been doing vending for 29 years. She stated vendors have a lot of  
10 experience to contribute to the Board.

11  
12 Gade stated they chose to grandfather in all vendors from 2018. She specifically noted a vendor  
13 named Leo who brings produce he does not grow, which usually is not allowed. They have  
14 talked to all vendors. She stated they wanted to give back to community nonprofits, and they are  
15 choosing to support the food share program and YYFAP.

16  
17 Mayor Moore asked for clarification on the grandfather statement. Gade indicated once a vendor  
18 was in the cooperative, they remain in unless they break rules.

19  
20 Vaaler asked how the group would manage a situation where fees did not cover expenses. Gade  
21 stated they would provide financial information regularly to vendors and the Board would be  
22 responsible for implementing any changes. She noted the Yachats market is one of the least  
23 expensive markets. Chavez stated if there was a shortfall, she would be willing to personally  
24 contribute to cover the deficit. Gade added that community members have volunteers to help the  
25 market get started.

26  
27 Kerti asked about the division of responsibilities. Gade stated they have a vendor who has  
28 agreed to do the bookkeeping. She added that they have allotted money for advertising in their  
29 budget. Chavez noted Newport has asked her to create a pamphlet about all of the markets  
30 within Lincoln County. Gade noted the vendors have learned how to do marketing by virtue of  
31 running their business. Kerti asked for clarification on the composition of the Board. Gade  
32 indicated the board members would be nominated and elected, and that inclusion of farmer  
33 vendors would be based on who was nominated. Kerti asked if manager would be local. Gade  
34 stated Steve Paul who lives on Camp One has stepped up to be the manager. She stated they  
35 would take proposals for the manager position.

36  
37 Glenn asked how they would handle problem-vendors. Gade stated they have a rule that vendors  
38 must take their problems to the manger and Board and there would be due process. She stated  
39 that speaking directly to Councilors would be cause for removal from the market.

40  
41 Mayor Moore asked Councilors for their input.

42  
43 Vaaler stated she attended the Parks and Commission meeting and was impressed with Purcell's  
44 managing of the meeting. She stated she does not normally override a Commission but added  
45 that the Commission did not have the information the Council now has through letters, calls, and  
46 today's presentations. She wanted the Commission to know she did not think their decision was

1 incorrect. She stated she favored the Yachats local involvement. Vaaler supported Proposal B  
2 (Collins-Niskanen).

3  
4 Kerti thanked both groups for their presentations. Kerti recalled from his work on Planning  
5 Commission where they had to make decisions on incomplete information, the recommendations  
6 carried less weight. Kerti also noted that many Commissioners expressed concerns about their  
7 skills to make the decision and the process with the proposals. He indicated he was leaning  
8 toward Proposal B. He added that he has received more input from citizens in favor of Proposal  
9 B. He noted that either way one group would be unhappy.

10  
11 Glenn also stated he appreciated the works of Parks and Commons and was aware that they did  
12 not have sufficient information. He expressed great concern over the division in the community.  
13 He indicated he has received copies of emails sent from Gade's group that contributed to the  
14 divisiveness. He indicated he was prepared to vote for Proposal B.

15  
16 Tooke stated he was prepared to agree with the majority of the Council.

17  
18 Mayor Moore concurred with Vaaler and Kerti.

19  
20 Gade questioned what new information was provided today that would impact the Council's  
21 decision. Gade stated she was specifically told to stay away from Parks and Commons  
22 Commissioners and from the City Council. She claimed something was going on within the  
23 City.

24  
25 Vaaler moved to appoint the Collins-Niskanen group (Proposal B) to run the farmers market:  
26 Aye – 5; No – 0.

### 27 28 **C. Approve May 15, 2019 Agenda**

29 Mayor Moore explained the budget hearing was scheduled for May 15, 2019 at 10:00 am and  
30 suggested that having a Council meeting that night at 6:00 pm would be onerous. He noted  
31 having an evening budget meeting results in significant overtime costs for the City. Mayor  
32 Moore had suggested May 8, 2019 for the second meeting. Kerti had a conflict on that date.

33  
34 The Council decided to have the second meeting on Tuesday, May 14, 2019 at 6:00 pm.

35  
36 Kerti noted the budget item on the Public Hearing should be indicated as a meeting.

37  
38 Vaaler wanted to discuss scheduling a State of the City meeting. Mayor Moore indicated he and  
39 the City Manager wanted to get the budget done before taking up that matter. Vaaler suggested  
40 early June 2019 on a Sunday afternoon.

41  
42 Vaaler wanted to discuss the billing of large water users as has been discussed by the Public  
43 Works and Streets Commission. Manager Beaucaire indicated the Commission was still  
44 considering a recommendation to Council. Mayor Moore asked to hold off from scheduling the  
45 rate structure for water billing.

1 Vaaler asked about the recommended changes to Admin Policy 14 around the website. Manager  
2 Beaucaire indicated she was talking to other cities who have been in a similar situation to discern  
3 the best way forward.  
4

5 Vaaler moved to approve the revised agenda for Tuesday, May 14, 2018 at 6:00 pm: Aye – 5; No  
6 - 0.  
7

8 **IV. Other Business**

9 **A. From the Mayor** - none

10 **B. From the Council** - none

11 **C. From Staff** - none  
12  
13

14 With no further business before Council, Mayor Moore adjourned the meeting at approximately  
15 12:27 pm.  
16  
17  
18  
19

20 \_\_\_\_\_  
W. JOHN MOORE, Mayor

21  
22 ATTEST:  
23  
24

25 \_\_\_\_\_  
26 Shannon Beaucaire, City Manager  
27

\_\_\_\_\_  
Date



CITY OF YACHATS

CITY COUNCIL MEETING

May 14, 2019

Draft Minutes

**I. Meeting Call to Order**

Mayor W. John Moore called the May 14, 2019 regular meeting of the City Council to order at 6:00 pm in the Multipurpose Room of the Yachats Commons. Council members present: W. John Moore, Jim Tooke, Max Glenn, James Kerti, and Leslie Vaaler. Absent: none. Staff present: City Manager Shannon Beaucaire and Clerk Kimmie Jackson. Audience: 51.

**II. Announcements, Correspondence, and Proclamations**

Mayor Moore read the following proclamations:

**A. Mental Health Month, May 2019**

Councilor Glenn introduced Andrea Sutherland from Angell Jobs Corps. Sutherland introduced students Cameron, Jordan, Andrew, MJ, Jason, Carli, Jake, Cody, Benji, and RJ. MJ spoke about her experience with the Jobs Corps Program, the help she has received, and the lessons she has learned.

**B. Emergency Medical Services, May 19-25, 2019**

**C. Older Americans Month, May 2019**

**D. Police Week, May 12-19, 2019**

**III. Public Comment**

1. Bob Bennett, Chair of Yachats Public Works and Streets Commission, announced the Clean Sweep event on June 20-23, 2019 and asked for volunteers to help staff the event. Bennett also reported the Commission moved today to notify the businesses that have either been overcharged or undercharged, to consult with the attorney to decide the best legal approach to manage these overages and underages, and to have a professional contractor conduct a water rate study.
2. Tom Lauritzen (205 Shell Street) noted his water bill was lower this month. He reported his history of over and under charges, concluding he has been overcharged \$56 for the past two years. He asked how he would get his money back, whether this was an isolated event, and whether there were other billing issues.
3. Drew Roslund (Overleaf Lodge) recalled he previously provided an article on how third-party administrators are abusing the vacation rental system. He noted additional articles have appeared in Eugene Register Guard and other publications. He had concern for the trustworthiness of companies like Airbnb sending in one, lump-sum check for rentals.

4. Nathan Barnard (8628 Yachats River Road) wanted to submit a request for adjustments on water and sewer charges. He submitted a copy of his letter that he read aloud. He also read from City documents that encouraged remediating blighted properties, which he has done with his property.

#### **IV. Consent Agenda**

##### **A. April Minutes**

##### **B. Resolutions Memorializing Council Actions**

1. Resolution 2019-72 Authorizing the City to enter into a contract with Yachats Farmers Market

Glenn moved to approve the consent agenda: Aye – 5; No – 0.

#### **V. New Business**

##### **A. Draft CIS Volunteer Policy Manual**

Manager Beaucaire explained the three documents in the packet. She reported the City's insurance company, CIS, provided the City with a five-page template of what they would accept. Councilor Vaaler suggested the five-page summary does not work very well with the Trails Committee and how they manage volunteers. Vaaler noted the requirement for approval prior to volunteering and limitations on transporting volunteers. Vaaler suggested sending the documents to volunteer groups for their input. She also noted the requirements for recording of hours and for feedback from supervisors.

Mayor Moore suggested Council revisit this topic at one of their June meetings.

##### **B. Public Comment on Vacation Rental Pilot Program**

Mayor Moore recalled the previous Council adopted a pilot program in 2017 that implemented a cap, and he wanted to start reviewing the program now prior to the August 2019 deadline to make a decision about the program.

1. Candy Neville (1430 King Street, Aha Lodge) read a letter she previously sent to Council asking that licenses transfer to heirs or with property transfer and/or to grandfather existing rentals
2. Noreen Franz-Hovis (575 Aqua Vista Loop) asked that short term rentals be "grand-personed" in or allowed to transfer the license to their heirs.
3. Cedric "Duke" III (178 Yachats Ocean Road) noted they previously had a vacation rental, moved into it, and wanted to be able for his children to do the same. He handed out a document presenting four proposed changes.
4. Sharon Neuschwander (40 Surfside Drive) stated the program puts the occupancy limit on the home as well as the owner, and she cannot have all of her children and grandchildren there at the same time. She also favored the transferability issue because her property can no longer be sold as an investment property.
5. Lisa Rola (900 Ocean View Drive) stated her daughters own vacation rentals and she cleans them. She has noted so many homes that remain empty and did not believe the program has increased work force housing.

- 1 6. Paul Neville (1430 King Street) read a statement on behalf of William and Robin Stinnett  
2 (979 Ocean View Drive) that asked that the vacation rentals be allowed to transfer to  
3 their children.
- 4 7. Drew Roslund (280 Overleaf Lodge Lane) agreed there was a point where there would be  
5 too many vacation rentals and suggested zoning changes where more vacation rentals  
6 could be allowed in some areas of the City.
- 7 8. Tom Lauritzen (204 Shell Street) stated he sees four vacation rentals from his house and  
8 his home is deed restricted, and there are two homes near him that have licenses on deed  
9 restricted properties. He suggested a two-tier license system where a business (vacation  
10 rental) in a residential zone required a conditional use permit. He also noted the absence  
11 of a code enforcement officer to help generate data on the program. He stated the second  
12 type of vacation rental would be a family that wanted to rent a limited amount to help  
13 cover the cost of the home.
- 14 9. Lance Bloch (549 Aqua Vista Loop) cited Cannon Beach where vacation rentals and  
15 second homes make up 60% of the residential homes. He noted Cannon beach has a  
16 much larger population and has limited their rentals to 92, adding they have three  
17 categories: unlimited rentals tied to the property with ongoing renewal, five-year license  
18 which then goes to a lottery system for renewals, and unlimited number of 14-day  
19 vacation rental permits. He strongly suggested the City better enforce vacation rental  
20 codes by having someone available on weekends when most rentals occur.
- 21 10. Nathan Barnard (8628 Yachats River Road) stressed the importance of the quality of life  
22 in this town. He suggested that rather than putting such energy into a regulatory system  
23 and enforcement, they put their efforts into quality of life issues, and caps and non-  
24 transferrable licenses do not contribute to quality of life.
- 25 11. Lisa Rola stated the majority of people with vacation rentals in Yachats are family-run  
26 businesses.
- 27 12. Paul Thompson (1153 Driftwood Lane) stated he has been complaining for nine years  
28 about lack of code enforcement. He agreed regulations are a waste of time if you do not  
29 enforce the codes you have. He also thought licenses should transfer to family members.
- 30 13. Linda Johnson (21 Catkin Loop) stated the cap was reasonable and believed the system  
31 was not being enforced. She looked online and found 300 rentals advertised. She noted  
32 73 units in the central area had average of 6.6 people per unit. She stressed that vacation  
33 renters do not volunteer. She also asked if they have 800 renters and 750 residents, how  
34 do they get through the summer with water.
- 35 14. Wendy Snidow (Coastal Homes Real Estate) stated property owners have lost a lot of  
36 value in homes in the \$400,000 - \$700,000 range.
- 37 15. Jacqueline Danos (Spring Hill) stated she has sent a letter to Council. She wondered why  
38 so many people say this program has impacted them when they still have their license.  
39 She was in favor of passing a license to their children. However, she suggested that when  
40 selling houses based on marketing of vacation rental outlets, the owner was not investing  
41 in the community and was treating their home as a business. She also thought a home  
42 with eight or more occupants were hotels, not homes.
- 43 16. Craig Berdie (319 E 3<sup>rd</sup> Street) argued that vacation rentals near his home lower the value  
44 of his home, and cited a jurisdiction that is implementing a policy where an owner must  
45 declare vacation rentals as neighbors as a disclosure. He suggested looking at a  
46 technology solution for finding unlicensed rentals. He provided an example of a time

- 1 when there were eight people and six dogs in a home. He also noted they felt less secure  
2 with unknown cars driving on their dead-end street. He believed other factors are more  
3 important to the value of a home than the ability to rent it.
- 4 17. Ron Spiso (610 Lemwick Lane) noted his 6-bedroom home was built to be a vacation  
5 rental. He believed the ordinance was written specifically about his home. At the very  
6 least, he wanted the license grandfathered in. He did not agree that having 14 people in  
7 the house made it a hotel. He argued that his home provides \$8,000 in transient rental  
8 taxes, and if it were not a vacation rental, no one would live there. He also stated  
9 Yachats has always been a vacation town. Spiso's daughter stated they are a family that  
10 cannot inherit their family home. She argued the renters keep this town vibrant. She was  
11 very much against a program that would put the license into a lottery for renewal.
- 12 18. Jack Koehler (625 Lemwick Lane) echoed many of the comments that already been  
13 made. His house was built 22 years ago to be a rental and the City approved it, and they  
14 were never told that their ability to rent would go away. He favored the grandfathering in  
15 and putting the limit on transferability on building going forward.
- 16 19. Lisa Glenn (not from Yachats) asked if there were fines for violations. She speculated  
17 there were solutions to help with enforcement.
- 18 20. Jamie Michelle (Sweet Homes Vacation Getaways) wanted licenses to be inherited but  
19 not necessarily transferred with property sales. She wanted to remove the rental cap. She  
20 argued that people who have vacation rental licenses should have minimum rental  
21 requirements (she called, "license hoarding"). She asked for a clear explanation of how  
22 the waiting list would be handled once vacation rental license become available. She was  
23 in favor of efforts to enforce compliance.
- 24 21. Mary Coello (Ten Mile) asserted the housing bubble greatly impacted the community and  
25 stressed the need for enforcement. She believed transferring to heirs was essential.
- 26 22. Jack Koehler asked what the problem was that started all of the regulation changes.  
27 Mayor Moore stated the answer was too lengthy to get into at this meeting.
- 28 23. Candy Neville stated that there were lots of people in town who do not volunteer and that  
29 there were other ways to contribute to the community.

## 30 31 **VI. Reports**

### 32 **A. Financial Report**

### 33 **B. Council Reports**

34 Mayor Moore reported he attended:

- 35 1. April 23 bi-monthly meeting of Mayors
- 36 2. April 26 roundtable with Kurt Schrader and David Gombert
- 37 3. The grand opening of Fistera Town Homes and noted 13 of the new tenants were  
38 employed in Yachats

### 39 40 **C. City Manager's Report**

41 Manager Beaucaire reported:

- 42 1. The City entrance signs will be in place by May 31, 2019
- 43 2. She met with engineer of record regarding Oceanview Drive, and the engineer noted how  
44 fair the county was being in what they were willing to accommodate. They did discuss  
45 rumble strips in the pavement and the county does have that equipment to create those.



1 The engineer favored reflectors placed closer together to effectively act as rumble strips.  
2 She stated paving could begin in June 2019.

- 3 3. The City received bids on W 1<sup>st</sup> and E 2<sup>nd</sup> Streets paving that came in just under budget.  
4 She asked for permission to go forward with the bids. Council concurred with Manager  
5 Beaucaire proceeding with the contracting.  
6

7 **VIII. Other Business**

8 **A. From Mayor** - none

9 **B. From Council** - none

10 **C. From Staff** - none  
11

12 Mayor Moore adjourned the meeting at 8:29 pm.  
13  
14  
15  
16

17 \_\_\_\_\_  
18 W. JOHN MOORE, Mayor  
19

20 ATTEST:  
21  
22

23 \_\_\_\_\_  
24 Shannon Beaucaire, City Manager

\_\_\_\_\_  
Date