

RESOLUTION NO. 897

A RESOLUTION BY THE CANBY CITY COUNCIL, ACTING IN ITS CAPACITY AS LOCAL CONTRACT REVIEW BOARD, ADOPTING PURCHASING RULES AND RELATED EXEMPTIONS TO SUPERSEDE THE TEMPORARY RULES ESTABLISHED BY ORDINANCE NO. 1170.

WHEREAS, by Ordinance No. 1170, the Canby City Council, acting in its capacity as the City's Local Contract Review Board, ("Board") adopted the Oregon Attorney General's Public Contracting Manual as temporary rules governing public purchasing in the City; and

WHEREAS, Section 2 of Ordinance No. 1170 provides that the Board may adopt, by resolution, rules to supersede any portion or all of the temporary rules; and

WHEREAS, ORS Chapter 279 permits the City to seek Board approval of exemptions from formal competitive bidding and proposals regarding contracts for the procurement of goods and/or services and with awarding of public improvement contracts; and

WHEREAS, the City has submitted a request to the Board to approve the exemptions from formal competitive bidding and proposals regarding contract for the procurement of goods/or services and with awarding of public improvement contracts, attached hereto as Exhibit "A" and a further request to the Board to approve Findings in support of Exhibit "A", attached hereto as Exhibit "B"; and

WHEREAS, on May 12, 2005, the City published notice in the Daily Journal of Commerce notifying the public that the City sought to establish exemptions from the competitive bidding requirements in awarding certain public contracts; and

WHEREAS, on June 1, 2005, the Board held a public hearing to receive written and oral public comment regarding the City's proposed exemptions from the competitive bidding requirements in awarding certain public contracts and the Findings to support the exemptions; and

WHEREAS, the Board having listened to the testimony of interested persons at a duly noticed public hearing on June 1, 2005; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council, acting in its capacity as the City's Public Contract Review Board, as follows:

Section 1. Adoption of Permanent Rules. Section 1 through Section 10 of Exhibit "A" entitled "Contract Purchasing Rules" attached hereto and incorporated herein by this reference are hereby adopted as permanent rules governing public purchasing in the City.

Section 2. Adoption of Findings. Exhibit "B", entitled "Findings in Support of Resolution No. 897 adopting Public Purchasing Rules", attached hereto and incorporated herein by this reference are hereby adopted as published in support of the Public Purchasing Rules.

Section 3. Temporary Rules Superseded. The temporary rules adopted by Section 2 of Ordinance No. 1170 are hereby superseded.

Section 4. Oregon Attorney General's Public Contracting Manual established as Guidelines. The Oregon Attorney General's Public Contracting Manual, including relevant Oregon Administrative Rules may serve as guidelines by the Board in cases where the Board's rules do not specifically apply.

Section 5. Amendment to Permanent Rules. The Board may adopt, by resolution, rules supplementing, amending or superseding any portion or all of these permanent rules.

This resolution shall take effect on June 1, 2005.

ADOPTED this 1st day of June, 2005, by the Canby City Council acting as the City's Local Contract Review Board.


Melody Thompson - Mayor

ATTEST:

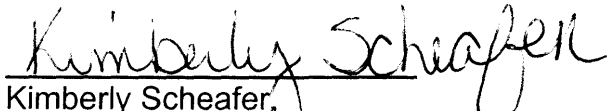

Kimberly Schaefer,
City Recorder - Pro-Tem

EXHIBIT A: Rules for Public Purchasing

Section 1: Purpose – Public Purchasing Rules

The purpose of this chapter is to implement the public contracts and purchasing policies of the State of Oregon and the City of Canby. It is the policy of the City of Canby that a sound and responsive public purchasing 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 resolution.

The following rules are adopted as the city's public purchasing rules. As provided by ORS 279A.065(5)(a), the Model Rules adopted by the Attorney General under OAR 137, divisions 46, 47, 48 and 49, herein referred to as the "Model Rules", apply unless otherwise provided for herein or as adopted by ordinance or resolution by the Local Contract Review Board. In the event that rules adopted by the Local Contract Review Board do not address a particular situation, the Model Rules apply.

Section 2: Local Contract Review Board

The City Council has been designated as the Local Contract Review Board for the City and has all of the rights, powers and authority necessary to carry out the provisions of ORS Chapter 279A, 279B, and 279C (the "Public Contracting Code"). The Local Contract Review Board may delegate its powers and responsibilities consistent with ORS Chapter 279, the Model Rules, and the Canby Municipal Code.

Section 3: Contracting Agency Authority

- A. Except as otherwise provided in this Chapter, the City Administrator is designated as the City's Contracting Agency and Purchasing Coordinator as defined in Section 4 for purposes of contracting powers and duties assigned to the City as a contracting agency under ORS Chapter 279.
- B. The Purchasing Coordinator may sub delegate the Purchasing Coordinator's authority to departmental personnel in accordance with adopted policies.
- C. The Purchasing Coordinator is authorized to determine that goods and/or services, or classes of goods and/or services, are available from only one source, pursuant to ORS 279B.075(2).
- D. Purchases of goods from City employees shall require authorization of the Purchasing Coordinator or designee. Provision of services by City personnel shall be in accordance with the City Personnel Policies and other applicable law.
- E. Each department or fund shall operate within its budget or seek supplemental budgetary authority from City Council with respect to the contract.

- F. The Purchasing Coordinator may establish and utilize an Electronic Procurement System to aide in securing bids, quotes, proposals or other information necessary to maintain a fair, competitive and cost effective process.

Section 4: Definitions

As used in this chapter, the following words or phrases shall have the following meanings. All words and phrases not defined in this section shall have the meanings ascribed to them in the ORS Chapter 279 or the Model Rules.

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.

Competitive Sealed Bid, Proposal or Quote: means the solicitation of offers by the City for competitive offers which follow the formal process of advertising, bid and bid opening required by this resolution, and in accordance with ORS 279B.055 or 279B.060.

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.

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.

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 Procurement.

Findings: means 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.

Formal Quote Procedure: means a procedure pursuant to which written offers are solicited by electronic advertising or other writing stating the quantity and quality of goods or services to be acquired, and which offers are received by the Purchasing Coordinator on or before a stated date. In soliciting formal quotes, the Purchasing Coordinator shall seek quotes from at least three potential offerors to insure sufficient competition to meet the best interest of the City. An award based on less than three formal quotes may be made provided the Purchasing Coordinator makes a written record of the effort to obtain quotes.

Informal Quote Procedure: means a procedure pursuant to which verbal offers are gathered by correspondence, electronic advertisement or personal contact stating the quantity and quality of goods and/or services to be acquired. In soliciting informal quotes, the Purchasing Coordinator shall seek quotes from at least three potential offerors to insure sufficient competition to meet the best needs of the City. An award based on less than three quotes may be made, provided the Purchasing Coordinator makes a written record of the effort to obtain quotes.

Personal Property: means “tangible personal property” as defined in ORS 307.020.

Personal Services Contract: includes contracts for services that require specialized technical, artistic, creative, professional or communication skills or talent, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the service depends on attributes that are unique to the service provider, other than contracts for an architect, engineer, land surveyor or provider of related services as defined in ORS 279C.100.

Public Improvement: means a project for construction, reconstruction or major renovation on real property by or for the City of Canby. “Public improvement” does not include:

1. Projects for which no funds of the City of Canby are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
2. Projects which do not qualify for BOLI prevailing wages; or
3. Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

Public Notice: means methods to communicate information to the public including written or electronic means.

Purchasing Coordinator: means the City Administrator or designated Purchasing Coordinator appointed by the City Administrator or departmental personnel in accordance with adopted policies to exercise the authority of the purchasing manager under these public purchasing regulations.

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

Sole Source Procurement: means a contract for goods and/or services, or a class of goods and/or services, available from only one source.

Standards of responsibility: means the qualifications of eligibility for award of a Public Contract in accordance with 279B.110 or 279C.375. An offeror meets the standards of responsibility if the offeror has:

1. 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;
2. A satisfactory record of performance. The Purchasing Coordinator shall document the record of performance of an offeror if the Purchasing Coordinator finds the offeror to be not responsible under this paragraph;
3. A satisfactory record of integrity. The Purchasing Coordinator shall document the record of integrity of an offeror if the Purchasing Coordinator finds the offeror to be not responsible under this paragraph;
4. Qualified legally to contract with the City of Canby including adhering to state or local business license and tax regulations;
5. Not been debarred by the City of Canby, and in the case of Public Improvement Contracts, has not been listed by the Construction Contractors Board or BOLI as a contractor who is not qualified to hold Public Improvement Contracts.

Surplus Personal Property: means property owned by the City such as, office furniture, computers, equipment, vehicles, excluding real property that the Purchasing Coordinator determines is surplus and no longer useful to the City.

Section 5: Public Contracts for Goods and/or Services

This section applies to public contracts that are not contracts for public improvements or contracts for personal services.

- A. A public contract shall not be artificially divided or fragmented to qualify for a different award procedure than that provided by this section.
- B. The Purchasing Coordinator must adhere to Canby Municipal Charter Chapter XI § 4 when entering into contractual obligations.
- C. The Purchasing Coordinator shall plan purchase requirements sufficiently in advance so that orders can be placed in economical quantities.

- D. The Purchasing Coordinator shall process Request for Purchase forms and negotiate purchases on the most favorable terms in accordance with adopted ordinances, state laws, policies and procedures.
- E. Offerors must meet the criteria for Standards of Responsibility outlined in section 4.
- F. The following **classes** of public contracts and respective award criteria procedures are created:
 - 1. Small procurements: Any procurement of goods and/or services not exceeding \$5,000.00, shall be awarded by the Purchasing Coordinator based on informal quote procedure and in accordance with ORS 279B.065.
 - 2. Intermediate procurements: Any procurement of goods and/or services exceeding \$5,000.00, but not exceeding \$150,000.00, shall be awarded based on the formal quote procedure and ORS 279B.070.
 - 3. Large procurements: Any procurement of goods and/or services which is valued at \$150,000.00 or more shall be awarded by the Contract Review Board based on competitive sealed bidding or competitive sealed proposals as defined in Section 4.
- G. **Exemptions**: Regardless of whether a contract is exempt from the formal competitive selection process or not, no service or work may be performed, and no goods, supplies and/or equipment may be delivered for the above classes, until a city purchase order has been issued by the Purchasing Coordinator. This requirement may be waived, however, when circumstances exist that create a substantial risk of loss, damage, interruption of services or threat to public health or safety and that require prompt action to protect the interest of the City. Findings to support these exemptions can be found under Exhibit "B".

General Exemptions:

- 1. Any contract exempted by the State of Oregon Public Contracting Code or Model Rules;
- 2. Any contracts expressly exempted from formal competitive selection procedures adopted by ordinance or resolution by the Local Contract Review Board pursuant to ORS 279B.085;

The following classes of public contracts are hereby exempted from the formal competitive selection requirements of ORS 279B.050(1) and ORS 279C.335(1):

- 1. Procurement of goods and/or services not exceeding \$5,000.00 may be awarded in any manner the Purchasing Coordinator finds practical or convenient, including direct selection or award.
- 2. Contracts for goods and/or services, or a class of goods and/or services, which are available from only one source. The Purchasing Coordinator shall provide public notice of the determination of a sole source contract that exceeds \$75,000.00. The determination of a sole

source must be based on written findings in accordance with ORS 279B.075.

3. Contract amendments, including change orders, extra work, field order, or other changes in the original specification which in the aggregate change the original contract price or alters the work to be performed, may be made with the contractor if such change or alteration is less than twenty-five percent (25%) of the initial contract, and is subject to the following conditions:
 - a. The original contract imposes binding obligation on the parties covering the terms and conditions regarding changes in the work; or
 - b. The amended contract does not substantially alter the scope of nature of the project;
4. Contracts in the event of an emergency involving an immediate hazard to the public health, safety, or welfare, the City Administrator, or designee may secure necessary goods and/or services without a formal competitive selection process, provided that the Local Contract Review Board, at a regularly scheduled meeting within 30 days of the procurement, is furnished with a full report of the circumstances and costs of the materials and/or services secured;
5. Contracts for the purchase of services, equipment and/or supplies for maintenance, repair or conversion of existing equipment if required for efficient utilization of such equipment;
6. Contracts for the purchase of goods and/or services where the rate or price for the goods and/or services being purchased is established by federal, state or local regulating authority;
7. Purchases through federal programs pursuant to ORS 279A.180;
8. Contracts for the placing of notice or advertisements in any medium;
9. Contracts for the purchase of copyrighted materials or works of art where there is only one supplier available within a reasonable purchase area for such goods;
10. Contracts for the purpose of investment of public funds, borrowing of funds, banking or other predominantly financial transactions;
11. Contracts when specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product and/or service (including personal service) to be purchased, the city may specify a list of approved or qualified service providers or products by reference to a list of pre-qualified service providers or products of particular manufacturers or vendors.
12. Contracts purchases may also be made at prices established by a requirement contract or other agreement between another public body and a contractor if the requirements contract was established by a formal competitive selection process. Requirement contracts shall not exceed five (5) years in duration;

13. Purchases of used property or equipment without formal competitive procurement may be made if the Purchasing Coordinator makes a written determination that the purchase will result in cost savings to the city and will not diminish competition or encourage favoritism.
14. Purchases of employee benefits and insurance without formal competitive procurement may be made. Employee benefits and insurance includes medical insurance, dental insurance, vision insurance, life insurance, employee long-term disability insurance, unemployment insurance, and deferred compensation plans.
15. Contracts for insurance may be let without formal competitive procurement through a licensed insurance agent that has been appointed as the city's "Agent of Record."
16. Contracts for goods, materials, supplies and/or services purchased through the Oregon Cooperative Purchasing Program are exempt from formal competitive procurement.
17. Contracts entered into between the city and a developer for Public Improvements that is additional to the Public Improvements the city requires the developer to install as a condition of a development permit is exempt from formal competitive procurement if the additional work is reasonably related to the Public Improvements required as a condition of the development permit and the cost of the additional work is valued at \$50,000.00 or less.
18. Contracts for the purchase of goods and/or services, other than public improvements or personal services contracts are exempt from formal competitive procurement when the seller is selling substantially identical goods and/or services by contract with another public agency.
19. Purchases of products where there is no other practical method of specification, the city may specify a brand name, make or model.
20. Contracts for outside legal counsel and other legal services providers are exempt from formal competitive solicitation.
21. Contracts for personal services with professional consultants, including architects, engineers, planners, land surveyors and related consultants are exempt from formal competitive solicitation.
22. Contract terms may be renegotiated and/or amended by the city for the terms and conditions of a contract, including the contract price, without additional competition, if it is advantageous to the city.
23. The city may amend or terminate a price agreement under limited circumstances.

Section 6: Personal Services Contracts

Personal service contracts will be used to retain the services of independent contractors (including contracts for an architects, engineers, land surveyors or provider of related services as defined in ORS 279C.100). Nothing in this section shall apply to the employment of regular city employees.

A: Personal Service Contracts – Listed

Pursuant to ORS subchapter 279A.055(2), the following contracts or classes of contracts for personal services shall not be subject to the rules of procedure of this Section or the Model Rules unless provided herein:

1. Accountants;
2. Appraisers;
3. Computer programmers;
4. Lawyers;
5. Psychologists;
6. Investment Consultants;
7. Insurance Consultants;
8. Advertising Consultants;
9. Marketing Consultants;
10. Graphics Consultants;
11. Training Consultants;
12. Public Relations Consultants;
13. Communications Consultants;
14. Data Processing Consultants;
15. Management Systems Consultants;
16. Architects;
17. Engineers;
18. Land Surveyors;
19. Any other personal service contracts or classes of contracts that the Purchasing Coordinator or his/her designee identifies as personal service contracts.

B: Personal Services - Rules and Procedures

Personal service contracts are subject to the rules established by this section:

1. Unless otherwise approved by the Purchasing Coordinator, all personal service contracts shall require the contractor to defend, indemnify, and hold harmless the City, its officers, agents and employees against and from any and all claims or demands for damages of any kind arising out of or connected in any way with the contractor's performance there under and shall include a waiver of contractor's right to ORS 30.285 and ORS 30.287 indemnification and defense.
2. Unless otherwise approved by the Purchasing Coordinator, 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 the amount of the City's tort liability limits, naming the City as an additional named insured, during the life of the contract.
3. Contracts for personal services shall contain all contract provisions mandated by state law and by the Canby Municipal Code. These provisions may be incorporated in the personal service contract by reference unless otherwise provided by law.
4. Formal competitive selection procedures described in this section may be waived by the Purchasing Coordinator when an emergency exists that could not have been reasonably foreseen and requires prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the formal competitive selection procedures.
5. Personal service contract proposals may be modified or withdrawn at any time prior to the conclusion of discussions with an offeror.
6. Offerors must meet the criteria for Standards of Responsibility as defined in Section 4.
7. Personal service contracts not exceeding \$75,000.00 may be awarded by the Purchasing Coordinator by direct appointment without competition based on the informal quote procedure. Such contracts must be memorialized by a formal purchase order.
8. Personal service contracts exceeding \$75,000.00, but not exceeding \$150,000.00, shall be awarded by the Purchasing Coordinator based on the formal quote procedure. Any or all interested prospective contractors may be interviewed for the assignment by an appropriate City employee or by an interview committee.

9. Personal service contracts that are anticipated to cost in excess of \$50,000.00, the Purchasing Coordinator shall determine the following:

- a. That the services to be acquired are personal services;
- b. That a reasonable inquiry has been conducted as to the availability of City personnel to perform the services, and that the City does not have the personnel nor resources to perform the services required under the proposed contract.

10. Personal service contracts exceeding \$150,000.00 shall be based upon formal competitive sealed proposals as found in the Model Rules, OAR 137-047-0260.

11. Regardless of whether a personal service contract is exempt from the formal competitive selection process or not, no service or work may be performed until a purchase order has been issued. This requirement may be waived, however, when circumstances exist that create a substantial risk of loss, damage, interruption of services or threat to public health or safety and that require prompt action to protect the interests of the City.

C: Formal Competitive Selection Procedures-General Exemptions for Personal Services Contracts

Contracts for personal services are exempt from formal competitive selection procedures if any of the following conditions exist:

1. Contract amount is anticipated to be \$150,000.00 or less.
2. Contract amendments, which in the aggregate change the original contract price or alters the work to be performed, may be made with the contractor if such change or alteration is less than twenty-five (25%) of the initial contract and are subject to the following conditions:
 - a. The original contract imposes binding obligation on the parties covering the terms and conditions regarding changes in the work;
or
 - b. The amended contract does not substantially alter the scope or nature of the project;
3. Purchasing Coordinator finds that there is only one person or entity within a reasonable area that can provide services of the type and quality required.

4. Contracts for services subject to selection procedures established by the State or Federal government.

5. Contracts for non-routine or non-repetitive type legal services outside the Legal Department

D: Personal Services - Screening Criteria

The following criteria shall be considered in the evaluation and selection of a personal service contractor for personal service contracts:

1. Specialized experience in the type of work to be performed.
2. Capacity and capability to perform the work, including any specialized services within the time limitations for the work.
3. 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.
4. Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of designing or techniques peculiar to it, where applicable.
5. Cost of the services.
6. Any other factors relevant to the particular contract.

E: Personal Services - Selection Process

The following rules shall be followed in selecting a contractor for personal services:

1. Personal service contracts less than \$75,000.00, may be awarded in any manner deemed practical, including by direct selection or award by the Purchasing Coordinator. A personal service contract awarded under this section may be amended to exceed \$75,000.00 only upon approval of the Purchasing Coordinator, if such change or alteration is less than twenty-five percent (25%) of the initial contract. A personal service contract may not be artificially divided or fragmented.
2. Personal service contracts exceeding \$75,000.00, but not exceeding \$150,000.00, the Purchasing Coordinator shall award the contract to the prospective consultant whose quote or proposal will best serve the interests of the City, taking into account all relevant criteria found in this

Section. The Purchasing Coordinator shall make written findings justifying the basis for the award.

3. Personal service contracts that exceed \$150,000.00 or more, the Purchasing Coordinator shall award the contract based on the formal competitive selection processes found in the Model Rules. The Purchasing Coordinator shall make written findings justifying the basis of the award.

4. Purchasing Coordinators must adhere to Canby Municipal Charter Chapter IX § 4 and Chapter XI § 4 when entering into contractual obligations.

5. Purchasing Coordinators shall process Request for Purchase forms and negotiate purchases on the most favorable terms in accordance with adopted ordinances, state laws, policies and procedures.

6. Offerors must meet the criteria for Standards of Responsibility defined in Section 4.

Section 7: Concession Agreements

- A. **General.** No part of a Concession Agreement shall contain or constitute a waiver of any generally applicable rules, code provisions or requirement of the City concerning regulation, registration and licensing, inspection, or permit requirements for any construction, rental or business activity.
- B. **Classes of Contracts Eligible for Award without Competition:** The following Concession Agreements may be awarded by any method deemed appropriate by the Purchasing Coordinator, including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.
 - 1. **Contracts Under \$10,000.00.** Contracts under which the City estimates that receipts by the City will not exceed \$10,000.00 in any fiscal year.
 - 2. **Single Event Concessions.** Concessions to sell or promote food, beverages, merchandise or services at a single public event shall be awarded based on any method determined by the Purchasing Coordinator to provide a fair opportunity to all persons desiring to operate a concession, but in which the promotion of the public interest and success of the event shall be of predominant importance.
- C. **Competitive Award.** Concession Agreements solicited by the City for the use of designated public premises for a term greater than a single event shall be awarded as follows:
 - 1. **Small Concessions.** For Concession Agreements for which the concessionaire's projected annual gross revenues are estimated to be \$200,000.00 or less, the Purchasing Coordinator has discretion to use

either an informal solicitation or formal request for proposals process applicable to contracts for personal services.

2. **Major Concessions.** Concession Agreements for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$200,000.00 annually shall be awarded using a request for proposals.

Section 8: Public Improvement Contracts

- A. Notice of public improvement contracts may be advertised electronically where the Contracting Agency finds that such publication is likely to be cost effective, as provided in ORS 279C.360.
- B. The Purchasing Coordinator may enter into a public improvement contract directly with a contractor if the cost does not exceed \$75,000.00.
- C. Except as provided in subsections B of this section, the City may enter into a public improvement contract by following the procedure prescribed under ORS 279C.300 and the contractor must qualify under the Standards of Responsibility prescribed under section 4.
- D. Public improvement contracts estimated by the Contracting Agency not to exceed \$100,000.00 including contracts for services of architects, engineers, land surveyors and related services, (other than contracts for a highway, bridge or other transportation projects), may be let by competitive quote if the following conditions are met:
 1. The contract is for a single project and is not a component of or related to any other project;
 2. When the amount of the public improvement contract (other than contracts for a highway, bridge or other transportation projects) is more than \$75,000.00, but does not exceed \$150,000.00, a minimum of three competitive written quotes shall be obtained. The Purchasing Coordinator shall keep a written record of the source and amount of quotes received. If three quotes are not available, a lesser number will suffice, provided that a written record is made of the effort to obtain the quotes;
 3. The Purchasing Coordinator shall award the contract to the prospective contractor whose quote will best serve the interests of the City, taking into account price and other applicable factors, such as experience, specific expertise, availability, project understanding, contractor capacity and contractor responsibility. If the contract is not awarded on basis of lowest price, the Purchasing Coordinator shall make a written finding of the basis for the award;
 4. Contracts for a highway, bridge or other transportation project more than \$75,000.00, but not to exceed \$150,000.00, may be let by competitive quote if the following conditions are complied with:
 - a. The contract is for a single project and is not a component of or related to any other project;

- b. A minimum of three formal competitive written quotes shall be obtained. The Purchasing Coordinator shall keep a written record of the source and amount of quotes received. If three quotes are not available, a lesser number will suffice, provided that a written record is made of the effort to obtain the quotes;

Section 9: Disposal of Surplus Property

A. The Purchasing Coordinator shall have the authority to dispose of surplus property by any means determined to be in the best interest of the City, including but not limited to, transfer to other departments, government agencies, non-profit organizations, sale, trade, auction, or destruction; provided however, that disposal of surplus personal property having residual valued of more than \$15,000.00 shall be subject to authorization by City Council.

1. All personal property sold pursuant to this section shall be sold as-is without any warranty, either expressed or implied, of any kind.
2. All proceeds derived from the sale of any surplus property items shall only be used for the purchase of other property or the establishment of endowment funds, not for day-to-day operations of the city. If applicable, all proceeds of the sale shall be dedicated to the department from whence the surplus property originated and shall be subject to the terms and conditions of the contract (if any) approved by the Contract Review Board.
3. Personal-Use Items: An item (or indivisible set) of specialized and personal use, other than police officer's handguns, with a current value of less than \$100 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Administrator.
4. Police Officers' Handguns: Upon honorable retirement from service with the City of Canby, a police officer may purchase the handgun that she or he was using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser.
5. Employees of the City of Canby 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.

EXHIBIT B:

FINDINGS IN SUPPORT OF RESOLUTION NO. 897

PUBLIC PURCHASING RULES

ORS 279B.085 and 279C.335 authorize the City Council, upon adoption of appropriate findings to establish special selection, evaluation and award criteria procedures for, or exempt from competition, the award of a specific contract or classes of contracts.

Pursuant to that authority the City Council has, after a public hearing thereon, adopted Resolution No. 897 which establishes classes of contracts and the solicitation methods for their award, together with the following specific findings in support thereof.

- A. The City 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 the methods approved for their award:
 - 1. Are unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
 - 2. The awarding of public contracts under the exemption will result in substantial cost savings to the City.
- B. The city has proposed that the contract review board exempt 23 different classes of public contracts from the formal competitive procurement. These exemptions are in addition to those established under state statute, but are consistent with the kind of exemptions state agencies and other local contract review boards have approved for their agencies or jurisdictions.

1. CONTRACTS UNDER CERTAIN DOLLAR AMOUNTS

Description: The city may purchase goods or services or award public improvement contracts valued at \$150,000.00 or less without formal competitive procurement. The alternative procurement method to be followed depends upon whether the contract is valued at \$5,000.00 or more.

Findings: These exemptions permit the city to award contracts valued at \$150,000.00 or less on an informal basis. The level of informality depends on the anticipated value of the contract under consideration. Contracts valued under \$5,000.00 may be awarded thorough solicitation of at least three verbal or electronic quotes or proposals. Contracts expected to be valued at greater than \$5,000.00 and less than or equal to

\$150,000.00 may be let by at least three electronic or written quotes or proposals.

The exemption should save taxpayer money by eliminating the need to prepare costly and time-consuming formal solicitations for relatively small purchases. Typically, the formal solicitation process spans five weeks from solicitation document preparation to bid award. Publishing notice of the solicitation is not inexpensive. The cost of advertisements can range from \$75.00 to \$250.00. Printing costs for bid or proposal packets can also be significant.

Healthy competition among vendors is maintained under this exemption. The city must still solicit multiple quotes or proposals, although in an informal manner. If the required minimum number of quotes or proposals cannot be obtained, a record of the effort to obtain them must be kept and is subject to public inspection.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

2. SOLE SOURCE PROCUREMENTS

Description: The city may purchase a particular good or service available from only one source if the good or service is available from only one seller or source.

Findings: Oregon law prohibits specification of a product of any particular manufacturer or seller. While a sound general policy, necessity sometimes dictates that exceptions be granted. Oregon law recognizes this reality and provides that a local contract review board may exempt certain products or classes of products from this limitation upon any of the following findings:

- It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
- The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the public agency;
- There is only one manufacturer or seller of the product of the quality required; or

- Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

In instances where the contract to be let requires purchase from a sole source and the contract is anticipated to be valued at more than \$75,000.00 or more, the city will return to the contract review board and request a specific exemption from the requirement that purchases not be made from a sole source. In situations where the dollar amount is valued at \$75,000.00 or under, this exemption allows the Purchasing Coordinator to make the relevant documented findings.

This process strikes an appropriate balance between the need for operational efficiency and contract review board supervision. The public will benefit by virtue of the speed with which purchasing process can be accomplished, but the contract review board will still supervise the letting of contracts that specify sole source or single seller in accordance with the Canby Charter.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

3. CONTRACT AMENDMENTS

Description: Certain contract amendments, including change orders affecting the amount of contract consideration or time for performance, may be made with a contractor without formal competitive procurement.

Findings: This exemption permits the city to make contract amendments, including change orders, extra work, field orders or other change in the original specifications that increase the original contract price, without further competitive process, subject to the limitations of the rule if such change or alteration is less than twenty-five percent (25%) of the initial contract, and is subject to the following conditions:

- a. The original contract imposes binding obligation on the parties covering the terms and conditions regarding changes in the work; or
- b. The amended contract does not substantially alter the scope of nature of the project;

The exemption is necessary because in the course of the contract it is impossible for city staff to know or plan for all possible contingencies, including additional requirements, emergencies, unplanned environmental cleanup and other unforeseen circumstances. The city must have the

flexibility it needs to respond to contingent circumstances in a prompt and cost-effective manner.

The scope of the exemption is limited in two significant ways: by type of contract and by the amount of contract price increase. The contracts that qualify for this exemption are generally those that were originally awarded based on competitive solicitation and where the need for additional goods, services or construction work becomes necessary by application of law or where the method of price increase was negotiated as part of the original contract.

This rule generally allows the city to efficiently complete work at hand without expenditures of time and money spent on project start-up or multi-project coordination. In the case of public improvement contracts, there is an additional indirect cost saving represented by the knowledge and awareness of the on-site contractor about existing circumstances and the additional work that needs to be done. The multiple conditions and strict dollar limits of this exemption ensure that exemption cannot be misused and that competitive solicitations will generally be used to procure goods, services and construction work for the city.

Conclusion: Awarding a change order or other contract amendment under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

4. EMERGENCY CONTRACTS

Description: Exempts from formal competitive procurement all contracts entered into where emergency conditions require prompt execution of the contract. Declaration of emergency must be made in writing by mayor, council or other designated official. Contracts awarded for goods and/or services to respond to the emergency may be secured without a formal competitive selection process. Provided that the Local Contract Review Board, at a regularly scheduled meeting within 30 days of the procurement, is furnished with a full report of the circumstances and costs of the materials and/or services secured.

Findings: State law provides local governments with the authority to award emergency contracts. "Emergency," means: "Circumstances that create a substantial risk of loss, damage, interruption of services or threat to public health or safety that require prompt execution of a Contract to remedy the condition."

To employ this exemption, the mayor, city council or other designated city official must declare the existence of an emergency. In awarding a

contract under authority of this exemption, the city must encourage competition to the extent reasonable under the circumstances. A record of measures taken to encourage competition must be kept. These procedures strike an appropriate balance between transparency in the city's expenditure of public funds and security in the city's ability to fully respond to an emergency.

Since the severity and complexity of an emergency is unknown until after occurs, there is no pre-determined limit on the dollar amount of contracts that can be let during a declared emergency.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

5. EQUIPMENT REPAIR AND OVERHAUL

Description: The city may enter into a public contract for equipment repair or overhaul without formal competitive procurement if: 1) service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing, or 2) service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; and (3) the city documents in its procurement files the reasons why competitive bids or proposals were deemed impractical.

Findings: The need for equipment repair or overhaul cannot be anticipated by city staff. If a piece of equipment is broken or not working properly, the city incurs cost of downtime, possible replacement equipment rental fees, staff time and other inconveniences or liabilities to its programs.

Generally, there are a limited number of vendors who are able to perform repair or overhaul on a particular piece of equipment because of its make or manufacture. Sophisticated equipment may require specially trained personnel available from only one source. Often, a piece of equipment will have a partial warranty in place which will guarantee some savings to the city in the parts and/or labor needed to do the repair or overhaul. This warranty savings may only be achieved if the original manufacturer or provider of the equipment performs the necessary repair or overhaul.

The dollar limits on the use of this exemption ensure that when the cost of the equipment repair or overhaul is expected to exceed \$50,000.00, the city will either seek formal competitive bids or, if that is not practical or cost effective, obtain a specific exemption from the Local Contract Review Board to proceed with the purchase of the needed repair or overhaul.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

6. PRICE REGULATED ITEMS

Description: The city may contract for the direct purchase of goods or services without formal competitive procurement if a federal, state, or local regulatory authority establishes the rate or price for the goods or services being purchased.

Findings: Competition is not a relevant issue in the procurement of goods or services where the provider, rate or price of the goods or services being purchased is established by federal, state or local regulatory authority. It would be wasteful to solicited formal bids for price-regulated items, knowing that all bids would come in at the same price.

Examples of goods or services where a regulatory authority sets the prices or rates include, but are not limited to:

- Postage - Postal rates and services of the United States Postal Service are regulated.
- Garbage – Garbage haulers are licensed and franchised to furnish hauling services within designated areas at pre-determined rates.
- Sewer and water service – Sewer and water services are regulated functions of local governments.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

7. PURCHASES UNDER FEDERAL CONTRACTS

Description: If the price of goods and services is established by a contract with an agency of the federal government pursuant to a federal contract award, then the city may, without further formal competitive procurement, purchase the goods and services in accordance with the federal contract.

Findings: Federal contracts for goods and services are established by federal agencies with private vendors through competitive processes that meet the standards of the state public contracting code. These processes include open competitive bidding to which all interested vendors are invited to

participate. No Oregon company is excluded from or disadvantaged in participation in bidding on federal contracts.

The prices or rates for goods and services under federal contracts are based upon competitive bids or proposals. This rule requires the city to document the cost savings to be gained from the anticipated purchase(s) from the federal contract. Documentation might include competitive comparison of previous bid prices obtained from other sources, including local Oregon businesses. Absent a demonstrable cost savings, the rule bars contracting pursuant to this exemption.

This rule also requires that the city obtain the permission of the federal agency to use the federal contract, and if the contract is expected to exceed \$50,000.00, to obtain permission of the contract review board.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

8. ADVERTISING CONTRACTS

Description: The city may purchase advertising without formal competitive procurement.

Findings: The city traditionally purchases advertising in newspapers. The following findings relate primarily to newspapers and written publications. However, the city may also purchase advertising for civic activities or programs in other media, such as radio or television, where these findings also apply.

By their nature, media sources are generally unique. Advertisements are placed in a particular source because of the specific audience that source serves.

Cost savings are difficult to quantify where the sources are unique and not interchangeable. For example, the newspaper industry's practice is to establish advertising contract rates for advertising purchasers. The purchaser can maximize cost savings based through a contractual commitment to advertise, based on volume, format and placement of advertisements. Where the volume of purchases warrants, the city may enter into advertising contracts to get the best price on its advertising needs.

Advertisements may be placed to satisfy legal notice requirements. Other published advertisements or notices, such as routine public notices,

personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate.

The Canby community relies upon its use of the Oregonian as a daily central source of news and information regarding city activities. As a bi-weekly source of news and information regarding city activities, the Canby community relies on the Canby Herald.

It is unknown whether contracts for advertisements placed with radio, television or other broadcast media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible savings could be obtained through competitive means, the city would attempt to obtain competitive quotes or bids, as appropriate.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

9. COPYRIGHTED MATERIALS

Description: The city may, without formal competitive procurement and regardless of dollar amount, purchase copyrighted materials if there is only one known supplier available for such goods. Examples of copyrighted materials that may be covered by this exemption may include, but are not limited to, textbooks, instructional materials, library materials, workbooks, works of art, curriculum kits, reference materials, audio and visual media, and non-mass-marketed software.

Findings: By their nature, copyrighted materials are protected for the use of a single owner. Copyrighted materials may not be duplicated by others without the copyright owner's permission or license. Copyrights are established and regulated under federal law.

Often, copyrighted materials are produced by only one supplier who may be the owner of the copyright or their licensee.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

10. INVESTMENT CONTRACTS

Description: The city may, without formal competitive procurement, and regardless of dollar amount, Contract for the purpose of the investment of public funds or the borrowing of funds by the city when such investment or borrowing is contracted pursuant to duly enacted statute, ordinance, charter, or constitution.

Findings: The city invests or borrows funds on a short-term basis in accordance with Oregon statutes, Council policy and administrative regulation in order to achieve city financial policies. The city's investment and borrowing activities are also regulated or closely monitored by the Local Contract Review Board, city auditors and designated city officials.

Time is literally equal to money in investment activity. This activity does not lend itself well to the traditional methods of public sector competitive bidding, where advertisements are placed, a written invitation to bid is sent to all interested parties and sealed bids are opened two weeks later. Rates of return on particular maturities and the allowable types of investment instruments offered by any one institution may literally change within minutes. Also, the city tries to place the investment as quickly as it receives the funds from state disbursement or tax revenues in order to maximize earnings. For example, if the city receives funds on Friday, it wants to place them that same day in order to earn interest over the weekend. Since city investments are generally made in the very short term, it would not be the best use of city funds to lie idle while a formal bidding process is made.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

11. PRODUCT OR SERVICE-PROVIDER PREQUALIFICATION

Description: When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product or service (including personal service) to be purchased, the city may specify a list of approved or qualified service providers or products by reference to a list of prequalified service providers or products of particular manufacturers or vendors.

Findings: There are occasions when the city needs to establish a list of prequalified products or service providers before it invites bids or proposals to furnish the products. The city may have a specific performance or design need,

but it is impractical for the city to create a specification for the type of products to be purchased. An example is audio-visual equipment. There are a tremendous variety of audio-visual products offered in the market. The equipment technology is complex and constantly changing. It would be very burdensome and time consuming for the city to generate nonbrand name, generic performance specifications for such equipment every time it wants to make a purchase.

Also, competition would be poorly served because bidders and proposers would not know in advance whether their offered product or service would meet the general specification substantially enough to be considered a responsive offer. The decision to make an award would be slow, because each product or service offered would have to be analyzed against the city's specification. Slowdown in the award process affects both offerors (bidders and proposers), who are asked to hold their offers open until award is made, and city programs, because staff are not able to order the equipment they need until the contract is awarded.

In this case, it might be more cost effective and efficient for the city to prequalify products or service providers and establish a list of approved products or service providers before invitations to bid are sent out. The prequalification process can be done some time before the need for a new contract. Once the prequalified product or service provider list is established, the bidding and contract award process can go quickly and smoothly.

A second occasion when prequalification of products will be useful is when the specific design or performance specifications for a product or service are so exacting that the city must have time to carefully consider what is offered in the market that may or may not meet the specifications and, if necessary, reconsider its options before issuing an invitation to bid.

This rule sets out a process of prequalification which requires the use of advertisement or other appropriate means to notify vendors of competing products and services of their opportunity to submit items for prequalification. The city maintains a vendor database, which is open to all interested vendors. The city may use this list to notify vendors of its intentions to prequalify products or to invite bids on products.

This rule also includes a 15-day time limit between the closure of a prequalification list and a related invitation to bid or request for proposal. This time factor ensures that vendors and service providers have a reasonable time to apply to include their products and services on a prequalified product list.

Subsection B. of this rule provides vendors and service providers with an appeal process to follow if their application for prequalification is denied.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

12. REQUIREMENTS CONTRACTS

Description: The city may enter into a requirements contract whereby the city agrees to purchase goods, materials, supplies or services for an anticipated need from one or more contractors at a predetermined price. The predetermined price may be market price at the time the anticipated need actually arises. The city may then purchase the goods and services from a contractor awarded the requirements contract without further formal competitive procurement.

Findings: This rule permits the city to enter into requirements contracts, in which the vendor agrees to provide specified goods and services over the term of the contract at the bid price or discount rate. A requirements contract is useful when the purchase of the goods or services are routine and repetitive. For example, office supplies are customarily purchased through requirements contracts.

Requirements contracts are a common method of minimizing paper work, achieving continuity of product, securing a source of supply, reducing inventory, obtaining volume discounts, standardizing usage among schools and departments and reducing lead time for ordering.

The city establishes requirements contracts as a result of open competitive bidding or RFP processes, unless otherwise exempted.

The city limits the term of requirements contracts, including all renewal options, to a maximum of five years before competitive rebidding must be done, unless otherwise exempted.

If the city intends to let a contract under this exemption, it must state the duration of the Contract in the solicitation file and Solicitation Document and, if the anticipated total purchase amount over the life of a Contract let pursuant to this section is valued at more than \$50,000.00, include notice of such fact in the published advertisement for Bids or Proposals. These steps will help assure that prospective contractors have notice of the significance of contracts let under this exemption.

The city may use the requirements contracts established by other public agencies, subject to certain conditions of state law, Board policy and administrative regulation.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

13. PURCHASE OF USED PERSONAL PROPERTY

Description: The city may purchase used property or equipment without formal competitive procurement if the Purchasing Coordinator makes a written determination that the purchase will result in cost savings to the city and will not diminish competition or encourage favoritism.

Findings: The city is responsible to manage expenditures in the best interests of the public. Cost savings can be achieved through the procurement of used property and equipment. The city purchases used property and equipment when it meets the city's needs and is cost effective. Considerations include type, quality, quantity and estimated useful life of the used item.

Used equipment and property becomes available sporadically and without notice. Used equipment and property is generally sold on a first-come, first-served basis. When used property or equipment does become available, the city must be able to respond immediately in order to obtain the property or equipment.

Some types of property or equipment may not be readily available in the new goods market. The city may have to look for used items to fill the need.

Competition to provide used property and equipment may be very limited and inconsistent, depending on the type of product.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

14. EMPLOYEE BENEFITS AND INSURANCE

Description: The city may purchase employee benefits and insurance without formal competitive procurement. Employee benefits and insurance includes medical insurance, dental insurance, vision insurance, life insurance, accidental death and dismemberment insurance, employee long-term disability insurance, unemployment insurance, and deferred compensation plans.

Findings: The nature, type, specific services to be provided and timing of employee benefit insurance are largely dictated by collective bargaining agreements

between the city and represented labor groups. The city must fulfill its contractual obligations to represented employee groups to provide appropriate employee benefits.

The city relies on its professional insurance broker, or agent-of-record, to solicit competitive proposals from responsible companies to furnish employee benefit coverage's. The city has consistently selected its agent of record using a formal competitive procurement method: a request for proposals.

The agent-of-record solicits proposals from providers. The agent maintains a mailing list of interested providers. When it is time to solicit proposals to furnish employee benefit coverage's, the agent sends solicitations to all providers on the list. The agent-of-record works with the city to evaluate proposals and to negotiate contract awards with those firms who provide the most comprehensive and best services at the most cost-effective rates.

It would be impractical and costly for the city to attempt to purchase employee benefit insurance "in house" without the guidance and help provided by the city's agent-of-record. The city saves substantially by using professional insurance brokerage services.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

15. INSURANCE CONTRACTS

Description: Contracts for insurance may be let without formal competitive procurement through a licensed insurance agent what has been appointed as the city's "Agent of Record."

Findings: The city relies on its professional insurance broker, or agent-of-record, to solicit competitive proposals from responsible companies to furnish various types of insurance, including but not limited to, general liability, property, boiler and machinery, automobile, earthquake and public official bonds. The city has consistently selected its agent of record using a formal competitive procurement method: a request for proposals.

The agent-of-record solicits proposals from providers. The agent maintains a mailing list of interested providers. When it is time to solicit proposals to furnish insurance coverage, the agent sends solicitations to all providers on the list. The agent-of-record works with the city to evaluate

proposals and to negotiate contract awards with those firms who provide the most comprehensive and best services at the most cost-effective rates.

It would be impractical and costly for the city to attempt to purchase insurance “in house” without the guidance and help provided by the city’s agent-of-record. The city saves substantially by using professional insurance brokerage services.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

16. OREGON COOPERATIVE PROCUREMENT PROGRAM

Description: A Contract for goods, materials, supplies or services purchased through the Oregon Cooperative Purchasing Program is exempt from formal competitive procurement.

Findings: The Oregon Cooperative Purchasing Program is a program established pursuant to ORS 190.110, 190.210, 190.240, relating to intergovernmental and interstate agreements, that operates under the auspices of the State Department of Administrative Services. Only public agencies and quasi-public agencies may be program members. For a fee, program members are entitled to use certain state price agreements to leverage or secure better or equal pricing from competing vendors or contractors. A state price agreement is a written agreement between the contractor and the state under which the contractor agrees to provide certain goods or services for a specified period of time. The agreement results from a formal solicitation conducted by the state.

Conclusion: Awarding a contract under this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the city.

17. ANCILLARY PUBLIC IMPROVEMENTS

Description: A Contract entered into between the city and a developer for Public Improvements that is additional to the Public Improvements the city requires the developer to install as a condition of a development permit is exempt from formal competitive procurement if the additional Work is reasonably related to the Public Improvements required as a condition of the development permit and the cost of the additional work is valued at \$50,000.00 or less.

Section 10: Adoption and Change of Codes and Rules

- A. A variance from the provisions of the rules adopted by this section may be granted by the City Administrator upon determination that:
 - 1. The variance is unlikely to encourage favoritism or substantially diminish competition in awarding the contract.
 - 2. The variance will result in a substantial cost saving to the City.
- B. Amending Rules: The rules adopted by this section may be amended by resolution of the City Council.
- C. Mandatory Review of Rules: Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify its Model Rules, the City Administrator shall review the City's Public Purchasing Regulations and recommend to the City Council or adopt any modifications required to ensure compliance with statutory changes.