

RESOLUTION NO. 1433

A RESOLUTION ADOPTING AN UPDATED CONTRACTING AND PROCUREMENT POLICY

WHEREAS, the City of Canby (City) previously adopted a contracting and procurement administrative policy effective April 17, 2024;

WHEREAS, the City anticipates significant public projects in the near future that will require the City to solicit and procure the services of professional consultants, including but not limited to architects, surveyors, engineers, and general contractors;

WHEREAS, the City recognizes the need to ensure that procurement of all public contracts are consistent with Oregon laws and rules governing such procurements;

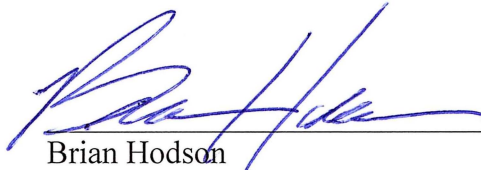
WHEREAS, the City attorney completed a review of the current contracting and procurement rules and identified a number of areas that she recommends updating, simplifying, or otherwise amending; and

WHEREAS, through this Resolution, the City adopts a policy related to the procurement of goods and services, personal services, public improvements, and construction-related personal services and makes other housekeeping changes to the City's contracting and procurement rules.

NOW THEREFORE, BE IT RESOLVED by the City of Canby City Council as follows:

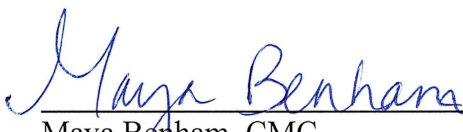
1. The City Council adopts the Contracting and Procurement Policy for the City attached as **Exhibit A**; and
2. Resolution No. 1402 is hereby repealed.
3. This Resolution shall become effective immediately upon adoption.

ADOPTED this 21st day of May, 2025, by the Canby City Council.



Brian Hodson
Mayor

ATTEST:



Maya Benham, CMC
City Recorder

Exhibit 'A'

CITY OF CANBY ADMINISTRATIVE POLICY	Effective Date:
Contracting and Procurement	Resolution #XXXX

SECTION I:	Purpose
SECTION II:	Authority and Delegation
SECTION III:	Procurement and Contract Expenditure Authority Levels
SECTION IV:	Solicitation Preferences
SECTION V:	Goods Procurement and Non-Professional Services Contracts
SECTION VI:	Personal/Professional Services Contracts
SECTION VII:	Public Works Contracts
SECTION VIII:	Construction/Public Improvement Contracts
SECTION IX:	Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, Land Surveying and Related Services Contracts
SECTION X:	Procurements Using Federal or State Funds
SECTION XI:	Authority to Electronically Advertise Public Contracts
SECTION XII:	Notice of Intent to Award Certain Contract
SECTION XIII:	Surplus Property
SECTION XIV:	Definitions

SECTION I. **PURPOSE**

This policy is intended to:

- Use public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by promoting impartial and open competition;
- Provide appropriate authority for and control over City expenditures;
- Ensure compliance with the Oregon Public Contracting Code (Code), the Department of Justice Model Rules, and the Federal Uniform Guidance for Grants and Agreements;
- Fully implement the Code and the City's Public Contracting Rules (Resolution XXXX) by delegating authority for purchasing decisions;
- Define signature authority levels for City expenditures.

SECTION II. **AUTHORITY AND DELEGATION**

1. Model Rules

Except as provided within these rules, the City public contracting is governed by the Code and the Model Rules. These rules will prevail in the case of a conflict between them and the Model Rules.

2. General Authority

Except as otherwise provided in these rules, the powers and duties of the Board under the Code and Model Rules will be exercised by the Board and the powers and duties given or assigned to contracting agencies by the Code or Model Rules will be exercised by the City Administrator acting as the City's contracting agent. The City Administrator shall serve as the Purchasing Manager for the City and is authorized to issue all solicitations and to award all City contracts to complete work outlined in the adopted budget or if the contract price does not exceed \$50,000.

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Subject to this chapter, the Purchasing Manager may adopt and amend all solicitation materials, contracts, forms, and department level policies required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the City's contracting needs. The Purchasing Manager shall hear all solicitation and award protests.

3. Delegation of Purchasing Manager's Authority

Any of the responsibilities or authorities of the Purchasing Manager under this chapter may be delegated and sub-delegated by the Purchasing Manager.

4. Mandatory Review of Rules

Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify its contracting and procurement policy, Oregon Public Contracting Code (Code), and the Model Rules, the Purchasing Manager shall cause the Public Contracting Rules and Administrative Policy to be reviewed, and make any modifications required to ensure compliance with statutory changes.

5. Legal Framework

The laws, ordinances, and rules applicable to purchasing, contracting, and the sale of City personal property are:

A. Oregon Revised Statutes:

1. ORS Chapter 279A regarding public contracting – general provisions
2. ORS Chapter 279B regarding public contracting – goods and services
3. ORS Chapter 279C regarding public contracting – public improvements and construction-related personal services

B. Oregon Administrative Rules, Chapter 137-046, 047, 048, and 049; and

C. Oregon Constitution.

SECTION III.

PROCUREMENT AND CONTRACT EXPENDITURE AUTHORITY LEVELS

When the City Administrator, a Director or a Manager/Supervisor approves City expenditures, a purchase order, or timecard s/he is approving that:

- A. The expenditure is an appropriate use of City funds.
- B. The expenditure has been approved by the City Council in the adopted budget.
- C. There are funds available in the budget for the expenditure.
- D. The account coding associated with the expenditure is correct.

Expenditures are authorized as follows:

City Council	Expenditures of budgeted funds for a single purchase or contract in excess of \$50,000 or expenditures of sums not appropriated in the budget.
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City Administrator Assistant City Administrator	Up to \$50,000 unless expenditure causes the City to exceed a budget appropriation. City Council must approve if exceeds budget appropriation.
Finance Director	Up to \$25,000 unless expenditure causes the City to exceed a budget appropriation.
All other City Directors	Up to \$10,000 unless expenditure causes the City to exceed a budget appropriation.
Managers and Supervisors	Up to \$5,000 unless expenditure causes the City to exceed a budget appropriation.

SECTION IV. **SOLICITATION PREFERENCES**

Under ORS 279A, the following preferences for procurements and contracts should be taken into account when soliciting goods or services:

1. Preference for Oregon goods and services; nonresident bidders

- A. For the purposes of awarding a public contract, the City shall:
 - I. Give preference to goods or services that have been manufactured or produced in Oregon if price, fitness, availability and quality are otherwise equal; and
 - II. Add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference give to the bidder in the state in which the bidder resides.
- B. When a public contract is awarded to a nonresident bidder and the contract price exceeds \$10,000, the bidder shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. The City shall satisfy itself that the requirement of this subsection has been complied with before the City issues a final payment on a public contract.
- C. The Oregon Department of Administrative Services on or before January 1 of each year shall publish a list of states that give preference to in-state bidders with the percent increase applied in each state. The City may rely on the names of states and percentages so published in determining the lowest responsible bidder without incurring any liability to any bidder.

2. Preference for recycled materials

- A. The City shall give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.

3. Preference for goods fabricated or processed within state or services performed within state

- A. Notwithstanding provisions of law requiring the City to award a contract to the lowest responsible bidder or best proposer or provider of a quotation, when the City uses public funds to procure goods or services for a public use under ORS chapter 279B, the City may

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give preference to procuring goods that are fabricated or processed, or services that are performed, entirely within this state if the goods or services cost not more than 10 percent (10%) more than goods that are not fabricated or processed, or services that are not performed, entirely within this state. If more than one bidder or proposer qualifies for the preference described in this subsection, the City may give a further preference to a qualifying bidder or proposer that resides in or is headquartered in this state.

- B. The City by order may set a higher percentage than the percentage set forth in subsection (A) of this subsection if the City, in a written determination to support the order, finds good cause to set the higher percentage and explains the City's reasons and evidence for the finding.
- C. Notwithstanding ORS 279C.320 (1), subsection (A) of this section does not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320 (1).

4. Performance within state of public printing, binding, and stationary work

- A. All printing, binding and stationery work, including the manufacture of motor vehicle registration plates and plates required to be affixed to motor carriers for the City shall be performed within the state. All requests for bids and all contracts for such work shall so stipulate.
- B. Notwithstanding subsection (A), this work may be performed outside the state if it is established that:
 - I. The work cannot be performed within the state;
 - II. The lowest price for which such work can be procured within the state exceeds the charge usually and customarily made to private individuals and corporations for work of similar character and quality; or
 - III. All bids for the work, or any part thereof, are excessive and not reasonably competitive

SECTION V.

GOODS PROCUREMENT & NON-PROFESSIONAL SERVICES CONTRACTS

1. Small procurements (ORS 279B.065)

- A. The City may award a public contract for goods or services that does not exceed an estimated contract price of \$25,000 in any manner the City deems practical or convenient, including by direct selection award.
- B. A contract awarded under this section may be amended in accordance with OAR 137-047-0800, but the cumulative amendments may not increase the total contract price to greater than \$31,250.
- C. The City may not artificially divide or fragment a procurement so as to constitute a small procurement under this section.

2. Intermediate procurements (ORS 279B.070)

- A. The City may award a public contract for goods and services that exceeds an estimated contract price of \$25,000, but does not exceed a contract price of \$250,000 in accordance with intermediate procurement procedures set forth in this Section. When conducting an

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intermediate procurement, the City shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The City shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the City shall make a written record of the effort the City makes to obtain the quotes or proposals.

- B. A contract awarded under this section may be amended in accordance with OAR 137-047-0800, but the cumulative amendments may not increase the total contract price to greater than \$312,500.
- C. The City may not artificially divide or fragment a procurement so as to constitute an intermediate procurement under this section.

3. Large Procurements (ORS 279B.055 and 279B.060)

- A. The City shall award public contracts for goods or services that exceed an estimated contract price of \$250,000, or otherwise contain an indefinite term or value, by competitive sealed bidding under ORS 279B.055 or competitive sealed proposals under ORS 279B.060.
- B. Competitive sealed bidding (ITB) (OAR 137-047-0255 and ORS 279B.055)
 - i. **USE:** when specification and cost-based with cost as the primary basis for award of the contract. Bids are submitted on pre-determined specifications.
 - ii. The City may solicit and award a public contract for goods or services, or may award multiple public contracts for goods or services when specified in the invitation to bid, by competitive sealed bidding.
 - iii. Reference OAR 137-047-0255 and ORS 279B.055 for specific instructions when dealing with competitive sealed bids.

4. Competitive sealed proposals (RFP) (OAR 137-047-0260 and ORS 279B.060)

- i. **USE:** when a goal or outcome is known, but multiple solutions may exist, or a proposer's qualifications is the primary focus of the solicitation. This allows for comparison of solutions, demonstrations, and negotiations.
- ii. RFP is looking for the highest quality with price being secondary. Used when City wants the ability to negotiate contract terms.
- iii. The City may solicit and award a public contract for goods or services, or may award multiple public contracts for goods or services when specified in the request for proposals, by requesting and evaluating competitive sealed proposals.
- iv. Reference OAR 137-047-0260 and ORS 279B.060 for specific instructions when dealing with competitive sealed proposals.

5. Sole source procurements (OAR 137-047-0275 and ORS 279B.075)

- A. The City may award a contract for goods or services without competition when the City Council, City Administrator, Director, or Manager with the City, determines in writing, that the goods or services, or class of goods or services, are available from only one source.

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- B. The determination of a sole source must be based on written findings that may include:
 - i. That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
 - 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;
 - iii. That the goods or services are 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.
- C. To the extent reasonably practical, the City shall negotiate with the sole source to obtain contract terms advantageous to the City.

6. Emergency procurements (ORS 279B.080)

- A. The City Administrator, or designee, may make or authorize others to make emergency procurements of goods or services in an emergency. The City Administrator shall document the nature of the emergency and describe the method used for the selection of the particular contractor.
- B. For an emergency procurement of construction services that are not public improvements, the City Administrator shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the emergency circumstances. In conducting the procurement, the City Administrator shall set a solicitation time period that the City Administrator determines to be reasonable under the emergency circumstances and may issue written or oral requests for offers or make direct appointments without competition in cases of extreme necessity.

7. Special procurements (ORS 279B.085)

- A. Except as provided in subsection (3) of this section, to seek approval of a special procurement, the City shall submit a written request to the local contract review board that describes the contracting procedure, the goods or services or the class of goods or services that are the subject of the special procurement and the circumstances that justify the use of a special procurement under the standards set forth in subsection (4) of this section.
- B. The City Administrator or the local contract review board may approve a special procurement if the City Administrator or board finds that a written request submitted demonstrates that the use of a special procurement as described in the request, or an alternative procedure prescribed:
 - i. Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and
 - ii. Is reasonably expected to result in substantial cost savings to the City or to the public; or
 - iii. Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065 or 279B.070 or under any rules adopted there under.
- C. Public notice of the approval of a special procurement must be given in the same manner as provided in ORS 279B.055 (4).

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- D. If the City intends to award a contract through a special procurement that calls for competition among prospective contractors, the City shall award the contract to the offeror the City determines to be the most advantageous.
- E. When the City Administrator or local contract review board approves a class special procurement under this section, the City may award contracts to acquire goods or services within the class of goods or services in accordance with the terms of the approval without making a subsequent request for a special procurement.

SECTION VI.

PERSONAL/PROFESSIONAL SERVICES CONTRACTS

(For architectural, engineering, photogrammetric mapping, transportation planning, land surveying, and related services contracts, see section X)

- 1. Except as otherwise provided in this Section VI, personal services contracts may be awarded in the same manner as contracts for services under Section V above.
- 2. Personal Service Contracts for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the Purchasing Manager determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.
- 3. The City Administrator may award the following categories of professional services in any manner that he or she deems practical or convenient, including via direct award:
 - A. Attorneys, including public defense attorneys, city prosecutors, and city attorneys.
 - B. Hearings officers.
 - C. Mediators, arbitrators, or other dispute resolution service providers.
 - D. Auditors.
 - E. Software as a service providers.
 - F. Wastewater treatment plant sludge removal and hauling services.
 - G. Ordinary repair and maintenance services that do not involve construction, reconstruction, or major renovation, and require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills. (As an example, ordinary repairs and maintenance of the City's wastewater treatment plant, that are not major, large-scale repairs and that are contemplated in the plant's operations manual, would qualify for this category, because ordinary maintenance of the City's wastewater treatment plant requires specialized knowledge and expertise. In contrast, unanticipated repairs to the wastewater treatment plant, or major renovations to the plant replacing major components of the system, would not qualify for this category because they are either out of the ordinary repairs or major renovations. In addition, ordinary sidewalk maintenance such as power washing would not qualify, because it would not require specialized expertise.)
 - H. Owner's representative services, where the owner's representative is in no way serving the applicable project in its capacity as an engineer, and where the owner's representative has been pre-qualified by the City via a request for qualifications process.
 - I. Natural resource specialists that may assist the City in assessing habitat, floodplain and wetlands within City limits.

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- J. Economic specialists that may assist with rate studies and system development charge updates.
- K. Emergency operations training providers.
- L. Cultural and historic resource specialists.
- M. Acoustical specialists to assist the City with noise assessments, noise mitigation, or code amendments.

SECTION VII.

PUBLIC WORKS CONTRACTS

1. Contracts for construction other than public improvements (ORS 279C.320)

- A. Contracting agencies shall enter into contracts for emergency work, minor alteration, ordinary repair or maintenance of public improvements, as well as any other construction contract that is not defined as a public improvement under ORS 279A.010 (Definitions for Public Contracting Code), in accordance with the provisions of ORS chapter 279B.
- B. Pursuant to ORS 279C.320, public contracts for construction services that are not public improvement contracts may be procured and amended as general trade services under the provisions of ORS 279B rather than under the provisions of ORS Chapter 279C. Emergency contracts for construction services are not public improvement contracts and are regulated under ORS 279B.080 or number 4 in this section.

2. Public Works Contracts.

“Public Works” is defined by state law (ORS 297C.800). If a project is a public works project, it will be subject to prevailing wage. This definition is legally complicated and highly fact specific. If your project is over \$50,000 in value and may be a public works project, please contact the City Administrator or City Attorney for more direction and guidance.

SECTION VIII.

CONSTRUCTION/PUBLIC IMPROVEMENT CONTRACTS

(For Architectural, engineering, photogrammetric mapping, transportation planning, land surveying, and related services contracts, see section X)

1. Small procurements (ORS 279C.335(1))

- A. The City may award a public improvement contract that does not exceed \$25,000 in any manner the City deems practical or convenient, including by direct selection award.
- B. A contract awarded under this section may be amended in accordance with OAR 137-049-0910, but the cumulative amendments may not increase the total contract price above \$31,250.
- C. The City may not artificially divide or fragment a procurement so as to constitute a small procurement under this section.

2. Intermediate procurements (ORS 279C.412 and .414)

- A. The City may award a public improvement contract that exceeds \$25,000, but does not

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exceed \$100,000, in accordance with intermediate procurement procedures set forth in this Section. When conducting an intermediate procurement, the City shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The City shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the City shall make a written record of the effort the City makes to obtain the quotes or proposals.

- B. A contract awarded under this section may be amended in accordance with OAR 137-049-0910, but the cumulative amendments may not increase the total contract price to greater than \$125,000.
- C. The City may not artificially divide or fragment a procurement so as to constitute an intermediate procurement under this section.

3. Large procurement (ORS 279C.400)

When a public improvement contract cost exceeds \$100,000, or the contract otherwise contains an indefinite term or value, the City will follow the formal procurement process outlined in ORS 279C.400.

4. Emergency procurement (ORS 279C.320)

The City Administrator, or designee, may make or authorize others to make emergency procurements of public improvements in an emergency in accordance with Section VII.1.

5. Special procurements and alternative contracting methods (ORS 279C.335(2))

Under ORS 279C.335, the City may use alternative contracting methods for public improvement contracts. These include, but are not limited to the following forms of contracting: design- build, energy savings performance contract and the construction manager/general contractor method. To the extent any such alternative contracting methods are utilized within the competitive bidding process set forth in ORS 279.335, these OAR 137-049-0600 to OAR 137- 049-0690 rules are advisory only and may be used or referred to by the City.

SECTION IX.

ARCHITECTURAL, ENGINEERING, PHOTOGRAMMETRIC MAPPING, TRANSPORTATION PLANNING, LAND SURVEYING ("CONSTRUCTION-RELATED PERSONAL SERVICE CONTRACTS") AND RELATED SERVICES CONTRACTS

1. Small procurements (ORS 279C.110(10))

- A. The City may award a construction-related personal service contract that is not estimated to exceed \$100,000 in any manner the City deems practical or convenient, including by direct selection award.
- B. A contract awarded under this section may be amended in accordance with OAR 137-048-0320, but the cumulative amendments may not increase the total contract price above \$125,000.

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- C. The City may not artificially divide or fragment a procurement so as to constitute a small procurement under this section.

2. Intermediate procurements (ORS 279C.110(2))

- A. The City may award a construction-related personal service contract that is estimated to exceed \$100,000, but not exceed \$250,000, in accordance with intermediate procurement procedures set forth in this Section. When conducting an intermediate procurement, the City shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The City shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the City shall make a written record of the effort the City makes to obtain the quotes or proposals.
- B. A contract awarded under this section may be amended in accordance with OAR 137-048-0320, but the cumulative amendments may not increase the total contract price to greater than \$312,500.
- C. The City may not artificially divide or fragment a procurement so as to constitute an intermediate procurement under this section.

3. Large procurements (ORS 279C.110)

- A. Where the estimated contract value is above \$250,000, or the contract otherwise contains an indefinite term or value, the City shall select construction-related personal services on the basis of the consultant's qualifications for the type of professional service required in accordance with ORS 279C.110 and subsection (B). Unless the City follows the process set forth in subsection (C) below, the City may solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation only after the City has selected a candidate pursuant to subsection (C) of this section.
- B. The City's qualifications-based selection procedure may include considering each candidate's:
 - i. Specialized experience, capabilities and technical competence, which the candidate may demonstrate with the candidate's proposed approach and methodology to meet the project requirements;
 - ii. Resources committed to perform the work and the proportion of the time that the candidate's staff would spend on the project, including time for specialized services, within the applicable time limits;
 - iii. Record of 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;
 - iv. Ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses;
 - v. Availability to the project locale;
 - vi. Familiarity with the project locale; and
 - vii. Proposed project management techniques.
- C. Notwithstanding the provisions of subsection (A) of this section, the City may request pricing

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policies or pricing proposals from prospective consultants, including an estimate of the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates, if the City:

- i. States in the following in its solicitation document:
 - a. That the City will screen and select prospective consultants as provided in ORS 279C.110(5);
 - b. How the City will rank proposals from prospective consultants, with a specific focus on:
 - Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and
 - The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;
 - c. An estimate of the cost of professional services the City requires for the procurement; and
 - d. A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.
- ii. Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement.
- iii. Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph ii. of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph i.d of this subsection from each of the top-ranked consultants. The pricing proposal must consist of:
 - a. A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the City requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and
 - b. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement.
- iv. Permits a prospective consultant identified as qualified under paragraph c. of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.
- v. Completes the evaluation and selects a consultant from among the top-ranked

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prospective consultants that have not withdrawn as provided under paragraph d. of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.

- D. If the City determines that two or more candidates are equally qualified, the City may select a candidate through any process the City adopts that is not based on the candidate's pricing policies, proposals or other pricing information.
- E. The City and the selected candidate shall mutually discuss and refine the scope of services for the project and shall negotiate conditions, including but not limited to compensation level and performance schedule, based on the scope of services. The compensation level paid must be reasonable and fair to the City as determined solely by the City. Authority to negotiate a contract under this section does not supersede any provision of ORS 279A.140 or 279C.520.
- F. If the City and the selected candidate are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate. The City may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the City terminates the consultant contracting process.

4. Emergency procurement (ORS 279C.110(11))

The City may directly appoint a consultant for construction-related personal services in an emergency.

5. Project continuation (ORS 279C.115)

The City may enter a contract for construction-related personal services directly with a consultant if the project described in the contract consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier contract with the consultant, the previous contract was awarded pursuant to these contracting rules, and the new contract is a continuation of the project.

6. Related Services (ORS 279C.100(8))

"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 improvement projects, 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. When the City selects a consultant to perform related services, it shall follow one the procurement process set forth in Section VI.

SECTION X.

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PROCUREMENTS USING FEDERAL OR STATE FUNDS

When the City procures goods, services, personal services, construction-related personal services, or public improvements using federal or state money, staff shall consult with the City Administrator, City Attorney, and appropriate agency representative to understand the applicable state or federal procurement process before commencing a procurement. Staff should be aware that some or all of the provisions of this policy may be superseded by state or federal requirements.

SECTION XI.

AUTHORITY TO ELECTRONICALLY ADVERTISE PUBLIC CONTRACTS

- A. Pursuant to ORS 279C.260 and ORS 279B.055, electronic advertisement of public contracts for goods, services, personal services, construction-related personal services, and public improvements in lieu of newspaper publication is authorized when it is cost effective to do so. As described in OAR 137-046-0110(16), this is an information system accessible through the internet that allows the City to post electronic advertisements and receive electronic offers for goods, services, personal services, construction-related personal services, and public improvements. The City Manager shall have the authority to determine when electronic publication is appropriate, and consistent with the City's contracting policies.
- B. Notwithstanding Section A, an advertisement for a public improvement contract with an estimated cost over \$125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

SECTION XII

NOTICE OF INTENT TO AWARD CERTAIN CONTRACTS

- A. At least seven days before the award of a public contract solicited under a formal invitation to bid or request for proposals, the City will post or provide to each bidder or proposer notice of the City's intent to award a contract.
- B. If stated in the solicitation document, the City may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of the City's intent.
- C. As an alternative, the City may provide written notice to each bidder or proposer of the City's intent to award a contract. This written notice may be provided electronically or through non-electronic means.
- D. The City may give less than seven days' notice of its intent to award a contract if the City determines in writing that seven days is impracticable.
- E. This section does not apply to public contracts awarded under pursuant to an exemption process or an emergency.
- F. A protest of the City's intent to award a contract may only be filed in accordance with OAR 137-047-0740, OAR 137-048-0240, or OAR 137-049-0450, as applicable.

SECTION XIII

SURPLUS PROPERTY

Exhibit 'A'

- A. The City Administrator may authorize the sale, donation, transfer to another government agency, auction, liquidation or fixed price sale, trade-in, or destruction of surplus property. Surplus property may be sold through the informal solicitation of bids or through an auction, including an online auction. The City Administrator has the discretion to advertise the sale of surplus property in a newspaper of city-wide circulation or online.
- B. Employees of the City may purchase surplus property, so long as at least three individuals or entities have bid on the property and the employee's bid is the highest bid.

SECTION XIV. **DEFINITIONS**

Award means the selection of a person to provide goods, services, personal services, construction-related personal services, or public improvements under a public contract. The award of a contract is not binding on the City until the contract is executed by a City representative with the authority to execute a contract and delivered by the City.

Bid means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.

Board or Local Contract Review Board means the Canby City Council.

City Administrator means the City Administrator for the City of Canby, or the City Administrator's designee.

Concession agreement means 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 real property owned or managed by the City, and under which the concessionaire makes payments to the City based, at least in part, on the concessionaire's revenues or sales. The term "concession agreement" does not include a mere rental agreement, license or lease for the use of premises.

Contract price means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

Contract review board or local contract review board means the Canby City Council.

Cooperative procurement means a procurement conducted by or on behalf of one or more contracting agencies.

Debarment means a declaration by the City Council under ORS 279B.130 or ORS 279C.440 or by the state or the Federal Government that prohibits a potential contractor from competing for the City's public contracts for a prescribed period of time.

Disposal means any arrangement for the transfer of property by the City under which the City relinquishes ownership.

Emergency means circumstances that could not have been reasonably foreseen; create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

Energy savings performance contract means a contract with a qualified energy service company for the

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identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.

Findings are the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations, value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance and funding sources.

Goods means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses related to the goods.

Invitation to bid means a publicly advertised request for competitive sealed bids.

Model rules means the public contracting rules adopted by the Attorney General under ORS 279A.065.

Non-professional services contract means a contract with an independent contractor predominantly for services that do not require special training. Such services include, but are not limited to, the services of janitorial, landscaping, and small equipment rental. The Purchasing Manager shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of non-professional services. *For Personal/Professional Services Contract, please see below.*

Offeror means a person who submits a bid, quote or proposal to enter into a public contract with the City.

Oregon Public Contracting Code means ORS Chapters 279A, 279B and 279C.

Person means a natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

Proposal means a binding offer to provide goods, services, personal services, construction-related personal services, or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A proposal may be made in response to a request for proposals or under an informal solicitation.

Personal/professional services contract means a contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of 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 attorneys, auditors and other licensed professionals, artists, computer programmers, performers, consultants and property managers. The Purchasing Manager shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services. *For Non-Professional Services Contract, please see above.*

Public contract means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the City of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement.

Public improvement means a project for construction, reconstruction or major renovation on real property by or for the City. **Public improvement** does not include:

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- A. Projects for which no funds of the City are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
- B. Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

Purchasing manager means the City Administrator or the City Administrator's designee.

Qualified pool means a pool of vendors who are prequalified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

Quote means a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

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 improvement projects, 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.

Request for proposals means a publicly advertised request for sealed competitive proposals.

Services means and includes all types of services (including construction labor) other than personal services.

Solicitation means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the City with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which the City requests, receives and evaluates potential contractors and awards public contracts.

Solicitation Agent means with respect to a particular solicitation, the City employee charged with responsibility for conducting the solicitation and making an award or making a recommendation on award to the City Council.

Solicitation documents means all informational materials issued by the City for a solicitation, including, but not limited to advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.

Standards of responsibility means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

- A. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;
- B. A satisfactory record of performance. The Solicitation Agent shall document the record of performance of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;

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- C. A satisfactory record of integrity. The Solicitation Agent shall document the record of integrity of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;
- D. Qualified legally to contract with the City;
- E. Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the Solicitation Agent concerning responsibility, the Solicitation Agent shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and
- F. Not been debarred by the City, and, in the case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract.

Surplus property means personal property owned by the City such as office furniture, computers, equipment, vehicles, excluding real property, that the City Administrator determines is surplus and no longer useful to the City. Real property is subject to a different procedure under state law.