

CITY OF BROOKINGS
State of Oregon

RESOLUTION 17-R-1123

A RESOLUTION OF THE CITY OF BROOKINGS ADOPTING THE MODEL RULES FOR PUBLIC CONTRACTING, ADOPTING A PUBLIC PROCUREMENT AND CONTRACTING POLICY, AND DESIGNATING THE CITY COUNCIL AS THE LOCAL CONTRACT REVIEW BOARD.

WHEREAS, the City of Brookings is a municipal corporation subject to Oregon's public contracting statutes and administrative rules;

WHEREAS, the City Council is by default the local contract review board;

WHEREAS, the Oregon legislature and the Oregon Attorney General periodically revise the statutes and rules regarding public contracting;

WHEREAS, recent revisions to the Oregon Revised Statutes and Oregon Administrative Regulations make it necessary to update the City's rules on public contracting; and

WHEREAS, ORS 279A.065 authorizes the City to adopt its own procedural rules that either (a) adopt the Model Rules in their entirety, or (b) prescribe different rules that may or may not include portions of the Model Rules.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brookings that:

1. The Brookings City Council is hereby designated the local contract review board for the City of Brookings.
2. Resolution 12-R-991 of the City of Brookings is hereby repealed in its entirety.
3. The Model Rules as set forth in Divisions 46 through 49 of Chapter 137, Oregon Administrative Rules are hereby adopted by the City of Brookings.
4. The Public Procurement & Contracting Policy attached hereto, and incorporated herein by this reference, is hereby adopted.
5. In the case of conflict or inconsistency between the Model Rules and the Public Procurement & Contracting Policy, the latter shall prevail.

Passed by the City Council October 23, 2017 and made effective the same date.



Mayor Jake Pieper

Attest:



City Recorder Teri Davis



City of Brookings

Public Procurement & Contracting Policy

I. POLICY

- A. Purpose.** The City of Brookings adopts this Public Procurement & Contracting Policy (“Policy”) to establish local rules that utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
- (1) Promoting impartial and open competition;
 - (2) Using solicitation documents that are complete and contain a clear statement of contract specifications and requirements; and
 - (3) Taking full advantage of evolving procurement methods that suit the contracting needs of the City of Brookings as they emerge within various industries.
- B. Interpretation.** In furtherance of the purpose of the objectives set forth in subsection A, it is the City’s intent that the City of Brookings Public Procurement & Contracting Policy be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.

II. APPLICATION

In accordance with ORS 279A.025, the City of Brookings Public Procurement & Contracting Policy does not apply to the classes of contracts to which the Oregon Public Contracting Code does not apply, including:

- A. Between Governments** including local, state, and federal governments; federally-recognized Indian Tribes; foreign nations; and intergovernmental entities and including those agreements authorized by ORS Chapter 190 or by a statute, charter provision, ordinance or other authority.
- B. Grants** (project may, however, be required to comply)
- C. Legal Witnesses and Consultants**
- D. Real Property**
- E. Oregon Corrections Enterprises**
- F. Finance** - Contracts, agreements or other documents entered into, issued or established in connection with:
 - (1) The issuance of obligations, as defined in ORS 286A.100 and 287A.310, of a public body;
 - (2) The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or
 - (3) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085.
- G. Employee Benefits**
- H. State Law:** Contracts specifically exempt under State law.
- I. Federal Law:** Contracts that are governed by federal statutes and regulations.

III. REGULATION BY CITY OF BROOKINGS

Except as expressly delegated under this Policy, the City of Brookings reserves to itself the exercise of all of the duties and authority of a *local contract review board* and a *contracting agency* under State law, including, but not limited to, the power and authority to:

- A. **Solicitation Methods.** Approve the use of contracting methods and exemptions for contracting methods for a specific contract or certain classes of contracts.
- B. **Brand Name Specifications.** Exempt the use of brand name specifications for public improvement contracts.
- C. **Waiver of Performance and Payment Bonds.** Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for the construction of a public improvement, in addition to cases of emergency.
- D. **Electronic Advertisement.** Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation.
- E. **Rulemaking.** Adopt contracting rules under ORS 279A.065 and ORS 279A.070 including, without limitation, rules for the procurement, management, disposal, and control of goods, services, personal services, and public improvements.
- F. **Award.** Award all contracts that exceed the authority of the Purchasing Agent.

IV. PURCHASING AGENT

- A. **General Authority.** The City Manager is the Purchasing Agent for the City of Brookings and is hereby authorized to make purchases for goods and services up to the sum of \$25,000 without obtaining Council approval with the exception of emergency purchases up to \$150,000 as provided under Section V.I, herein.
- B. **Delegation of Authority.** The Purchasing Agent may delegate any of the responsibilities and authorities assigned under this Policy for purchases up to \$10,000.
- C. **Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its Model Rules, the City Manager shall review this Policy and the revised Model Rules and recommend modifications to the City Council.

V. PROCUREMENT OF GOODS AND SERVICES

- A. **Purchases of \$2,500 or Less.** Purchases of up to \$2,500 may be made by any City employee so authorized, and may be done in any manner deemed practical or convenient by the person with purchasing authority, including direct selection or award. Each Department Head will decide, and notify the Finance & Human Resources (FHR) Director regarding who is authorized to make such purchases. Invoices must be stamped, coded, initialed, and signed as received by the authorized employee and employee's Department Head, before payment will be made. Purchases may not be artificially divided or fragmented to as to constitute a purchase of \$2,500 or less. Purchases of different items from one vendor that are part of one order and that total more than \$2,500 must comply with the applicable rules pertaining to the total amount of the order.
- B. **Purchases of \$2,501 to \$10,000.**
 - (1) **Competitive Quotes/Proposals.** Purchases from \$2,501 to \$10,000 may be made only with the approval of the Department Head or the City Manager. Except for Sole Source and Emergency Purchases, purchases from \$2,501 to \$10,000 may be made only after obtaining at least three (3) competitive price quotes or competitive proposals. The quotes/proposals may be written, verbal, by telephone, or by fax, but the quote/proposal must be documented in writing, either on or attached to the Record of Verbal/Telephone Quotes form. A copy of the documentation must be attached to the purchase order or invoice when submitted to the FHR Department. Invoices must be stamped, coded, initialed, and signed as received by the Department Head or City Manager before payment will be made. Purchases of different items from one vendor that are part of one order and that total more than \$10,000 must comply with the rules pertaining to the total amount of the order.
 - (2) **Considerations Other Than Purchase Price.** Purchase price will be the initial basis for comparing competitive quotes/proposals and will be the determining factor when all other

factors are equal. Other considerations may, however, affect the true cost and benefits of making certain purchases and may, therefore, also be considered when selecting products or suppliers. Other factors may include, but are not limited to: quality of goods or services, warranties, availability of part, maintenance and repair services, compatibility with other supplies and materials being used by the City, etc. In cases where the lowest initial purchase price is not the final determining factor, the other overriding factors and considerations must be documented in writing, either on , or attached to, the Record of Verbal/Telephone Quotes form.

C. Purchases of \$10,001 to \$150,000.

(1) Competitive Quotes/Proposals. Purchases of \$10,001 up to \$150,000 may be made only after obtaining three (3) informally solicited competitive price quotes or competitive proposals. The quotes may be written, verbal, by telephone, or by fax, but the quote/proposal must be documented in writing, either on or attached to the Record of Verbal/Telephone Quotes form. If three (3) quotes/proposals are not reasonably available, fewer will suffice, but the effort made to obtain the quotes/proposals must be documented. A copy of the documentation must be attached to the purchase order or invoice when submitted to the FHR Department. The City Manager may approve any purchase in amounts up to \$25,000. Purchases in excess of \$25,000 must be approved by the City Council. Invoices must be stamped and coded, initialed and signed as received by the Department Head, and/or must be signed as approved by the City Manager, or Mayor, following City Council approval, as applicable, before payment can be made. If a contract is awarded, it must be awarded to the offeror whose quote or proposal will best serve the interest of the City, taking into account the price as well as other considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose, and contractor responsibility (See ORS 279B.110- Responsibility of bidders and proposers). Purchases may not be artificially divided or fragmented so as to constitute a purchase between \$10,001 and \$150,000. Purchases of different items from one vendor that are part of one order and that total more than \$150,000, must comply with the Competitive Purchasing Rules in ORS 279B.055 or ORS 279B.060 as applicable.

(2) Considerations Other Than Purchase Price. Purchase price will be the initial basis for comparing competitive quotes/proposals and will be the determining factor when all other factors are equal. Other considerations may, however, affect the true cost and benefits of making certain purchases and may, therefore, also be considered when selecting products or suppliers. Other factors may include, but are not limited to: quality of goods or services, warranties, availability of part, maintenance and repair services, compatibility with other supplies and materials being used by the City, etc. In cases where the lowest initial purchase price is not the final determining factor, the other overriding factors and considerations must be documented in writing, either on, or attached to, the Record of Verbal/Telephone Quotes form.

D. Purchase Over \$150,000. Purchases over \$150,000 may only be made with the approval of the City Council and must be made in compliance with ORS 279B.055 or ORS 279B.060.

E. Local Preference. The City will 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 no more than 10% more than goods that are not fabricated or processed, or services that are not performed, entirely within this State. If one or more bidders or proposers qualify for this preference, the City will give a further preference to the qualifying bidder or proposer that resides in or is headquartered in this State. This preference does not apply to the following: emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320(1).

F. Written Agreements (Contracts). All construction services, consultant services, professional services, and services provided on an ongoing basis, such as janitorial services, must be procured through the issuance of a written agreement. Standard form agreements will be used for small and large construction projects, service contracts, and professional/consultant services. Said agreements will contain appropriate provisions relating to workers compensation, liability insurance, dispute resolution, term, termination, ownership of product/records, deliverables, time of performance, change orders, rates for service and maximum authorized expenditure.

G. Sole Source Purchases.

(1) Procedure. When three (3) quotes or proposals cannot be obtained, such purchases may be made after securing one or two quotes/proposals. In such cases, an explanation regarding the necessity and benefits to the City for making a sole source purchase must be documented in writing, either on, or attached to, the Record of Verbal/Telephone Quotes form. A copy of the documentation must be attached to the purchase order or invoice when submitted to the FHR Department. Invoices must be stamped, coded, initialed, and signed as received by the Department Head before payment will be made. Purchases may not be artificially divided or fragmented so as to constitute a sole source purchase. Sole source purchases up to \$10,000 must be approved by the Department Head. Sole source purchases that exceed \$10,000 but do not exceed \$25,000 must be approved by the City Manager. Sole Source purchases that exceed \$25,000 must be approved by the City Council.

(2) Written Findings. The determination of a sole source must be based on a written finding that may include:

- a. That efficient utilization of existing goods requires the acquisition of compatible goods or services;
- b. 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;
- c. That the goods or services are for use in a pilot or an experimental project; or
- d. Other findings that support the conclusion that the goods or services are available from only one source.

H. Emergency Purchases. In the event of an emergency, purchases may be immediately made without securing any quotes or proposals. Following resolution of the emergency situation, however, an explanation of the emergency and the reasons for making the emergency purchase must be documented in writing, either on, or attached to, the Record of Verbal/Telephone Quotes form. Only the Department Head or City Manager may authorize emergency purchases up to \$25,000. Emergency purchases over \$25,000 and up to \$150,000 must be authorized by the City Manager or City Council. Any emergency purchase authorized by the City Manager over \$25,000 must be brought to the immediate attention of the City Council and must also appear on the next available City Council Agenda for Council discussion and deliberation. The City Council must authorize any emergency purchases over \$150,000. Invoices must be stamped and coded, initialed and signed as received by the City Manager or Mayor, following City Council approval, as applicable, before payment will be made.

I. Purchases of Goods or Services from City Employees. With prior written approval from the City Manager, purchases of goods and/or services from City employees may be permitted, if it is determined this will best serve the interest of the City, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality and suitability for a particular purpose.

VI. PERSONAL SERVICES CONTRACTS

A. Definition. A "personal services contract" is a contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative,

professional or communication skills or talent, 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: attorneys, judges, auditors, artists, designers, computer programmers, performers, consultants and property managers. The City maintains discretion to determine whether additional types of services not specifically mention above fit within the definition of personal services.

- B. Method of Solicitation.** Personal services contracts for which the estimated contract price does not exceed \$150,000 may be awarded using an informal solicitation for proposals. Personal services contracts for which the estimated contract price exceeds \$150,000 may be awarded under a publicly advertised request for competitive sealed proposals.
- C. Continuation of Work.** Personal services contracts of not more than \$150,000 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 City determines that the use of the original contractor will significantly reduce the costs of, or risks associated with, the work.
- D. Qualifications Based Selection (QBS).** The City shall use the Model Rules QBS procedures for selecting an architect, engineer, photogrammetrist, transportation planner, land surveyor or provider of related services. The City may use the rules contained in this Policy where applicable.

VII. PUBLIC IMPROVEMENT CONTRACTS

- A. Definition.** "Public improvement contract" means a contract for the construction, reconstruction or major renovation on real property by or for the City. "Public improvement contract" does not include a contract for emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.
- B. Public Improvement Project - \$25,000 or Less.** A public improvement project with a contract price of \$25,000 or less may be made in any manner deemed practical or convenient by the City Manager. The City Manager has authority to enter into a public improvement contract of \$25,000 or less without the approval of the City Council.
- C. Public Improvement Project - \$100,000 or Less.** A public improvement project with a contract price of less than \$100,000 may be awarded pursuant to the intermediate procedure (competitive quotes) as prescribed in the Model Rules. The City Manager has authority to enter into a public improvement contract of \$25,000 or less without the approval of the City Council. Public improvement contracts of more than \$25,000 must be approved by the City Council.
- D. Public Improvement Project -Over \$100,000.** A public improvement project with a contract price of more than \$100,000 may be only awarded pursuant to competitive sealed bidding as required by ORS 279C.335. Only the City Council may award a public improvement contract of more than \$100,000.
- E. City-Funded Privately-Constructed Public Improvements.** The City may contribute funding to a privately-constructed public improvement project without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:
 - (1) The City makes a finding that it is in the best interest of the City to contribute to the project;
 - (2) The City complies with all applicable laws concerning the reporting of the project to Bureau of Labor and Industries as a public works project;
 - (3) The general contractor for the project agrees in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;
 - (4) The funds contributed to the project do not provide a pecuniary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all members of the community;

- (5) The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the City to protect the City against defective performance and claims for payment; and
- (6) The contract for the construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers compensation and liability insurance and to protect and provide indemnification to the City for all claims for payment, injury or property damage arising from, or related to, the construction of the project.

VIII. STANDARDS OF RESPONSIBILITY

An offeror must meet the following standards of responsibility to be eligible for the award of a public contract by the City:

- A. Offeror has available to it 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. Offeror has a satisfactory record of performance. The City shall document the record of performance of an offeror if the City finds the offeror to be not responsible under this paragraph.
- C. Offeror has a satisfactory record of integrity. The City shall document the record of integrity of an offeror if the City finds the offeror to be not responsible under this paragraph.
- D. Offeror is legally qualified to contract with the City.
- E. Offeror has supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the City concerning responsibility, the City may base the determination of responsibility upon any available information or may find the offeror non-responsible.
- F. Offeror must not have 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.

IX. INFORMAL SOLICITATION PROCEDURES

The City may use the following procedure for informal solicitations of quotes or proposals in lieu of the procedures set forth in the Model Rules.

- A. **Solicitation of Offers.** The City shall deliver or otherwise make available to potential offerors, a written scope of work a description of how quotes or proposals are to be submitted and a description the criteria for award.
- B. **Award.** The City shall attempt to obtain a minimum of three (3) written quotes or proposals before making an award. If the award is made solely on the basis of price, the City shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the City shall award the contract to the responsible offeror that will best serve the interests of the City, based upon the criteria of the award and the proposal submitted.
- C. **Records.** A written record of all persons solicited and offers received will be maintained. If three (3) offers cannot be obtained, a lesser number will suffice; provided that a written record is made if the effort to obtain quotes or proposals.

X. CONTRACTS SUBJECT TO AWARD AT CITY'S DISCRETION.

The following classes of contracts may be awarded in any manner which the City deems appropriate to the City's needs, including by direct award or purchase.

- A. **Advertising** – Contracts for the placing of notice or advertisements in any medium.
- B. **Amendments** – Contract amendments are not separate contracts if made in accordance with this Policy.

- C. **Animals** – Contracts for the purchase of animals.
- D. **Contracts up to \$5,000** – Contracts of any type for which the contract price does not exceed \$5,000.
- E. **Copyrighted Materials/ Library Materials** – Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature, music, or materials even if not entitled to copyright that are purchased for use as library lending materials.
- F. **Equipment Repair** – Contracts for equipment repair or overhauling, provided that the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.
- G. **Government Regulated Items** – Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
- H. **Insurance** – Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135, and 414.145.
- I. **Non-Owned Property** – Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the City of Brookings.
- J. **Sole-Source Contracts** – Contracts for goods or services that are available from only a single source may be awarded without competition.
- K. **Specialty Goods for Resale** – Contracts for the purchase of specialty goods by the City for resale to consumers.
- L. **Sponsor Agreements** – Sponsorship agreements under which the City receives a gift or donation in exchange for recognition of the donor.
- M. **Structures** – Contracts for the disposal of structures located on City-owned property.
- N. **Renewals** – Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.
- O. **Temporary Extensions or Renewals** – Contracts for a single period of one (1) year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
- P. **Temporary Use of City-Owned Property** – The City may negotiate and enter into a license, permit or other contract for the temporary use of City-owned property without using a competitive process if:
 - (1) The contract results from an unsolicited proposal to the City based on the unique attributes of the property or the unique needs of the proposer; and
 - (2) The proposed use of the property is consistent with the City's use of the property and the public interest; and
 - (3) The City reserves the right to terminate the contract without penalty, in the event that the City determines that the contract is no longer consistent with the City's present or planned use of the property or the public interest.
- Q. **Used Property** – The City may contract for the purchase of used property by negotiation if such property is suitable for the City's needs and can be purchased for a lower cost than substantially similar new property. For this purpose the cost of used property will be based upon the life-cycle cost of the property over the period for which the property will be used by the City. The city shall record the findings that support the purchase.
- R. **Utilities** – Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.

XI. OTHER CONTRACTS.

- A. **Hybrid Contracts.** The following classes of contracts include elements for construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.

(1) Design-Build and CM-GC Contracts. Contracts for the construction of public improvements using a design-build or construction manager – general contractor construction method will be awarded under a request for proposals. The determination to construct a project using a design-build or construction manager – general contractor construction method must be approved by the City, based upon facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the City.

(2) Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification, contractors for energy savings performance contracts will be selected under a request for proposals in accordance with this Policy.

B. Contracts Required by Emergency Circumstances.

(1) In General. When the City determines that immediate execution of a contract within the City's authority is necessary to prevent substantial damage or injury to persons or property, the City may execute the contract without competitive selection and award or City Council approval; provided that, when time permits, the City shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(2) Reporting. The City shall, as soon as possible in light of the emergency circumstances: (1) document the nature of the emergency; (2) the method used for selection of the particular contractor; and (3) the reason why the selection method was deemed in the best interest of the City and the public.

(3) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the City has made a written declaration of emergency. Any public improvement contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the City grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the City may waive the requirement for all or a portion of required performance and payment bonds.

C. Pre-Qualified Contract Services. The City will solicit Statements of Qualifications from qualified contractors to provide building maintenance and construction services. The City's goal is to create a short list of prequalified contractors who are under contract in order to expedite relatively small projects within the City. As a result of the RFQ the City will select several top qualifiers in different fields of experience with whom to commence contract negotiations for prequalified services. Examples of such services are General Construction, Building Maintenance, Plumbing, Mechanical, Excavation, Asphalt/Paving, and Concrete.

(1) Criteria for pre-qualified contract services.

- a. Emergency contracts.
- b. Small contracts under \$2,500.

(2) Procedures

- a. The City will solicit RFQ's approximately every two years.
- b. RFQ's will include at a minimum:
 - Background and history, including licenses and the number of years in business.
 - The type of work and workload capacity able to handle.
 - Name of person(s) authorized to represent contractor in negotiating and signing agreement.
 - General cost description and estimate for services.
 - Ability to provide required proof of insurance once negotiations commence.

- c. The City will review submitted qualifications to determine that Contractor is licensed to work in the State of Oregon and the City of Brookings and has required licenses; and that the Contractor is able to perform the work needed to City standards.
 - d. Prior work with the City may be considered. If the Contractor has received negative performance evaluations from prior work with the City, the City may elect not to pre-qualify the Contractor.
 - e. Selected contractors will be expected to sign a written contract that incorporates parts of the RFQ and the selected contractor's qualifications; and comply with applicable federal and state laws, rules and regulations.
- D. Federal Purchasing Programs.** Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration (GSA) as provided herein.
- (1) The procurement must be made in accordance with procedures established by GSA for procurements by local governments and purchase order or contracts submitted to and approved by the City.
 - (2) The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.
 - (3) The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the City.
 - (4) If a single purchase of goods or services exceeds \$25,000, the City must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing that the goods or services offered by GSA represent the best value for the City.
- E. Cooperative Procurement Contracts.** Cooperative procurements may be made without competitive solicitation as provided in the Oregon Revised Statutes 279A.200 - 279A.220.
- F. Surplus Property.**
- (1) **General Methods.** Surplus property may be disposed of by any of the following methods upon a determination by the Purchasing Agent that the method of disposal is in the best interest of the City. Factors that may be considered by the Purchasing Agent include, but are not limited to, costs of sale, administrative costs, and public benefits to the City. The Purchasing Agent shall maintain a record of the reason for the disposal method selected and the manner of disposal, including the name of the person to whom the surplus property was transferred.
 - a) Governments. Without competition, by transfer or sale to another City of Brookings department or public agency.
 - b) Auction. By publicly advertised auction to the highest bidder.
 - c) Bids. By public advertised invitation to bid.
 - d) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
 - e) Fixed Price Sale. The Purchasing Manager may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

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

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

(2) Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including disposal as waste. The Purchasing Agent shall make a record of the value of the item and the manner of disposal.

(3) Restriction on Sale to City Employees. City employees are not barred from competing, as members of the public, for the purchase of publicly sold surplus property. City employees are, however, not permitted to offer to purchase property to be sold to the first qualifying bidder until at least three (3) days after the first date on which notice of the sale is first publicly advertised.

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

XII. CONFLICTS OF INTEREST.

No employee, officer or agent of the City may participate in the selection, or in the award or administration of a contract, if a conflict of interest, real or apparent, would be involved. Such conflict would arise when the employee, officer, agent, or any member of the immediate family, or any partner or organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

XIII. DEFINITIONS.

- A. Award** means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the City until the contract is executed and delivered by the City.
- B. Bid** means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.
- C. City** means the City of Brookings, Oregon.
- D. Contract Price** means the total amount paid or to be paid under a contract, including any approved alternatives, and any fully executed change orders or amendments.
- E. Cooperative procurement** means a procurement conducted by or on behalf of one or more public contracting agencies.
- F. Disposal** means any arrangement for the transfer of property by the City under which the City relinquishes ownership.
- G. Emergency** means circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety.
- H. Energy savings performance contract** means a contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.
- I. Goods** means any item or combination of supplies, equipment, and materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

- J. **Person** means a natural person or any other public or private entity that has the legal capacity to enter into a binding contract.
- K. **Proposal** means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price.
- L. **Quote** means a price offer made in response to a solicitation to provides goods, services or public improvements.
- M. **Request for proposals** means a publicly advertised request for sealed competitive proposals.
- N. **Services** means and includes all types of services, including construction labor, other than personal services.
- O. **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 award public contracts.
- P. **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.
- Q. **Surplus property** means personal property owned by the City that is no longer needed for use by the department to which such property has been assigned.