

# **HOOD RIVER COUNTY ADMINISTRATIVE CODE**



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## **Reviews & Revisions**

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**TABLE OF CONTENTS**

**HOOD RIVER COUNTY ADMINISTRATIVE CODE**

**Article I - INTRODUCTION**..... 1

**ARTICLE II - DEFINITIONS** ..... 2

**ARTICLE III – PROCEDURES**

Section 1-A  
    Budget - Preparation and Adoption ..... 4

Section 2-A  
    Purchasing and Bids..... 7

Section 2-B  
    Supplies, Surplus and Fixed Assets ..... 85

Section 3-A  
    Claims - Processing for Payment..... 91

Section 4-A  
    Grants - Applications for Grant Funds ..... 93

Section 5-A  
    Trades - Materials or Services ..... 95

**ARTICLE IV - BOARD OF COMMISSIONERS**

Section 6-A  
    Board of Commissioners ..... 96

Section 6-B  
    Agendas - Preparation and Distributions ..... 100

Section 6-C  
    Meetings - Board of Commissioners ..... 103

Section 6-D  
    Hearings - Board of Commissioners..... 109

**ARTICLE V - COUNTY DEPARTMENTS**

Section 15-A  
    County Departments ..... 120

Section 16-A  
    Administrative Department ..... 122

Section 17-A  
    Budget & Finance Department ..... 125

Section 18-A  
    Community Development Department..... 128  
        Building Codes Division  
        Planning & Zoning Division

Information Services Division  
 Veteran’s Services Division  
 Economic Development Division

Section 19-A  
 Commission on Children & Families Department ..... 133

Section 20-A  
 Community Corrections..... 136

Section 21-A  
 Forestry Department ..... 138

Section 22-A  
 Health Department..... 142

Section 23-A  
 Human Resources ..... 145

Section 24-A  
 Justice Departments: District Attorney and Justice Court ..... 147

Section 25-A  
 Juvenile Department ..... 149

Section 26-A  
 Law Enforcement - Sheriff ..... 151

Section 26-B  
 Law Enforcement - Animal Control Division ..... 153

Section 26-C  
 Law Enforcement - Emergency Services Division ..... 154

Section 26-D  
 Law Enforcement - 911 Communication Service District.....156

Section 27-A  
 Public Works ..... 160

Section 27-B  
 Public Works Department: Parks & Buildings Division ..... 163

Section 27-C  
 Public Works Department: Weed and Pest Division..... 166

Section 28-A  
 Records and Assessment..... 167

**ARTICLE VI- PROJECTS/PROGRAMS/SERVICES**

Section 40-A  
 Projects/Programs/Services ..... 171

Section 41-A  
 Center for Living ..... 172

**ARTICLE I**  
**INTRODUCTION**

**Title:** This document shall be known as the Administrative Code for Hood River County, a Home Rule County in the State of Oregon.

**Purpose:** The purpose of the Administrative Code is to comply with provisions of the Hood River County Charter (Revised May 2008), and provides for three separate manuals:

1. Administrative Code
2. Personnel Code
3. Committee/Commissions/Boards By-Laws Manual

**Chapter 1 - Administrative Code** - shall prescribe procedures and systems of operation and management of all offices, departments and institutions of the County, both elective and appointive; and shall prescribe the powers and duties of the Board of Commissioners *and* County Departments.

**Savings Clause:** If any part of the Administrative Code shall be held unlawful or unenforceable by any court of competent jurisdiction, the remainder of the Administrative Code shall not be affected thereby.

**Reservation of Powers:** Any powers or privileges not herein specified are reserved exclusively to the Board of Commissioners, subject only to the Hood River County Charter (*Revised May 2008*), and the Constitution and laws of the State of Oregon and of the United States.

**Variances:** The Board of Commissioners shall have the power to vary or modify the strict application of the provisions of the Administrative Code in any case in which the strict application of said provisions would result in practical difficulties or unnecessary hardships.

**Applicability:** The Administrative Code shall apply to all County Departments, and to all County offices and institutions.

**Responsibility:** It shall be the responsibility of every department head, (elected or appointed), supervisor, and employee, to comply with provisions of the Administrative Code.

**Amendment, Revision, Appeal:** The Board of Commissioners may amend, revise, add, or repeal any part or section of the Administrative Code at any time it sees fit.

## DEFINITIONS

### HOOD RIVER COUNTY ADMINISTRATIVE CODE

**Board of Commissioners** - the elected governing body for Hood River County, Oregon.

**Committee, Commission, Board** - appointed by the Board of Commissioners for a specified purpose and a specified term, and may be required by Oregon Revised Statutes or may be an advisory committee.

**County Administrator** - appointed by the Board of Commissioners to administer and manage the affairs of Hood River County.

**Department** - established by the Board of Commissioners to provide specified services and programs.

**Department Division** - Branch of an established County Department and under the direction of the Department Head.

**Department Head** - Appointed by the County Administrator, or elected into the office of County Sheriff, Justice of the Peace or District Attorney and is responsible for the effective and efficient management of a department.

**Program, Project, Service** - A County function under the direction of the County Administrator or a designated department head.

**Shall** is mandatory and **May** is permissive.

An Article and Section heading contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of any section hereof.

The masculine includes the feminine and neuter and shall not be construed to allow discrimination according to sex.

The singular includes the plural, and the plural includes the singular.

**SECTION 1-A**  
**PROCEDURE FOR PREPARATION AND ADOPTION OF BUDGET**

**A. COMPLIANCE WITH BUDGET PROCEDURE:**

- 1A.0 All officials, persons, officers, departments, boards, committees and commissions for whom or for which the Board of Commissioners is required to adopt an annual budget, as provided for in Oregon Revised Statutes, shall be governed by the following sections of this Section which are general in nature.
- 1A.1 Notices and publications shall comply with provisions of Oregon Budget Law ORS 294-305- ORS 294.565.

**B. SUBMITTAL OF FORMS FOR BUDGET ESTIMATES:**

- 1A.2 The Budget & Finance Director shall coordinate with the County Administrator a schedule for preparation of the annual budget document, including a budget process timeline outlining all critical dates for data submission, publications and meetings. This schedule shall be approved by the Board of Commissioners.
- 1A.3 The Budget & Finance Director shall submit to each County department head, and applicable County commissions, and board's forms on which to submit a budget proposal for the ensuing fiscal year. Forms to be used for submittal of budget proposals shall be as prescribed by the Budget & Finance Director.
- 1A.4 The Budget & Finance Director shall stipulate a time for department heads and applicable commissions, and boards to return budget proposals to the Budget & Finance Department. Sufficient time shall be allowed for the Budget & Finance Department to compile the information and to prepare a proposed budget document for submittal to the Budget Committee.
- 1A.5 Each County department head that submits a budget request shall also prepare a brief written explanation of budget requests for the ensuing fiscal year in the format prescribed by the Budget & Finance Director.

**C. EXAMINATION OF BUDGET ESTIMATES:**

- 1A.6 Upon receipt of budget estimates from department heads, and boards, the Budget & Finance Director shall immediately proceed to examine the requests and make such investigations and studies of the requests as may be deemed necessary. Upon completion of that process, the Budget & Finance Director will submit the reviewed document to the County Administrator who may schedule meetings with department heads, and boards for the purpose of clarifying budget requests.

1A.7 The County Administrator shall advise the Budget Committee of any issues concerning services, equipment or supplies that were encountered in reviewing the proposed budget documents. The Administrator shall also advise the Budget Committee of the best method to reconcile any service issues and thus allocate funds in the most efficient and cost effective manner.

D. BUDGET COMMITTEE MEETINGS:

1A.8 At the initial budget committee meeting, the County Administrator shall deliver the budget message.

1A.9 The Budget Committee shall schedule and hold as many meetings as necessary to give full consideration to the entire budget, as presented.

1A.10 The Budget Committee shall cause to be made such revisions, additions, or deletions in the items shown in the budget estimates as are deemed necessary or advisable.

1A.11 Upon completion of review and revision of the budget requests, the Budget Committee shall submit an approved and balanced budget to the Board of Commissioners.

E. BUDGET HEARING:

1A.12 Upon receiving an approved and balanced budget from the Budget Committee, the Board of Commissioners shall schedule a public hearing. The Board of Commissioners shall consider all written and oral statements and upon completion of said hearing, the Board of Commissioners shall adopt a Resolution adopting the official County budget to appropriate funds and levy taxes for the ensuing fiscal year.

F. FILING OF BUDGET DOCUMENT AND CERTIFICATION OF TAX LEVY:

1A.13 The adopted budget document and certification of tax levy for the ensuing fiscal year shall be filed by the Director of Budget & Finance with the Department of Records and Assessment not later than July 15th of each year.

G. PRINTING OF ADOPTED BUDGET DOCUMENT:

1A.14 The budget document, as adopted by the Board of Commissioners, shall be prepared by the Budget & Finance Department who shall also prepare the number of copies of the adopted budget document deemed necessary. Printed copies of the adopted budget document shall be made available to the general public for inspection. A charge shall be established for copies of the budget document that are removed from the Budget & Finance Department.

H. SALARY INCREASES:

1A.15 Step increases for positions included in the salary plan shall be considered and approved at the time the budget is being prepared and adopted for the ensuing fiscal year.

1A.16 Any proposed changes in classification or adopted salary range for any supervisory or non-union position shall be submitted to the Human Resource Director and approved by the County

Administrator. Such request shall be processed in accordance with the current procedure for personnel administration. Any change in classification or salary range shall final require approval from the Board of Commissioners through the budget process, or as deemed appropriate by the County Administrator throughout the fiscal year..

I. COMPLIANCE WITH OREGON REVISED STATUTES:

1A.17 Supplemental budgets - appropriation changes - line item transfers - contingency:

1. Any change in adopted budget appropriations shall require adoption of a Resolution by the Board of Commissioners. The adopted Resolution shall contain the reason for the appropriation change and the amount of the appropriation change, per ORS 294.480-294.483.

1A.18 Preparation, approval and adoption of the annual budget shall comply with the Oregon Revised Statutes as pertains to Budget Law and the Hood River County Charter (Revised May, 2008) as pertains to expense and capital budgets.

1A.19 Contingency: Funds budgeted for contingency may be expended for an emergency. An emergency is defined as an expenditure that could not have been anticipated at the time the annual budget was prepared and adopted.

**SECTION 2-A  
HOOD RIVER COUNTY  
CONTRACTING AND PURCHASING RULES**

<b>5.46.100</b>	<b>ADMINISTRATION .....</b>	<b>10</b>
5.46.110	Definitions.....	10
5.46.115	Local Public Contract Review Board.....	14
5.46.120	Delegation of Contracting and Purchasing Authority to the County Administrator .....	14
5.46.125	County Rules .....	15
5.46.130	Competitive Procurement .....	15
5.46.135	Cooperative Procurement .....	16
5.46.140	Contract Preferences .....	20
5.46.145	Emergencies.....	20
<b>5.47.200</b>	<b>PUBLIC PROCUREMENTS FOR GOODS OR SERVICES.....</b>	<b>21</b>
5.47.210	Definitions.....	21
5.47.215	Solicitation Methods—Invitations to Bid and Requests for Proposal .....	21
5.47.220	Public Notice of Solicitation .....	22
5.47.225	Invitation to Bid (ITB).....	22
5.47.230	Request for Proposal (RFP). .....	23
5.47.235	Multistep Sealed Bids & Proposals .....	24
5.47.240	Small Procurements .....	26
5.47.245	Intermediate Procurements.....	26
5.47.247	Timber and Forest Product Sales .....	27
5.47.250	Sole-Source Procurements .....	27
5.47.255	Emergency Procurements. ....	27
5.47.260	Special Procurements .....	27
5.47.265	Personal Services Contract Definition. ....	28
5.47.270	Formal Selection Procedures .....	29
5.47.275	Informal Selection Procedures.....	29
5.47.280	Selection by Negotiation .....	30
5.47.285	Contract Requirements. ....	30
5.47.290	Rules Applicable to Goods or Services Procurement .....	30
<b>5.48.300</b>	<b>CONSULTANT SELECTION .....</b>	<b>31</b>
5.48.305	Selection Procedures for Architectural, Engineering, and Land S... Surveying Services	32
5.48.310	Effect of Material Alteration or Delay of Project. ....	33
5.48.315	Request for Change or Protest; Request for Clarification.....	34
5.48.320	Addenda to a Solicitation Document.....	35
5.48.325	Disposition of Offers if Solicitation Canceled. ....	35

<b>5.49.400</b>	<b>PUBLIC CONTRACTS FOR CONSTRUCTION SERVICES .....</b>	<b>36</b>
5.49.405	Contracts Other Than Public Improvements.....	36
5.49.410	Emergency Contracts .....	36
5.49.415	Contracts Under Certain Dollar Amounts. ....	37
5.49.420	Formal Procurement for Public Improvement Contracts.....	37
5.49.425	Facsimile Bids and Proposals.....	41
5.49.430	Use of Electronic Data Interchange.....	42
5.49.435	Public Notice of Solicitation. ....	44
<b>5.49.440</b>	<b>BID OR PROPOSAL PREPARATION AND REQUIREMENTS .....</b>	<b>45</b>
5.49.445	Offer Preparation.....	46
5.49.450	Bid or Proposal Security .....	46
5.49.455	Pre-Offer Conferences.....	47
5.49.460	Request for Change or; Request for Clarification.....	48
5.49.465	Addenda to a Solicitation Document.....	49
5.49.470	Pre-Opening Modification or Withdrawal of Offers.....	49
5.49.475	Receipt, Opening, and Recording of Offers .....	50
5.49.480	Late Offers, Late Withdrawals, and Late Modifications.....	51
5.49.485	Mistakes. ....	51
5.49.490	Time for County Acceptance; Extension .....	52
5.49.495	Cancellation of Solicitation .....	52
<b>5.49.500</b>	<b>EVALUATION AND AWARD OF THE CONTRACT .....</b>	<b>53</b>
5.49.505	Offer Evaluation and Award. ....	53
5.49.510	Bid or Proposal Evaluation and Award.....	55
5.49.515	Rejection of Individual Bids or Proposals.....	56
5.49.520	Disqualification of an Entity.....	58
5.49.525	Rejection of All Offers .....	60
5.49.530	Protest of Contractor Selection, Contract Award.....	60
5.49.535	Negotiation with Bidders Prohibited.....	62
5.49.540	Negotiation When Bids Exceed Cost Estimate.....	62
5.49.545	Documentation of Award & Availability of Award Decisions.....	63
5.49.550	Performance & Payment Security.....	64
5.49.555	Substitute Contractor .....	65
5.49.560	Foreign Contractor .....	65
5.49.565	Records Maintenance; Right to Audit Records .....	65
5.49.570	Right to Inspect Plant .....	66
<b>5.49.600</b>	<b>ALTERNATIVE CONTRACTING METHODS FOR PUBLIC IMPROVEMENT CONTRACTS .....</b>	<b>67</b>
5.49.610	Purpose.....	67
5.49.615	Use of Alternative Contracting Methods .....	67

5.49.620	Pricing Mechanisms.....	68
5.49.625	Competitive Negotiation, Generally.....	69
5.49.630	Design/Build .....	70
5.49.635	Construction Manager/General Contractor (CM/GC) .....	71
5.49.640	Energy Savings Performance Contracts (ESPC) .....	73
<b>5.49.700</b>	<b>EXEMPTIONS FROM COMPETITIVE BIDDING.....</b>	<b>76</b>
5.49.710	Purpose.....	76
5.49.715	Exemptions Generally .....	76
5.49.720	Exemption Procedures.....	76
<b>5.50.900</b>	<b>CLASSES OF CONTRACTS AND CLASS SPECIAL PROCUREMENTS E EXEMPT FROM COMPETITIVE BIDDING .....</b>	<b>77</b>
5.50.910	Contract Amendments (Including Change Orders and Extra Work).....	77
5.50.915	Advertising Contracts.....	78
5.50.920	Equipment Repair and Overhaul.....	78
5.50.922	Contracts for Price-Regulated Items.....	79
5.50.925	Purchases Under Federal Contracts .....	79
5.50.927	Copyrighted Materials.....	79
5.50.932	Food Contracts .....	80
5.50.940	Used Personal Property — Purchase .....	80
5.50.942	Used Personal Property — Sale.....	81
5.50.945	Information Technology Contracts.....	81
5.50.947	Telecommunications Systems Contracts.....	81
5.50.950	Telecommunications Services .....	82
5.50.952	Fuel and Asphalt Contracts .....	82
5.50.955	Hazardous Material Abatement.....	83
5.50.957	Insurance and Employee Benefits .....	83
5.50.960	Office Copier Purchases.....	83
5.50.962	Radio and Television Contracts for County Activities.....	83
5.50.967	Donated Materials or Services.....	84
5.50.970	Concession Contracts.....	84

**HOOD RIVER COUNTY  
CONTRACTING AND PURCHASING RULES**

**5.46.100      ADMINISTRATION**

(1) These Rules set forth the rules for Public Contracting of the County. They consist of the following four divisions:

(a) Division 46 is applicable to all Public Contracting.

(b) Division 47 describes the procedures for the Public Contracting of Goods or Services, as defined in ORS 279B.005, and for Personal Services other than Architectural, Engineering and Land Surveying Services and Related Services;

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

(d) Division 49 describes the procedures for the Public Contracting for Construction Services and applies equally to “Public Improvement Contracts” and “Public Works Contracts” as defined by Oregon Statutes. Some of the procedures within Division 49 apply to Division 47; those procedures are so identified.

(e) Division 50 lists the class exemptions and class Special Procurements that have been established by the County with adoption of appropriate findings.

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

(3) These division 46, 47, 48 and 49 rules become effective on March 22, 2005 and apply to Public Contracts first advertised, but if not advertised then entered into, on March 22, 2005.

**5.46.110      Definitions**

All capitalized terms have the meanings set forth below, unless otherwise defined in these rules.

(1) **Addendum or Addenda:** Any change to, or explanation of, the terms of a Solicitation Document after issuance.

(2) **Award:** Either the act or occurrence of the County’s identification of the Person with whom the County will enter into a Contract following the resolution of any protest of the County’s selection of that Entity, and the completion of all contract negotiations.

(3) **Bid:** A competitive Offer, binding on the Bidder and submitted in response to an Invitation to Bid.

(4) **Bidder:** An Entity that submits a Bid in response to an Invitation to Bid.

- (5) **Board:** The Hood River County Board of Commissioners.
- (6) **Closing:** The date and time announced in the Solicitation Document as the deadline for submitting Offers.
- (7) **Competitive Negotiation:** A method of contracting in which proposal evaluation and contract award result from an open and competitive procedure, typically through the Request for Proposal (RFP) process, in which factors other than price are considered in contractor selection.
- (8) **Competitive Solicitation:** A documented process providing an equal and open opportunity to qualified parties that culminates in a selection based on criteria that include, but are not limited to, the contractor's availability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and fees or costs.
- (9) **Competitive Range:** The number of Proposers the County will negotiate with if the County intends to negotiate with Proposers.
- (10) **Contract:** A "Public Contract" as defined in ORS 279 A.010.
- (11) **Contract Price:** The total of the awarded Bid or Proposal amount, including any approved alternates, and any fully executed change orders or amendments.
- (12) **Contract Review Board:** The County Board of Commissioners acting as the local public contract review board pursuant to ORS 279 A.060.
- (13) **Contract Release Order:** The document authorizing a purchase from an operative contract (e.g., an existing requirements contract).
- (14) **Contractor:** An independent contractor that performs a service for the County, when the County has no right to and does not control the means and manner of performing the contract, except as to the delivery schedule, determining compliance with the statement of Work, and accepting or rejecting the deliverables or results required under the contract.
- (15) **Days:** Calendar days unless otherwise specified by these rules.
- (16) **DBE Disqualification:** A Disqualification pursuant to ORS 200.065, 200.075, or 279 A.110.
- (17) **Disqualification:** The preclusion of an Entity from contracting with the County for a time. Disqualification may be a Conduct Disqualification or DBE Disqualification.
- (18) **County:** Hood River County, Oregon.

**(19) Electronic Advertisement:** A County's request for quotes, available over the Internet via (a) The World Wide Web or some other Internet protocol; or (b) a County's Electronic Procurement System. An Electronic Advertisement may include a Solicitation Document.

**(20) Electronic Offer:** A response to a County's request for Offers or request for quotes submitted to a County via email or through the County's electronic Procurement System.

**(21) Electronic Procurement System:** 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 County to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to a Procurement.

**(22) Electronic Data Interchange Operating Agreement or EDI Operating Agreement:** A series of standards that provide computer-to-computer exchange of business documents between organizations over telephone lines or computer networks. An EDI document is a document that has been transmitted pursuant to an EDI Operating Agreement.

**(23) Entity:** A natural person capable of being legally bound, a sole proprietorship, a limited liability company, a corporation, a partnership, a limited liability partnership, a limited partnership, a profit and nonprofit unincorporated association, a business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.

**(24) Foreign Contractor:** A contractor that is not domiciled in or registered to do business in the State of Oregon.

**(25) Goods and Services:** "Goods and Services" have the meaning as set forth in ORS 279 B.005 (1) (b).

**(26) Guaranteed Maximum Price (GMP):** The total maximum price provided to the County by the contractor, and accepted by the County, that includes all reimbursable costs of and fees for completion of the contract Work, as defined by the contract documents, except for material changes in the scope of Work. It may also include particularly identified contingency amounts.

**(27) Invitation to Bid or ITB:** A Solicitation Document calling for Bids.

**(28) Noncompetitive Negotiation:** A method of contracting in which contract award results from contract discussions with only one Entity.

**(29) Offer:** A Bid or Proposal as applicable.

**(30) Offeror:** A Bidder or Proposer as applicable.

**(31) Opening:** The date, time, and place announced in the Solicitation Document for the public opening of written sealed Offers.

**(32) Other Options:** Those items generally considered appropriate for negotiation in the competitive Proposal process, but excluding any material requirements previously announced in the solicitation process that would likely affect the field of competition.

**(33) Project:** A contract for a Public Improvement as defined by ORS 279.011(8).

**(34) Proposal:** A competitive written Offer, binding on the Proposer and submitted in response to a Request for Proposals.

**(35) Proposer:** An Entity that submits a Proposal in response to a Request for Proposals.

**(36) Public Improvement:** Projects for construction, reconstruction, or major renovation on real property by or for the County. "Public Improvement" does not include emergency work, minor alteration, ordinary repair, or maintenance necessary in order to preserve a public improvement. This definition is intended to be construed consistently with ORS 279.015(8).

**(37) Public Work:** Roads, highways, buildings, structures, and improvements of all types, the construction, reconstruction, major renovation, or painting of which is carried on or contracted for by the County to serve the public interest, not including the reconstruction or renovation of privately owned property leased by the County. This definition is intended to be construed consistently with ORS 279.348(3).

**(38) Request for Proposals (RFP):** A written document describing the County's circumstances and the type of service desired; setting forth all significant evaluation factors and their relative importance and, if appropriate, price; and soliciting competitive written Proposals. The RFP is intended to result in a contract.

**(39) Request for Qualifications (RFQ):** A written document describing the County's circumstances and the type of service desired; setting forth all significant evaluation factors and their relative importance and, if appropriate, price; and soliciting competitive written qualifications. The RFQ will not result in a contract but is intended to establish a list of qualified contractors from which to select a contractor in accordance with these rules.

**(40) Resident Bidder:** A bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "resident bidder". See ORS 279A.120.

**(41) Responsible Offeror (also, Responsible Bidder or Responsible Proposer, as applicable):** An Entity that has submitted an Offer, has met the standards set forth in these rules, and has not been disqualified by the County or any other regulatory agency of the State.

**(42) Responsive Offer (also Responsive Bid or Responsive Proposal, as applicable):** An Offer that substantially complies with applicable solicitation procedures and requirements and the Solicitation Document.

**(43) Signed or Signature:** Any mark, word, or symbol executed or adopted by an Entity evidencing an intent to be bound.

**(44) Sole Source:** A contractor that provides professional or technical expertise of such a unique nature that the contractor is clearly and justifiably the only source of the service.

**(45) Solicitation Document:** An Invitation to Bid or Request for Proposals, including all documents incorporated by reference.

**(46) Specification:** Any description of the physical or functional characteristics or nature of a supply, service, or construction item, including any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery and the quantities or qualities of materials to be furnished under the contract. Specifications generally will state the result to be obtained and may on occasion, describe the method and manner of doing the Work to be performed.

**(47) Value Engineering:** Those proposed changes to the plans, Specifications, or other contract requirements that may be made consistent with industry practice(s) under the original contract by mutual agreement in order to take advantage of potential cost savings without impairing the essential functions or characteristics of the Public Improvement. Cost savings include those resulting from life-cycle costing, that may either increase or decrease absolute costs over varying periods.

**(48) Work:** The furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item, or the entire contract, and successful completion of all duties and obligations imposed by the contract.

#### **5.46.115 Local Public Contract Review Board**

The County Board of Commissioners is designated as the County's local government contract review board pursuant to ORS 279A.060.

#### **5.46.120 Delegation of Contracting and Purchasing Authority to the County Administrator**

**(1)** The Board delegates to the County Administrator (or his designee) the authority to enter into and approve payment on contracts for products, materials, capital outlay, equipment, and services if:

- (a) The contract is within budgetary appropriations made by the Board; and
- (b) The total amount of the contract is less than \$150,000.

(2) Except as provided in subsection (1) of this section, the Board must approve all County contracts.

### 5.46.125 County Rules

(1) **Generally:** Pursuant to ORS 279A.065 (5)(a), the County elects to establish its own rules of procedures for public contracts. The model rules adopted by the Attorney General under ORS 279A.065 do not apply to the County. The County Rules are based in part on the Attorney General model rules and should be interpreted in the same manner, unless the text or context otherwise requires. References to the implemented statutes and the analogous section of the Attorney General's model rules are included at the conclusion of each section for convenience.

#### (2) Purchase Levels

(a) \$0-\$200: appropriate documentation required. No purchase order required.

(b) \$201-\$10,000: purchase order required (updated 10.16.17)

(c) \$10,001-\$75,000: 3 verbal quotes and purchase order required. Contract needed if applicable to purchase. (updated 10.16.17)

(d) \$75,001-150,000: sealed bids required, with no advertising requirement. Purchase order required and contract if applicable to purchase.

(e) 150,001 +: requires sealed formal bidding with advertisement etc. BOC will award final contract. No purchase order required – contract serves as the authorizing document for the transaction.

### 5.46.130 Competitive Procurement

(1) **Generally:** In accordance with ORS 279B.050 and 279C.300 the County must award its contracts by competitive procurement unless otherwise allowed or required in ORS 279A.025 (2) to (4), 279B.065, 279B.070, 279B.075279, 279B.080, 279B.085, or 279C.335 and these rules.

(2) **Federal Provisions:** If federal funds are involved, federal laws, rules, and regulations will govern the provisions of ORS 279A, 279B and 279C and these rules in the event of conflict except as otherwise expressly provided in ORS 279C.800 to 279C.870.

(3) **Affirmative Action:** The County may limit competition for certain Public Contracts for Goods and Services, or other Public contracts with an estimated cost of \$50,000 or less to carry out its affirmative action policies. Prior to advertising, criteria for award must be established for each of these contracts. The criteria must be in accordance with ORS 297A.100; 279A.105 and ORS 200.

**(4) Prequalification:**

(a) Mandatory Prequalification. The County may require mandatory prequalification of Offerors in accordance with ORS 279B.120 or 297C.430. The County must indicate in the Solicitation Document whether it will require mandatory prequalification, i.e., the County's conditioning an Entity's submission of an Offer upon the Entity's prequalification. The County cannot consider an Offer from an Entity that is not prequalified if the County required prequalification.

(b) Permissive Prequalification. The County may prequalify an Entity for the County's solicitation list on forms prescribed by the County Contract Review Board, but the County shall not limit distribution of a solicitation to that list.

**(5) Standards for Prequalification:** An Entity may prequalify by demonstrating to the County's satisfaction:

- (a) That the Entity's resources and expertise, or ability to obtain the necessary resources and expertise, indicate that the Entity is capable of meeting all contractual responsibilities;
- (b) That the Entity has a record of satisfactory performance;
- (c) That the Entity has a record of integrity;
- (d) That the Entity is qualified to contract with the County.

**(6) Notice of Denial:** If an Entity fails to prequalify for a mandatory prequalification, the County must notify the Entity and specify the reasons under Section (3) of this rule and inform the Entity of the Entity's right to a hearing (ORS 279B.425 or 279C.450).

Stats. Implemented: ORS 279B.120, 279C.430, 279B.425, & 279C.450.

**5.46.135 Cooperative Procurement**

**(1) Authority for Cooperative Procurements:**

(a) County may participate in, sponsor, conduct or administer cooperative procurements as follows:

(A) The County may participate in, sponsor, conduct or administer joint cooperative procurements to establish contracts or price agreements for goods or services or Personal Services, that use source selection methods substantially equivalent to those set forth in ORS 279B.055, 279B.060, or 279B.085 or to establish contracts for Public Improvements that use a competitive bidding process substantially equivalent to that set forth in ORS 279C.005 through 279C.870.

(B) The County may participate in, sponsor, conduct, or administer permissive cooperative procurements to establish contracts or price agreements for the acquisition of goods or services or Personal Services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or 279B.060.

(C) The County may participate in, sponsor, conduct, or administer interstate

cooperative procurements to establish contracts or price agreements for the acquisition of goods or services or personal services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or 279B.060.

(b) A solicitation and award process uses source selection methods substantially equivalent to those identified in ORS 279B.055, ORS 279B.060 or ORS 279B.085 when it has the characteristics set forth in ORS 279A.200(2). Each participating governmental entity shall determine, in writing, whether the solicitation and award process for an original contract arising out of a Cooperative Procurement is substantially equivalent to those identified in ORS 279B.055, ORS 279B.060 or ORS 279B.085 in accordance with ORS 279A.200(2).

Stats. Implemented: ORS 279A.205

**(2) Responsibilities of Administering Contracting County and Purchasing Contracting County:**

(a) If a County (including the County) is an Administering County of a Cooperative Procurement, they may establish the conditions under which Persons may participate in the Cooperative Procurements administered by the Administering County. Such conditions may include, without limitation, whether each Person that participates in the Cooperative Procurement must pay administrative fees to the Administering County, whether the participants must enter into a written agreement with the Administering County, or any other matters related to the administration of the Cooperative Procurement and the resulting Original Contract. A County that acts as an Administering County may, but is not required to, include provisions in the Solicitation Document for a Cooperative Procurement or advertise the Solicitation Document in a manner to assist Purchasing Contracting Agencies' compliance with the Code or these Model Rules.

(b) If a County, acting as a Purchasing County, enters into a Contract or Price Agreement based on a Cooperative Procurement, the County shall comply with the Code and these Rules, including without limitation those sections of the Code and these Rules that govern:

- (A) The extent to which the Purchasing County may participate in the Cooperative Procurement,
- (B) The advertisement of the solicitation document related to the Cooperative Procurement, and
- (C) Public notice of the Purchasing County's intent to establish Contracts or Price Agreements based on a Cooperative Procurement.

Stats. Implemented: ORS 279A.205

**(3) Joint Cooperative Procurements:** If the County chooses to participate in, sponsor, conduct or administer a Joint Cooperative Procurement it may do so only in accordance with ORS 279A.210.

Stats. Implemented: ORS 279A.210

**(4) Permissive Cooperative Procurements:** If the County chooses to participate in, sponsor, conduct, or administer a Permissive Cooperative Procurement it may do so only in accordance with ORS 279A.215.

Stats. Implemented: ORS 279A.215

**(5) Advertisements of Intent to Establish Contracts or Price Agreements through a Permissive Cooperative Procurement:**

(a) If the County wishes to enter into a Contract or Price Agreement arising out of a

Permissive Cooperative Procurement it must publish notice of its intent to do so if the County estimates that it will spend in excess of \$250,000 on Goods and Services or Personal Services acquired under the Contract or Price Agreement.

(b) For purposes of determining whether the County must give the notice required by Section 135.5(a) of these rules, the County will spend in excess of \$250,000 for Goods and Services or Personal Services acquired under a Contract or Price Agreement arising out of a Permissive Cooperative Procurement if:

(A) The County's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides that the County will make payments over the term of the Contract or Price Agreement that will, in aggregate, exceed \$250,000, whether or not the total amount or value of the payments is expressly stated;

(B) The County's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides for a guaranteed maximum price, or a maximum not to exceed amount in excess of \$250,000; or

(C) At the time the County enters into the Contract or Price Agreement, the County reasonably contemplates, based on historical or other data available to the County, that the total payments it will make for Goods or Services or Personal Services under the Contract or Price Agreement will, in aggregate, exceed \$250,000 over the anticipated duration of the Contract or Price Agreement.

(c) The notice of intent required by Section 135.5(a) of these rules shall contain the information required by ORS 279A.215(2)(b), and the County shall advertise the notice in the same manner as provided in ORS 279B.055(4)(b) and (c) and Section 225(2) of these rules. Unless the County has adopted rules that set forth a different time period, the County shall give the notice required by this Section no fewer than 7 days before the deadline for submitting comments regarding the County's intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement.

(d) An Administering County that intends to establish a Contract or Price Agreement arising out of the Permissive Cooperative Procurement it administers may satisfy the notice requirements set forth in Section 135.5(a) and (c) of these rules by including the information required by ORS 279A.215(2)(b) in the Solicitation Document related to the Permissive Cooperative Procurement, and including instructions in the Solicitation Document to potential Offerors describing how they may submit comments in response to the Administering County's intent to establish a Contract or Price Agreement through the Permissive Cooperative Procurement. The content and timing of such notice shall comply in all respects with ORS 279A.215(2), ORS 279A.215(3) and these Model Rules.

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

Stats. Implemented: ORS 279A.215

**(6) Interstate Cooperative Procurements:**

If the County chooses to participate in, sponsor, conduct or administer an Interstate Cooperative Procurement it may do so only in accordance with ORS 279A.220.

Stats. Implemented: ORS 279A.220

**(7) Advertisements of Interstate Cooperative Procurements:** The County may only participate

in an Interstate Cooperative Procurement if at least one of the following occurs:

(a) The Solicitation Document for the Interstate Cooperative Procurement lists the County or the Cooperative Procurement Group of which the County is a member as a party that may enter into Contracts or Price Agreements under the terms and conditions of the Original Contract, and the Solicitation Document is advertised in Oregon in compliance with ORS 279B.055(4) or ORS 279B.060(4) by either:

(A) The County; or

(B) The Cooperative Procurement Group, or a member of the Cooperative Procurement Group, of which the County is a member; or

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

(b) If the Solicitation Document issued by the Administering County was not advertised in accordance with Section 135 (7)(a), the County gives notice of its intent to enter into a Public Contract or Price Agreement based on the terms of the Interstate Cooperative Procurement. The notice of intent shall contain the information required by ORS 279A.220 (2)(b)(B), and the County shall advertise the notice in the same manner as provided in ORS 279B.055(4)(b) and (c). Unless the County has adopted rules that set forth a different time period, the County shall give the notice required by this Section no fewer than 7 days before the deadline for submitting comments regarding the County's intent to establish a contract or price agreement through a Permissive Cooperative Procurement. (3) The County shall respond to any comments on its intent to establish a contract or price agreement through a Permissive Cooperative Procurement as set forth in ORS 279A.220(3)(c).

Stats. Implemented: ORS 279A.220

#### **(8) Protests and Disputes:**

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

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

Stats. Implemented: ORS 279A.225

**(9) Contract Amendments:** A purchasing County may amend a Contract entered into pursuant to a Cooperative Procurement as set forth in 4.50.910.

Stats. Implemented: ORS 279A.065

#### 5.46.140 Contract Preferences

(1) **Non-Resident Bidders:** The County will use only objective criteria to evaluate Bids as set forth in the ITB. The County will evaluate Bids to determine which Responsible Offeror offers the lowest Responsive Bid. In determining the lowest Responsive Bid, the County will add a percentage increase to the Bid of a nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides. See ORS 279A.120 (2).

(2) **Recycled Material:** In accordance with ORS 279A.125, the County will give preference to the procurement of goods manufactured from recycled material if each of the four following criteria exists:

- (a) The recycled product is available;
- (b) The recycled product meets applicable standards;
- (c) The recycled product can be substituted for a comparable non-recycled product; and
- (d) The recycled product's costs do not exceed the costs of non-recycled products by more than five percent, or a higher percentage if a written determination is made by the County and set forth in the Solicitation Document.

(3) **Preference for Oregon Goods:** If the County receives Offers identical in price, fitness, availability, and quality, the County will award the contract based on the following order of precedence:

(a) The County will prefer goods or services that have been manufactured or produced in Oregon pursuant to ORS 279A.120 (2).

(b) The County will then prefer the Offer of the Offeror whose principal offices or headquarters are located in Oregon.

(c) If a tie Offer remains after the County applies subsections (2)(a) and (b), the County must award the contract by drawing lots among any tied Oregon Offerors. The Offerors must be given notice and an opportunity to be present when the lots are drawn.

(d) If a tie Offer remains after the County applies subsection (2)(a) and none of the tied Offerors are located in Oregon, the County must award the contract by drawing lots among any tied Offerors. The Offerors must be given notice and an opportunity to be present when the lots are drawn.

#### 5.46.145 Emergencies.

(1) The County may in its discretion enter into a Personal Services contract or a Public Improvement contract without complying with formal or informal solicitation requirements if an emergency exists. An Emergency is defined in ORS 279A.010 (f).

(2) The Board or the County Administrator must declare the existence of an emergency in writing that will authorize the County to enter into an emergency contract. In conjunction with declaring the

emergency, the County Administrator or Board must make written findings describing the emergency conditions that require prompt execution of the contract.

(3) The County may not contract pursuant to this exemption in the absence of a substantial risk of loss, damage, or interruption of services or harm to public health, safety, or the environment that would occur if contract performance awaited the time necessary, given the complexity of the project, to solicit, receive, and analyze Proposals.

(4) If an Emergency is declared, any contract must be awarded within 60 days following declaration of the emergency unless the Board grants an extension.

#### **5.47.200 PUBLIC PROCUREMENTS FOR GOODS OR SERVICES**

This division implements ORS 279B, Public Procurements and apply to the Procurement of Goods or Services. This division shall govern the procurement of Personal Services with the exception of Architectural, Engineering, Land Surveying and Related Services as defined by ORS 279C.100. The term “Services” shall mean Personal Services when used in this division of the rules. The County shall award Personal Services Contracts under procedures set forth in ORS 279B.055 through 279B.085 and these rules.

#### **5.47.210 Definitions**

(1) **Advantageous** means in the County’s best interest, as assessed according to the judgment of the County.

(2) **Affected Entity or Affected Offeror** means an Entity whose ability to participate in a Procurement is adversely affected by a County decision.

(3) **Scope** means the range and attributes of the Goods or Services described in the applicable Procurement document.

#### **5.47.215 Solicitation Methods — Invitations to Bid and Requests for Proposal**

It is the policy of the State of Oregon Public Contracts and Purchasing Law (ORS Chapter 279A.015) to encourage open and impartial competition in public contracting. Competition exists not only in prices, but also in a Contractor's ability to perform, technical competence, and ability to provide timely deliveries and in the quality and performance of products and services. Except as permitted by ORS 279B.065 through 279B.085, the County shall Award a Public Contract for Goods or Services based on Offers received in response to either competitive sealed Bids pursuant to ORS 279B.055 or competitive sealed Proposals pursuant to ORS 279B.060.

#### **5.47.220 Public Notice of Solicitation**

**(1) Policy:** The County shall give public notice of an invitation to bid at least seven (7) days prior to closing of that invitation. Public notice is intended to foster competition; therefore, the County shall make Invitations To Bid available to all prospective bidders.

**(2) Methods of Notification:** In accordance with ORS 279B.055 (4) & 279B.060 (4) the County shall use the following methods of notification for invitation to bid:

(a) Notice of the availability of the Solicitation Document shall be mailed to persons that have expressed an interest in the County's procurements.

(b) A Public notice shall be published once in at least one local newspaper of general circulation and in as many additional issues or publications as may be determined by the County.

(c) The County may publish the advertisement for Offers on the County's Electronic Procurement System in lieu of advertising in a local newspaper as required by ORS 279B.055 (4)(b). This rule is adopted per ORS 279B.055 (4)(c).

#### **5.47.225 Invitation to Bid (ITB)**

**(1) When Invitations to Bid Should Be Used:** The County may use an Invitation to Bid (ITB) by competitive sealed bidding if the County believes it will receive optimal value by selecting the lowest priced Offer that meets the technical requirements of the County's specifications.

**(2) Solicitation Documents - Required Contents:** The Solicitation Document for an ITB will include the following:

(a) Instructions and information concerning submission requirements, including Opening and Closing times and dates, the address of the office to which Offers must be delivered, the County's contact person for the solicitation and any other special information, e.g., whether Offers may be submitted by facsimile or Electronic Data Interchange. The interval between the date of issuance of the Solicitation Document and Closing should not be less than 14 Days for an ITB and not less than 30 Days for an RFP unless the County finds that a shorter interval is in the public's interest.

(b) If applicable, description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements, and evaluation criteria that the County will use to determine the lowest responsible Bidder or best responsible Proposer. (See ORS 279B.060 (h) (A to E)).

(c) The County's need, including any relevant background.

(d) If prequalification is required, the time, date, and place said prequalification is to be filed in accordance with 279B.120 and 125. (4) of these rules.

(e) If a pre-Offer conference is to be held, the time, date, and place of the conference. Whether attendance is mandatory and a provision that only statements confirmed by Addenda are binding.

(f) The anticipated schedule, deadlines, protest process, and evaluation process, if any.

(g) The form and submission of Offers and any information required therein, including Bid or Proposal security, if any.

(h) All Addenda issued by the County.

(i) The evaluation criteria the County will use to determine acceptability of any product or service.

(j) If required, a statement that the contractor or subcontractor must possess an asbestos abatement licenses per ORS 468A.710.

(k) If the Solicitation Document is an Invitation to Bid, the County will set forth objective evaluation criteria in the Solicitation Document. Examples of such criteria include but are not limited to conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas, performance history on other private and public contracts, experience of key personnel, adequacy of equipment and physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation criteria need not be precise predictors of actual future costs; but evaluation factors must be reasonable estimates based on information the County has available concerning future use.

(l) All contractual terms and conditions required by ORS 279B.220 through 279B.235 and a statement that the County may cancel the procurement or reject any or all bids in accordance with ORS 279B.100.

**Note:** If Offers are allowed to be submitted by facsimile or EDI, the procedures applicable requirements of Sections 5.49.425 and 5.49.430 should be followed.

#### **5.47.230 Request for Proposal (RFP).**

**(1) When Requests for Proposal Should Be Used:** The County may use a Request for Proposal (RFP) as set forth in ORS 279B.060 to solicit and award a contract for goods or services, or may award multiple public contracts for goods or services by requesting and evaluating competitive sealed proposals if the County believes it will receive optimal value by so doing.

**(2) Solicitation Documents - Required Contents:** The solicitation documents for a Request for Proposals shall be the same as those required in ORS 279B.060 and 5.47.225(2) of these rules.

**(3) Negotiated RFPs:** The County may permit negotiations under a Request for Proposal when:  
(a) The County is willing to consider alternative terms and conditions to reduce County cost or enhance the value of the product or service requested; or

(b) The County finds that negotiation is required to effect a successful procurement (e.g., the Specifications are complex, and the County expects numerous queries as to the proper interpretation of the Specification; the Work requires a high level of technical or managerial competence that cannot be defined adequately in the Specifications; or the County believes discussions are necessary to gauge the Proposer's understanding of complex Specifications).

Stats. Implemented. ORS 279B.060.

### **5.47.235 Multistep Sealed Bids & Proposals**

**(1) Generally:** The County may procure Goods or Services by using multi-step competitive sealed Bids pursuant to ORS 279B.055(12).

**(2) Phased Process:** Multi-step bidding is a phased process that seeks necessary information or un-priced technical Bids in the initial phase and regular competitive sealed bidding, inviting Bidders who submitted technically eligible Bids in the initial phase to submit competitive sealed price Bids on the on the technical Bids in the final phase. The Contract shall be Awarded to the lowest Responsible Bidder. If time is a factor, the County may require Bidders to submit a separate sealed price Bid during the initial phase to be opened after the technical evaluation.

**(3) Public Notice:** Whenever multi-step sealed Bids are used, public notice for the first phase shall be given in accordance with Section 5.47.220. Public notice is not required for the subsequent phases. However, the County shall give notice of subsequent phases to all Bidders and inform Bidders of the right to protest Addenda issued after initial Closing pursuant to Section 5.49.465 and inform Bidders excluded from subsequent phases of the right, if any, to protest exclusion pursuant to Section 5.49.530.

**(4) Procedures Generally:** In addition to the procedures set forth in Section 47 & 49 of these rules, the County shall employ the following procedures for multistep bidding:

(a) Solicitation Protest: Prior to the Closing of phase one, the County shall provide an opportunity to protest the solicitation and under ORS 279B.405 and Section 5.49.530.

(b) Addenda Protest: The County may provide an opportunity to protest any Addenda issued during phase two pursuant to Section 5.49.465(3)

(c) Exclusion Protest: The County may provide an opportunity for a Bidder to protest exclusion from the second round of multistep sealed Bids as set forth in Section 5.49.530.

(d) Administrative Remedy: Proposers may submit a protest to any Addenda or to any action by the County that has the effect of excluding the Proposer from the second phase of multistep bidding to the extent such protests are provided for in the Solicitation Document. Failure to so protest shall be considered the Bidder's failure to pursue an administrative remedy made available to the Bidder by the County.

(e) Award Protest: The County shall provide an opportunity to protest its intent to Award a Contract pursuant to ORS 279B.410 and Section 5.49.530(4).

#### **(5) Procedure for Phase One of Multistep Sealed Bids or Sealed Proposals.**

(a) **Form.** Multi step sealed bidding shall be initiated by the issuance of an Invitation to Bid in the form and manner required for competitive sealed Bids. Multistep sealed proposals shall be initiated by the issuance of a Request for Proposal in a manner required for competitive sealed Proposals. In addition to the requirements set forth in Section 5.47.225 for Bids and 5.47.230 for Proposals, the multistep Bid or Proposal shall state:

(A) That un-priced Bids or Proposals are required;

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

(C) That the solicitation is a multistep sealed Procurement, and priced submittals will be considered only in the second phase and only from those Bidders or Proposers whose un-priced submittals are found eligible in the first phase;

(D) The criteria to be used in the evaluation of the un-priced submittal

(E) That the County may conduct oral or written discussions for the purpose of clarification of the un-priced submittal;

(F) That the Goods and Services being procured shall be furnished generally on accordance with the technical Bid or Proposal as found to be finally eligible and shall meet the requirements of the Invitation to Bid or the Request for Proposal whichever is relevant;

(G) Whether the Bidders or Proposers excluded from subsequent phases have a right to protest the exclusion before the notice of intent to Award. Such information can be given or changed by Addenda.

(b) **Addenda to the Solicitation.** After receipt of un-priced technical Bids or Proposals, Addenda to the Solicitation shall be distributed only to those who submitted un-priced technical Bids or Proposals.

(c) **Receipt and Handling of Un-Priced Bids or Proposals.** Un-priced technical submittals need not be opened publicly.

(d) **Evaluation of Un-Priced Technical Bids or Proposals.** Un-priced technical Bids or Proposals submitted shall be evaluated solely in accordance with the criteria set forth in the Solicitation. Un-priced submittals shall be categorized as:

(A) Eligible or Qualified;

(B) Potentially eligible; that is, reasonably susceptible of being made eligible; or

(C) Ineligible or unqualified. The County shall record in writing the basis for determining a submittal ineligible and make it part of the Procurement file. The County may initiate phase two of the procedure if, in the County's opinion, there are sufficient eligible un-priced technical submittals to assure effective price competition in the second phase without technical discussions. If the County finds that such is not the case, the County may issue an Addendum to the Solicitation or engage in technical discussions as set forth in Paragraph 5(e) of this rule.

(e) **Discussion of Un-priced Technical Submittals.** The County may seek clarification of a technical submittal by any eligible or potentially eligible Bidder or Proposer. During the course of such discussions, the County shall not disclose any information derived from one un-priced technical bidder or proposer to another bidder or proposer. Once discussions are begun, any Bidder or Proposer who has not been notified that its submittal has been finally found ineligible or unqualified may submit supplemental information amending its technical submittal at any time until the Closing of the final step established by the County. Such submission may be made at the request of the County or upon the Bidder's or Proposer's own initiative.

(f) **Notice of Ineligible Un-priced Technical Submittal.** When the County determines a Bidder's or Proposer's technical submittal to be ineligible, such Bidder or Proposer shall not be

afforded an additional opportunity to supplement its technical submittal.

(g) **Mistakes During Multistep Sealed Bids or Sealed Proposals.** Mistakes may be corrected or submittals withdrawn during phase one:

- (A) Before un-priced technical submittals are considered;
- (B) After any discussions have commenced under subsection (5)(e);
- (C) When responding to any Addenda to the Solicitation;
- (D) In accord with Section 5.49.485 (Mistakes);

(6) **Procedure for Subsequent Phases.**

(a) **Initiation.** Upon completion of phase one, the County shall either:

- (A) Open priced Bids or Proposals in phase one (if such submittals were required) from Bidders or Proposers whose un-priced technical submittals were found to be eligible or qualified; or
- (B) If priced bids or proposals have not been submitted, technical discussions have been held, or Addenda to the Solicitation have been issued, invite each eligible bidder or qualified proposer to submit a priced bid or proposal.

(b) **Conduct.** Phase two shall be conducted as any other competitive sealed Procurement solicitation except:

- (A) As specifically set forth in this rule;
- (B) No public notice need be given of the request to submit price Bids or Proposals because notice was previously given.

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

### **5.47.240 Small Procurements**

(1) **Generally.** For Procurements of Goods and Services less than or equal to \$5,000 the County may Award a Contract as a small Procurement pursuant to ORS 279B.065 and in accordance with these rules. The procurement of goods and services in the amount of \$200 or less will not require the issuance of a County purchase order.

(2) **Amendments.** The County may amend a Public Contract Awarded as a small Procurement in accordance with Class Exemption Section 5.50.910 of these rules.

### **5.47.245 Intermediate Procurements.**

(1) **Generally.** For Procurements of Goods of Services greater than \$5,000 and less than or equal to \$150,000, the County may Award a Contract as an intermediate Procurement pursuant to ORS 279B.070.

(2) **Written Solicitations.** For intermediate Procurements equal to or exceeding \$75,000, the County shall use a Written solicitation to obtain quotes, Bids or Proposals.

(3) **Negotiations.** The County may negotiate with a Proposer to clarify its quote, Bid or Proposal or to effect modifications that will make the quote, Bid or Proposal acceptable or make the quote, Bid or Proposal more Advantageous to the County.

(4) **Amendments.** The County may amend a Public Contract Awarded as an intermediate Procurement in accordance with the class exemption in Section 5.50.910.

**5.47.247 Timber and Forest Product Sales.** Notwithstanding any other provision herein, all sales of timber and other forest products in excess of the value of \$5,000 shall comply with the bidding, advertisement, and procedural requirements of ORS 275.340.

**5.47.250 Sole-Source Procurements.**

(1) **Generally.** The County may Award a Public Contract without competition as a sole-source Procurement pursuant to the requirements of ORS 279B.075.

(2) **Delegation of Authority.** If the purchase is for less than \$150,000, the County Administrator has the authority to declare that goods or services are available from only one source, and in doing that, the County Administrator must follow these rules.

(3) **Public Notice.** If, but for the County's determination that it may enter into a Contract as a sole-source, the County would be required to select a Contractor using source selection methods set forth in ORS 279B.055 or 279.060, the County shall give public notice of the Administrator's or Board's determination that the Goods or Services or class of Goods or Services are available from only one source in a manner similar to public notice of competitive sealed Bids under ORS 279B.055 and Section 5.47.220. The public notice shall describe the Goods or Services to be acquired by a sole-source Procurement, identify the prospective Contractor, and include the date, time and place that protests are due. The County shall give such public notice at least fourteen (14) days before Award of the Contract.

(4) **Protest.** An Affected Entity may protest the County's determination that the Goods or Services or class of Goods or Services are available from only one source in accordance with Section 5.49.530 of these rules.

Stats. Implemented ORS 279B.070 and ORS 279B.075

**5.47.255 Emergency Procurements.**

The County may Award a Public Contract as an Emergency Procurement pursuant to the requirements of ORS 279B.080. When an Emergency Procurement is authorized, the Procurement shall be made with competition that is practicable under the circumstances.

**5.47.260 Special Procurements.**

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

**(2) Public Notice.** The County shall give public notice of its request for approval of a Special Procurement and the Contract Review Board's approval of a Special Procurement in a manner similar to public notice of competitive sealed Bids under ORS 279B.055(4) and 5.47.220. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. The County shall give such public notice of its request for approval of a Special Procurement at least seven (7) days prior to the approval of the Special Procurement by the Contract Review Board. The County shall give such public notice of the approval of a Special Procurement at least fourteen (14) days before Award of the Contract.

**(3) Protest.** An Affected Entity may protest the approval of or request for approval of a Special Procurement in accordance with ORS 279B.400 and Section 5.49.530 of these rules.

Stats. Implemented. ORS 279B.085.

### **5.47.265 Personal Services Contract Definition.**

**(1)** A contract for "Personal Services" is a contract that calls for specialized skills, knowledge, and resources in the application of technical or scientific expertise or the exercise of professional, artistic, or management discretion or judgment. Qualifications and performance history, expertise, knowledge and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a Personal Services contractor, with price being secondary.

**(2)** Pursuant to ORS 279A.055(2), the County Administrator has the authority to designate contracts or classes of contracts as Personal Services contracts. In the event of uncertainty or disagreement as to the status of any particular contract or class of contracts, the Board will determine whether the Work calls for the performance of Personal Services or for services subject to the public contracting laws as defined in ORS 279.

**(3)** Personal Services contracts as used in this Section 47 only, include but are not limited to the following but does not include architect, engineer, land surveyor and related services as defined in ORS 279C.100(6):

(a) Contracts for services performed in a professional capacity, including services of an accountant, attorney, insurance agent, appraiser, medical professional (e.g., doctor, dentist, nurse, and counselor), information technology consultant, or broadcaster;

(b) Contracts for services as an artist in the performing or fine arts, including any person identified as a photographer, filmmaker, actor, director, painter, weaver, or sculptor;

(c) Contracts for services that are specialized, creative, or research-oriented;

(d) Contracts for services as a consultant;

(e) Contracts for educational services; and

(f) Contracts for human custodial care, childcare, mental health care, health services, social and emergency services, and other human services.

(4) The County may not use Personal Services contracts to obtain and pay for the services of an employee. A Personal Services contract may be used only to obtain and pay for the services of an independent contractor.

#### **5.47.270 Formal Selection Procedures.**

(1) **Formal Selection Procedure.** The County will use a formal selection procedure whenever the County Administrator determines that the amount of the contract or complexity of the project requires use of the formal process. All formal RFP and RFQ solicitations must comply with the requirements for RFPs contained in Section 47 of these rules.

(2) **Additional Requirements for a Request for Qualifications (RFQ).** An RFQ may be used to determine whether competition exists to perform the needed services or to establish a list of qualified contractors for RFPs, for informal solicitations, or for individual negotiation, as provided in these rules.

(a) The RFQ must at least describe the particular specialty desired, the qualifications the contractor must have in order to be considered, and the evaluation factors and their relative importance. The RFQ may require information, including but not limited to the contractor's particular capability to perform the required services; the number of experienced staff available to perform the required services, including specific qualifications and experience of personnel; a list of similar services the contractor has completed, with references concerning past performance; and any other information necessary to evaluate contractor qualifications.

(b) A qualifications pre-submission meeting (voluntary or mandatory) may be held for all interested contractors to discuss the proposed services. The RFQ must include the date, time, and place of the meeting.

(c) Unless the RFQ establishes that competition does not exist or unless the solicitation process is canceled or all qualification statements rejected, all respondents (who met the published qualifications) will receive a notice (or other materials as appropriate) of any required services and have an opportunity to submit a Proposal in response to a contracting County's subsequent RFP.

#### **5.47.275 Informal Selection Procedures.**

The County may use an informal selection process to obtain services when a formal selection process is not required.

(1) The informal selection process must solicit responses/Proposals from at least three qualified contractors offering the required services.

(2) The informal selection process is competitive. The selection and ranking may be based on criteria including but not limited to each Proposer's:

(a) Particular capability to perform the services required;

- (b) Experienced staff available to perform the services required, including each Proposer's recent, current, and projected workloads;
  - (c) Performance history;
  - (d) Approach and philosophy used in providing services;
  - (e) Fees or costs;
  - (f) Geographic proximity to the project or the area where the services are to be performed;
- and
- (g) Work volume previously awarded by the County, with the object of effecting an equitable distribution of contracts among qualified contractors. But distribution must not violate the policy of selecting the most highly qualified contractor to perform the services at a fair and reasonable price.

(3) Written confirmation of solicitation attempts and responses with contractor names and addresses shall be maintained in the contracting County's contract file.

#### **5.47.280 Selection by Negotiation**

The County may procure Personal Services with contractors directly through negotiation, if:

- (1) The County has, through an RFQ, established a list of qualified contractors for the particular project or class of project; or
- (2) The nature of the Work is not project-driven but requires an ongoing, long-term relationship of knowledge and trust. Examples include legal services and audit services.

#### **5.47.285 Contract Requirements.**

Personal Services Contracts must comply with all applicable provisions of ORS 279B.220 to 279B.240.

#### **5.47.290 Rules Applicable to Goods or Services Procurement.**

There are rules in other sections that apply to the Procurement of Goods or Services. For convenience the cross-reference is listed as follows:

- (1) Bids or Proposals are Offers -5.49.440;
- (2) Facsimile Bids & Offers - 5.49.425;
- (3) Electronic Procurement – 5.49.430;
- (4) Offer Preparation - 5.49.445;
- (5) Offer Submission – 5.49.505(3);

- (6) Pre-Offer Conferences – 5.49.455;
- (7) Addenda to Solicitation Doc – 5.49.465;
- (8) Pre-Closing Modification or Withdrawal of Offers – 5.49.470;
- (9) Receipt, Opening, & Recording of Offers – 5.49.475;
- (10) Late Offers, Late Withdrawals & Late Modifications – 5.49.480;
- (11) Mistakes – 5.49.485;
- (12) Time for Agency Acceptance – 5.49.490(1);
- (13) Extension of Time for Acceptance – 5.49.490(2);
- (14) Rejection of an Offer – 5.49.515
- (15) Rejection of all Offers – 5.49.525
- (16) Cancellation of Solicitation – 5.49.495
- (17) Disposition of Offers if Solicitation is Canceled – 5.49.495(3)
- (18) Protests and Judicial Review of Procurements – 5.49.530

**5.48.300 CONSULTANT SELECTION:**

(1) This Division shall govern the selection process of Architectural, Engineering, Land Surveying, and Related Services as defined in ORS 279C. The County shall award contracts for these services in accordance with ORS 279C.100 thru 279C.125 and these rules, however, if the project receives State funds as outlined in ORS 279C. 110 (2) and /or 279C.125, Division 48 of the Attorney General’s Rules will apply to the selection process for Architectural, Engineering, and Land Surveying services.

(2) **Definitions.** In addition to the definitions set forth in ORS 279A.010, 279C.100 and Division 46 Section 110 of these rules, the following apply to this Division 48:

(a) **“Consultant”** means an Architect, Engineer, Land Surveyors, or providers of Related Services as defined in ORS 279C.100, or any combination of the forgoing.

(b) **“Estimated Fee”** means the County’s reasonably projected fee to be paid for a Consultant’s services under the anticipated Contract less anticipated reimbursable–expenses. This estimate is used solely to determine the solicitation method to be used and is distinct from the total

amount payable under the Contract.

(c) **“Project”** means all components of a planned undertaking that gives rise to the need for a “Consultant’s services under a Contract.

(d) **“Proposer”** means a Consultant who submits a proposal to the County in response to a Request for Proposal.

(e) **“Request for Qualifications” or “RFQ”** means a written document issued by the County to which Consultants respond with a description of their experience with and qualifications for the Services described in the RFQ and from which the County creates a list of Consultants who are qualified to perform those services, but which is not intended to result in a Contract between the County and the Consultant.

### **5.48.305 Selection Procedures for Architectural, Engineering, and Land Surveying Services**

**(1) Direct Appointment.** The County may enter into a direct contract with a consultant without following the selection procedures set forth elsewhere in these rules if any of the following conditions apply:

(a) The County finds an emergency exists; or

(b) The estimated fee does not exceed \$75,000; or

(c) If the project described in the contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in an earlier contract with the same consultant and the consultant was selected under either ORS 279.049 or ORS 279A.065 and the related rules, whichever was in effect at the time the County selected the consultant for the earlier Contract; or

(d) The Consultant will be providing services in relation to a Project that may be subject to a claim, lawsuit or other form of action, whether legal, equitable, administrative, or otherwise.

**(2) Informal Selection Process.** The County may use the informal selection process if the anticipated fee will not exceed \$150,000. The process shall include the following:

(a) Develop a Request for Proposal (RFP) or Request for Qualifications that shall include the following:

(A) A description of the Project for which the services are required;

(B) Anticipated Contract performance schedule;

(C) Conditions or limitations, if any that may constrain or prohibit the selected Consultant’s ability to provide additional services related to the Project;

(D) Date, place, and time proposals are due;

(E) Criteria to be used to select the most qualified proposer. Such as the following:

(i) Amount and type of resources and experienced staff Consultant has available to be assigned to the Project;

(ii) Proposed management techniques and approach to be used for the Project

described in the RFP.

(iii) Consultant's experience, past performance and record in providing similar services;

(F) A statement that the proposer responding to the RFP is doing so solely at their expense; and

(G) The process for which a proposer may protest the RFP or award.

(b) Provide the Request for Proposal to a minimum of three and a maximum of five firms or individuals. The proposers may be drawn from the County's prequalified list, a list from another public agency or firms that the County can reasonably locate that offer the required services.

(c) If the County does not cancel the RFP after reviewing and ranking the proposals, the County will begin negotiations with the highest ranked proposer. If terms and conditions of a contract cannot be agreed to with proposer within a reasonable time, the County will cease negotiations and begin negotiations with the second highest ranked proposer. Should negotiations again fail, the County will proceed with a formal selection process or cancel the project.

**(3) Formal Selection Process.** The Formal selection process may be used to select a Consultant in lieu of the Direct or Informal Process if the County believes that it is in the best interest of the County to do so. Except as provided in Section 305 (1) of these rules the Formal process shall be used if the anticipated fee for the service will exceed \$150,000.

(a) When using the Formal selection process the County shall obtain the Contract through public advertisement of Request for Proposal (RFP) or Request for Qualifications (RFQ) followed by the RFP or RFQ. The County shall advertise each RFP and RFQ at least once in at least one newspaper of general circulation in the area and in as many other issues and publications as the County deems appropriate. The County may use electronic advertisement as per Section 100 (18) of these rules in lieu of the publications described above. The advertisement shall be published a reasonable time before the Proposal is due but in any event no fewer than fourteen (14) calendar days be the closing date. The advertisement shall include the following information:

(i) A brief description of the Project

(ii) How and where Consultants may obtain copies of the RFP or RFQ.

(iii) The deadline for submitting a response.

(b) The County may use the Request for Qualifications to establish a short list of Consultants with which to negotiate a favorable contract or to whom the County may issue an RFP for some or all of the Services described in the RFQ.

(c) The RFP or RFQ shall contain all items as listed in Section 305 (2) (a) of these rules and any other items the County considers to be in its best interest.

#### **5.48.310 Effect of Material Alteration or Delay of Project.**

If the County delays or delays and then materially alters a Project for which the County has entered a Contract, and the Contract has expired or been terminated, the County may enter a Contract with the

same Consultant to perform either the same services described in the Contract or the services as amended to reflect the County's material alteration of the Project if no more than one year has passed since expiration of termination of the Contract.

#### **5.48.315 Request for Change or Protest; Request for Clarification.**

**(1) Delivery.** An Offeror must deliver to the County a request for change to or protest of Specifications or contract terms and conditions in writing. A Proposer may request a change to add alternative terms and conditions for negotiation if the Request for Proposals permits negotiation. Unless otherwise specified in the Solicitation Document, an Offeror must deliver any request or protest five Days prior to Closing.

**(2) Content.**

- (a) An Offerors written request for change or protest must include:
  - (A) A detailed statement of the legal and factual grounds for the request or protest;
  - (B) A description of the resulting prejudice to the Offeror; and
  - (C) A statement of the form of relief requested or any proposed changes to the Contract terms and conditions (including Specifications).
- (b) An Offeror must mark its request or protest as follows:
  - (A) Solicitation specification or contract provision request for change (or protest); and
  - (B) Solicitation document number (or other identification as specified in the Solicitation Document).

**(3) County Response.** The County may not consider an Offerors request for change or protest after the deadline established for submitting a request or protest. The County will provide notice to the applicable Entity if it entirely rejects the request or protest. If the County agrees with the Entity's request or protest, in whole or in part, the County will either issue an Addendum reflecting its determination under Section 5.48.320 or cancel the solicitation under Section 5.48.325.

**(4) Extension of Closing.** If the County receives a written request for change or protest from an Offeror in accordance with this rule, the County may extend Closing if the County determines that an extension is necessary to consider the request or protest and to issue an Addendum, if any, to the Solicitation Document.

**(5) Clarification.** Prior to the deadline for submitting a written request for change or protest, an Offeror may request that the County clarify any provision of the Solicitation Document. The County's clarification to an Offeror, whether orally or in writing, does not change the Solicitation Document and is not binding on the County unless the County amends the Solicitation Document by Addendum.

Stats. Implemented: ORS 279A.065, ORS 279C.110.

#### **5.48.320 Addenda to a Solicitation Document.**

- (1) Issuance; Receipt.** The County may change a Solicitation Document only by written Addenda. An Offeror must provide written acknowledgement of receipt of all issued Addenda with its Offer, unless the County otherwise specifies in the Addenda.
- (2) Distribution.** The County must send Addenda to all Entities known to have obtained the Solicitation Document or to have attended any mandatory pre-Offer conference. The County must notify prospective Offerors of Addenda in accordance with method used for solicitation in Section 305 of these rules. The County may inform prospective Offerors of Addenda by telephone, but the County must confirm the oral notice in writing.
- (3) Timelines; Extensions.** The County must issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The County should extend the Closing if the County determines that prospective Offerors need additional time to review Addenda. Except to the extent required by public interest, the County may not issue Addenda less than 72 hours before the Closing unless an Addendum also extends the Closing.
- (4) Request for Change or Protest.** Unless a different deadline is set forth in the Addendum, an Offeror may submit a written request for change or protest to the Addendum as provided in Section 315, within 24 hours following issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under Section 315, whichever date is later. The County may consider only an Offerors request for change or protest to the Addendum; the County may not consider a request for change or protest to matters not added or modified by the Addendum.

Stats. Implemented: ORS 279A.065.

#### **5.48.325 Disposition of Offers if Solicitation Canceled.**

- (1) Prior to Opening.** If the County cancels a solicitation prior to Opening, the County will return all Offers it received to Offerors unopened, provided that the Offeror submitted its Offer in a hard-copy format with a clearly visible return address. If there is no return address on the envelope, the County will open the Offer to determine the source and then return it to the Offeror.
- (2) After Offer Opening.** If the County rejects all Offers, the County will keep all the Offers as part of the County's solicitation file.
- (3) Cost of Cancellation.** The County may cancel a solicitation, whether informal or formal, or reject any or all Proposals or responses to RFPs or RFQs without liability to County at any time after issuing any RFP or RFQ, if the County believes it is in the public interest to do so. Offerors responding to either RFPs or RFQs are responsible for all costs they may incur in connection with submitting Proposals and responses.

Stats. Implemented: ORS 279A.065.

#### **5.49.400 PUBLIC CONTRACTS FOR CONSTRUCTION SERVICES**

(1) This division applies to Public Improvement Contracts as defined in ORS 279A.010 (aa) as well as Public Contracts for ordinary construction services that are not Public Improvements. The rules that apply specifically to Public Improvement Contracts are so identified.

(2) This division addresses matters covered in ORS Chapter 279C with the exception of Architectural, Engineering, Land Surveying, and Related Services; those items are covered in division 300 of these rules.

(3) Public Improvement contracts must be awarded by competitive bidding, except as otherwise allowed or required in ORS 279C.335, 279A.030 where Federal Law overrides, or 279A.100 on affirmative action or unless specifically exempted pursuant to these rules.

#### **5.49.405 Contracts Other Than Public Improvements**

(1) **Procurement under ORS 279B.** Pursuant to ORS 279C.320, Public Contracts for construction services that are not “Public Improvement Contracts” (ie. minor alteration, ordinary repair or maintenance of a public improvement, etc.), other than Emergency Contracts regulated under ORS 279C.335 (5) and Section 410 of these rules, may be procured and amended as general trade services under the provisions of ORS Chapter 279B and Division 200 of these rules rather than under the provisions of ORS 279C.

(2) **Application of ORS 279C.** Non-procurement provisions of ORS 279C may still be applicable to the resulting Contracts. Prior to awarding a contract the following statutes should be reviewed to determine those applicable: Disqualification (ORS 279C.440, 445, & 450); Legal Actions (ORS 279C.460 & 465); Required Contract Conditions (ORS 279C.505, 515, 520 & 530); Hours of Labor (ORS 279C.540 & 545); Retainage (ORS 279C.550, 560, & 565); Subcontracts (ORS 279C.580); Action on Payment Bonds (ORS 279C.600, 605, 610, 615, 620, & 625); Termination (ORS 279C.650, 660, 665 & 670); and the Prevailing Wage Requirements (ORS 279C.800 through 870).

#### **5.49.410 Emergency Contracts**

(1) **Contract Solicitation.** If an emergency is declared as defined in ORS 279A.010(f) and Section 5.46.145 of these rules, the County shall ensure competition for an Emergency Contract by written or oral requests for proposals or direct appointment without competition if at its sole discretion the County determines that it is in its best interest and the best interest of the situation.

(2) **Contract Scope and Award.** Although no dollar limitation applies to Emergency Contracts, the scope of the Contract must be limited to Work that is necessary and appropriate to remedy the

conditions creating the Emergency as described in the declaration. The contract may be modified by change order or amendment; however, any additional Work should relate to relieving the Emergency.

**(3) Waiver of Bonds.** Pursuant to ORS 279C.380 (4), the requirement of furnishing a performance bond and a payment bond may be waived for the Emergency Contract.

#### **5.49.415 Contracts Under Certain Dollar Amounts.**

**(1)** The County may at its discretion let Public Improvement Contracts not to exceed \$100,000 without competitive bidding and in accordance with the following intermediate procurement procedures:

(a) The contract is for a single project and is not a component of or related to any other project. A project may not be artificially divided or fragmented to constitute intermediate procurement.

(b) When the amount of the contract is more than \$10,000, but less than \$100,000, the County will obtain at least three informally solicited competitive quotes. The County must keep a written record of the source and number of the quotes received. If three quotes are not available, a lesser number will suffice if a written record is made of the effort to obtain the quotes. (updated 10.16.17) (c) When the amount of the contract does not exceed \$10,000, County may award a Public Improvement Contract without competitive quotes or any other form of competition. (updated 10.16.17)

**(2)** When the contract is for a "Public Improvement" as defined in ORS 279A.010 (1)(aa) or for "Public Works" as defined in ORS 279C.800(6), and the contract price exceeds \$25,000 but is less than \$100,000, the County and the contractor must comply with:

- (a) The prevailing wage provisions of ORS 279C.800 to 279C.870, when applicable;
- (b) The performance and payment bond requirements of ORS 279C.380;
- (c) The contractor registration requirements of ORS Chapter 701; and
- (d) Any other law applicable to such a contract.

**(3)** The Intermediate Procurement procedure does not preclude the County from using the Formal Procurement Process for contracts under \$100,000.

Stats Implemented: ORS 279C.335; ORS 279C. 800 to 870; Oregon Law Chapter 749 Sections 132 &133.

#### **5.49.420 Formal Procurement for Public Improvement Contracts.**

**(1)** Contracts in excess of \$100,000 shall be based upon competitive bids or competitive proposals unless specifically exempted by the County or these rules. All bids or proposals must be in writing and comply with the requirements of ORS 279C.365 (2),(3) &(4).

**(2) Solicitation Methods.** The County may encourage meaningful competition through a variety of solicitation methods. The County will choose the solicitation method that is most likely to encourage Offers representing optimal value to the County.

(a) When Invitations to Bid Should Be Used. The County may use an Invitation to Bid (ITB) if the County believes it will receive optimal value by selecting the lowest priced Offer that meets the technical requirements of the County's Specifications. Contracts using this option shall be awarded to the lowest responsible responsive bidder, as defined in Section 5.46.110 (40) of these rules.

(b) When Request for Proposal should be used. The County may use a Competitive Request for Proposal (RFP) when the County determines that it is in its best interest to do so. The County must develop findings that support its decision to solicit a Competitive RFP.

**(3) Solicitation Documents - Required Contents.** The Solicitation Document for an ITB or an RFP will include the following:

(a) Instructions and information concerning submission requirements, including Opening and Closing, the address of the office to which Offers must be delivered, the County's contact person for the solicitation and any other special information, e.g., whether Offers may be submitted by facsimile or Electronic Data Interchange. The interval between the date of issuance of the Solicitation Document and Closing should not be less than 14 Days for an ITB and not less than 30 Days for RFP unless the County finds that a shorter interval is in the public's interest.

(b) If applicable, description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements, and evaluation criteria, that the County will use to determine the lowest responsible Bidder or best responsible Proposer.

(c) The County's need, including any relevant background.

(d) The anticipated schedule, deadlines, protest process, and evaluation process, if any.

(e) The form and submission of Offers and any information required therein, including Bid or Proposal security, if any.

(f) All Addenda issued by the County.

(g) The evaluation criteria the County will use to determine acceptability of any product or service.

(h) A statement that, if the contract is for a public works, that no bid will be received unless the bid contains a statement that the bidder will comply with the requirements of ORS 279C. 800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276c);

(i) A statement that the County may reject any and all bids not in compliance with the bidding requirements or if the County finds that it is in the public interest to do so;

(j) A statement that the bid must identify whether the bidder is a resident bidder as defined in ORS 279A.120;

(k) If the Solicitation Document is an Invitation to Bid, the County will set forth objective evaluation criteria in the Solicitation Document. Examples of such criteria include but are not limited to conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas, performance history on other private and public contracts, experience of key personnel, adequacy of

equipment and physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation criteria need not be precise predictors of actual future costs; but evaluation factors must be reasonable estimates based on information the County has available concerning future use.

(l) If the Solicitation Document is a Request for Proposal, the County will set forth selection criteria, as objective as possible, in the Solicitation Document. Evaluation factors need not be precise predictors of actual future costs and performance but must be reasonable estimates based on information available to the County. The Solicitation Document must also describe the following:

(A) If the County is willing to negotiate terms and conditions of the contract, the County must identify the specific terms and conditions that are subject to negotiation and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions the County has identified as authorized for negotiation. The County must describe the evaluation and negotiation process consistent with this Section.

(B) Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment and/or physical plant, financial wherewithal, sources of supply, references, and warranty provisions.

(m) Terms and conditions that will apply to the contract, including applicable terms and conditions, warranties and bonding requirements, must be included in the Solicitation Document. The County must include in the Contract the following terms and conditions to public contracts as prescribed by ORS 279C.505 to 279C.580, as applicable:

(A) Payment of laborers and materialmen; contributions to Industrial Accident Fund; liens and withholding taxes (ORS 279C.505)

(B) If the contract calls for demolition work described in ORS 279C.510(1), a condition requiring the contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

(C) If the contract calls for lawn or landscape maintenance described in ORS 279C.510(2), a condition requiring the contractor to compost or mulch yard waste material at an approved site, if feasible and cost-effective;

(D) Payment of claims by public officers (ORS 279C.515);

(E) Hours of labor (ORS 279C.520 and 279C.540);

(F) Environmental and natural resources regulations (ORS 279C.525);

(G) Payment for medical care and attention to employees (ORS 279C.530);

(H) Maximum hours and overtime (ORS 279C.540);

(I) Claims for overtime (ORS 279C.545);

(J) Prevailing wage rates (ORS 279C.800 to 279C.870);

(L) Fee paid to BOLI (ORS 279C.830(2));

(M) Retainage (ORS 279C.550 to 279C.570);

(N) Prompt payment policy (ORS 279C.570);

(O) Contractor's relations with subcontractors (ORS 279C.580);

(P) Notice of claim (ORS 279C.605);

(Q) Contractor's certification of Compliance with the Oregon tax laws in accordance with ORS 305.385;

(R) A contract provision substantially providing that: "If Contractor is an employer, Contractor is a subject employer under the Oregon Workers' Compensation Law and shall comply with ORS 656.017 and shall provide Workers' Compensation coverage for all their "subject workers," as defined under ORS Chapter 656" (ORS 279C.530(2));

(S) Contractor's certification that all contractors and subcontractors performing work described in ORS 701.005(2) (i.e., construction work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the commencement of Work under the contract; and

(T) If the contract is for a Public Improvement, a condition that the contractor must demonstrate that it has established a drug-testing program for its employees. (ORS 279C.505 (2))

**(4) Additional Terms and Conditions.**

(a) The County may include additional terms and conditions as applicable to the contract. If federal grant funds are involved, the federal laws, rules, and regulations applicable to the grant will govern if they conflict with any provision required by ORS 279A 279B or 279C.

(b) Unless otherwise provided in the contract, the contractor may not assign, sell, dispose of, or transfer rights or delegate duties under the contract, either in whole or in part, without the County's prior written consent. Unless otherwise agreed by the County in writing, such consent will not relieve the contractor of any obligations under the contract. Any assignee or transferee may be considered the agent of the contractor and be bound to abide by all provisions of the contract. If the County consents in writing to an assignment, sale, disposal, or transfer of the contractor's rights or delegation of the contractor's duties, the contractor and its surety, if any, will remain liable to the County for complete performance of the contract as if no such assignment, sale, disposal, transfer, or delegation had occurred unless the County otherwise agrees in writing.

**(5) Compliance with Solicitation Document required; Exceptions.**

(a) An Offeror is responsible for knowing and understanding the terms and conditions included in or applicable to a Solicitation Document.

(b) By signing and returning the Offer the Offeror acknowledges acceptance of and agrees to be bound by the terms and conditions of the contract. If the Request for Proposal authorizes Proposal of alternative terms, the Offeror agrees to be bound by the nonnegotiable terms and conditions of the contract and any proposed terms and conditions Offered for negotiation upon the County's written acceptance of the proposed terms and conditions.

**(6) First-Tier Subcontractor Disclosure and Substitution.**

(a) For all contracts that exceed \$100,00 on an ITB for Public Improvement, first-tier

subcontractor disclosure is required by ORSC.370. Disclosure is required for first-tier subcontractors who will be furnishing labor and material for the project and whose contract value is five percent (5%) or more of the total project bid or \$15,000 whichever is greater or \$350,000 regardless of the percentage of total bid.

(b) For each ITB to which this rule applies the County will set the bid closing time on a Tuesday, Wednesday, or Thursday at a time between 2:00 PM and 5:00 PM. Bids must be opened immediately after bid closing time, subcontractor disclosure must be submitted within two hours after bid closure and the County may consider Award only to those bidders that submit the required disclosure within the required deadline on the prescribed form.

(c) The County shall prescribe the form to be used and the form shall be substantially in the form set forth in ORS 279C.370(2).

(d) The County shall include in contract solicitations for which this rule applies the "First-Tier Disclosure" requirements and the required form. For the purposes of this rule, the County in its solicitation for competitive bids shall provide instructions in a notice substantially similar to the following:

"Instructions for First-Tier Subcontractor Disclosure

Bidders are required to disclose information about certain first-tier subcontractors when the contract value for a Public Improvement is greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier subcontractor furnishing labor and materials would be greater than or equal to: (i) 5% of the project bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the bidder must disclose the following information about that subcontract either in its Bid submission or within four hours after bid closing:

- (1) The subcontractor's name,
  - (2) The category of work that the subcontractor would be performing,
- and
- (3) The dollar value of the subcontract.

If the bidder will not be using any subcontractors that are subject to the above disclosure requirements, the bidder is required to indicate "NONE" on the accompanying form."

**5.49.425 Facsimile Bids and Proposals.**

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

- (a) For receiving, identifying, recording, and safeguarding facsimile Offers; and
- (b) To ensure timely delivery of Offers to the location of Opening and to preserve the "sealed" requirement of competitive procurement.

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

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

#### **5.49.430 Use of Electronic Data Interchange.**

**(1) County Authorization.** The County may authorize Offerors to submit EDI Offers. If the County determines that Bid or Proposal security is or will be required, the County should not authorize EDI Offers unless the County has a method for receipt of such security. Prior to authorizing EDI Offers, the County must:

- (a) Establish administrative procedures and controls for receiving, identifying, recording, and safeguarding EDI Offers, to ensure timely delivery of the Offers to the Opening location and to preserve the "sealed" requirement of competitive procurement;
- (b) Determine whether the County's procedures, controls, equipment, and personnel are

capable of receiving the size and volume of anticipated EDI Offers within a short time; and

(c) Make available to interested vendors an EDI "trading partner" or operating agreement ("EDI Operating Agreement").

**(2) EDI Operating Agreement.** An EDI Operating Agreement must address the basic legal issues required to formalize an EDI relationship. The EDI Operating Agreement must include the following:

- (a) Selection of EDI standards and methods of communication;
- (b) Allocation of responsibilities for ensuring that the equipment, software, and services are operated and maintained effectively;
- (c) Procedures for making system changes that may impair the ability of the parties to communicate;
- (d) Required security and authentication procedures and services;
- (e) The method for establishing receipt of Offers and for evidencing that the Offeror is bound to its Offer;
- (f) The need (if any) for maintaining confidentiality;
- (g) The allocation of liabilities for failure to meet requirements under the EDI Operating Agreement;
- (h) Methods for resolving any disputes under the EDI Operating Agreement; and
- (i) Document backup and replacement procedures.

**(3) Provisions to Be Included in Solicitation.** In addition to all other requirements, if the County authorizes an EDI Offer, the County will include in the Solicitation Document provisions substantially similar to the following:

(a) An EDI Offer, as used in this solicitation, means an Offer, modification of an Offer, or withdrawal of an Offer that is transmitted to and received by the County in accordance with the EDI Operating Agreement between the County and the Offeror.

(b) An Offeror may submit an EDI Offer in response to this solicitation if the Offeror has an effective EDI Operating Agreement with the County. The EDI Offer must arrive at the place and by the time specified in the Solicitation Document.

(c) An Offeror must sign its EDI Offer in accordance with the EDI Operating Agreement between the County and the Offeror.

(d) The County reserves the right to award the contract based solely on the EDI Offer. Unless otherwise provided under the EDI Operating Agreement, the Offeror must promptly submit conformed, Signed documents upon the County's request.

(e) Unless otherwise expressly agreed upon under the EDI Operating Agreement, the County is not responsible for any failure attributable to the transmission or receipt of the EDI Offer, including but not limited to the following:

- (A) Receipt of garbled or incomplete documents.
- (B) Availability or condition of the receiving equipment.
- (C) Incompatibility between the sending and receiving equipment.

- (D) Delay in transmission or receipt of documents.
- (E) Failure of the Offeror to properly identify the Offer documents.
- (F) Illegibility of Offer documents.
- (G) Security and confidentiality of data.

Stats. Implemented: ORS 279C.365.

#### **5.49.435 Public Notice of Solicitation.**

**(1) Notice and Distribution Fee.** The County will furnish notice to a sufficient number of Entities for the purpose of fostering and promoting competition. The County may charge a fee or require a deposit for the Solicitation Document. The County may furnish notice using any method, including:

- (a) Mail notice of the availability of Solicitation Documents to Entities that have expressed an interest in the County's procurements; or
- (b) Place notice on the Oregon Department of Administrative Services' electronic procurement system known as the Vendor Information Program ("VIP"); or
- (c) Place notice on the County's Internet Web site.

**(2) Advertising.** The County must advertise every solicitation for Offers, unless the Contract Review Board has exempted the solicitation from the advertisement requirement.

(a) Unless the County publishes by Electronic Advertisement as permitted under subsection (2)(b), the County must publish the advertisement for Offers at least once in at least one newspaper of general circulation in the area where the contract is to be performed and in as many additional issues and publications as the County may determine to be necessary or desirable to foster and promote competition.

(b) The County may publish by Electronic Advertisement if:

- (A) The County has published a notice that it may publish future advertisements for Offers by Electronic Advertisement. The County must publish the notice weekly, for no less than four consecutive weeks, in at least one newspaper of general circulation in the area where the business office of the County is located and in as many additional issues and publications as the County may determine to be necessary or desirable to provide notice to potential Offerors. The County notice must include the World Wide Web location (i.e., Uniform Resource Locator or URL) where the County will publish future Electronic Advertisements or alternatively, to the Web location where the County will publish information on accessing the Electronic Advertisement via a Telnet application.
- (B) The County posts in its business office a notice that the County will publish advertisements for Offers by Electronic Advertisement. The notice must include the World Wide Web location (i.e., Uniform Resource Locator or URL) where the County publishes Electronic Advertisements or alternatively, to the Web location where the County publishes information on accessing the Electronic Advertisement via Telnet.

(C) The Contract Review Board determines that Electronic Advertisement is less expensive than publishing by newspaper under subsection (2)(a).

(c) In addition to the County's publication required under subsection (2)(a) or (2)(b), the County must also publish advertisement for Offers in at least one trade newspaper of general statewide circulation if the contract is for a Public Improvement with an estimated cost in excess of \$100,000.

(d) All advertisements for Offers must set forth:

(A) The scheduled Closing, that may not be less than five Days after the date of the last publication of the advertisement;

(B) The date on which Entities must file applications for prequalification if prequalification is a requirement and the class or classes of Work for which Entities must be prequalified;

(C) The nature of the Work to be performed or the goods to be purchased;

(D) The office where contract terms, conditions, and Specifications may be reviewed;

(E) The name, title, and address of the person authorized to receive Offers;

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

(G) The provision that the County may reject any Offer that does not comply with all prescribed public procurement procedures and requirements;

(H) The provision that the County may reject for good cause any or all Offers upon the County's finding that it is in the public interest to do so;

(I) The provision that the Offer must include a statement indicating whether the Offeror is a "resident bidder," as defined in ORS 279.029;

(J) Whether a Contractor or subcontractor must be licensed under ORS 468A.720, to Work with asbestos-containing materials; and

(K) The provision that the County may not receive or consider an Offer for a construction contract unless the Offeror is registered with the Construction Contractors Board as required by ORS 701.055, or licensed by the State Landscape Contractors Board, as required by ORS 671.530.

(L) If prequalification is a requirement, the date that prequalification applications must be filed under ORS 279C.430 and Section 5.46.130 (4) of these rules and the class or classes of work for which bidders must be prequalified.

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

Stats. Implemented: ORS 279C.360

#### **5.49.440 BID OR PROPOSAL PREPARATION AND REQUIREMENTS**

**(1) Offer and Acceptance.** The Bid or Proposal is the Bidder's or Proposer's Offer to enter into a contract. The Offer is a firm Offer, i.e., the Offer will be held open by the Offeror for the County's

acceptance for 30 Days, unless otherwise specified in the Solicitation Documents. The County's award of the contract constitutes acceptance of the Offer and binds the Offeror to the Contract.

**(2) Responsive Offer.** The County may award a contract only to a Responsible Offeror with a Responsive Offer.

**(3) Contingent Offers.** Except to the extent that the Proposer is authorized to propose certain terms and conditions pursuant to Sections 5.46.130 (4) and 5.49.505, a Proposer may not make its Offer contingent on the County's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.

**(4) Offerors Acknowledgement.** By signing and returning the Offer, the Offeror acknowledges that it has read and understood the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposal permits Proposal of alternative terms under Section 5.49.425(2), the Offerors Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions Offered for negotiation upon and to the extent accepted by the County in writing.

Stats. Implemented: ORS 279C.375,& ORS 279C.365.

#### **5.49.445 Offer Preparation.**

**(1) Instructions.** An Offeror must submit and sign its Offer in accordance with the Solicitation Document. An Offeror must initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.

**(2) Facsimile or EDI Submissions.** The County will not consider facsimile or EDI Offers unless authorized by the Solicitation Document.

**(3) Identification of Offers.** Offers must be submitted in a sealed envelope appropriately marked or in the envelope provided by the County, whichever is applicable. If the County permits facsimile or EDI Offers in the Solicitation Document, the Offeror may submit and identify facsimile or Electronic Data Interchange Offers in accordance with the Solicitation Document.

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

Stats. Implemented: ORS 279C.365, 279B.055 & 279B.060.

#### **5.49.450 Bid or Proposal Security.**

(1) **Security Amount.** If the County requires Bid or Proposal security, it must be not less than 5 percent or more than 10 percent of the Offerors Bid or Proposal. The County cannot use Bid or Proposal security to discourage competition. The County must expressly provide for any Bid or Proposal security in its Solicitation Document. The Offeror will forfeit Bid or Proposal security after award if the Offeror fails to sign the contract promptly and properly.

(2) **Public Improvement Contracts.** Unless the County has otherwise exempted a solicitation or class of solicitations from Bid or Proposal security pursuant to ORS 279C.390, the County must require Bid or Proposal security for its solicitation of Offers for Public Improvements. The County may require Bid or Proposal security even if it has exempted a class of solicitations from Bid or Proposal security.

(3) **Form of Bid or Proposal Security.** The County may accept only the following forms of Bid or Proposal security:

- (a) A surety bond from a surety company authorized to do business in the State of Oregon;
- (b) An irrevocable letter of credit issued by an insured institution as defined in ORS 706.008;

or

- (c) A cashier's check or Offerors certified check.

(4) **Return of Security.** The County must return or release the Bid or Proposal security of all unsuccessful Offerors after a contract has been executed and a performance bond provided (if a performance bond is required), or after all Offers have been rejected. The County may return the Bid or Proposal security of unsuccessful Offerors after opening but prior to award if the return does not prejudice contract award and provided that the security of at least the three lowest Bidders, or the three highest scoring Proposers, is retained pending execution of a contract.

Stats. Implemented: ORS 279C.365, 279C.375, 279C.380, 279C.385 & 279C.390.

#### **5.49.455 Pre-Offer Conferences.**

(1) **Purpose.** The County may hold pre-Offer conferences with prospective Offerors prior to Closing to explain the procurement requirements or to conduct site inspections.

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

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

(4) **Statements Not Binding.** Statements made by the County's representative at the pre-Offer conference do not change the Solicitation Document unless the County confirms such statements

with a written Addendum to the Solicitation Document.

**(5) County Announcement.** The Solicitation Document must set forth:

- (a) The time, date, and location of any pre-Offer conference; and
- (b) Whether attendance at the conference will be mandatory or voluntary; and
- (c) The fact that statements made by the County's representatives at the conference are not binding on the County unless confirmed by written Addendum.

#### **5.49.460 Request for Change or; Request for Clarification.**

**(1) Delivery.** An Offeror must deliver to the County a request for change to or protest of Specifications or contract terms and conditions in writing. A Proposer may request a change to add alternative terms and conditions for negotiation if the Request for Proposals permits negotiation pursuant to Section 5.49.420 (3)(1)(A). Unless otherwise specified in the Solicitation Document, an Offeror must deliver any request or protest as follows:

- (a) For Public Improvement contracts, ten Days prior to Closing;
- (b) For other contracts, five Days prior to Closing.

**(2) Content.**

- (a) An Offerors written request for change or protest must include:
  - (A) A detailed statement of the legal and factual grounds for the request or protest;
  - (B) A description of the resulting prejudice to the Offeror; and
  - (C) A statement of the form of relief requested or any proposed changes to the Contract terms and conditions (including Specifications).
- (b) An Offeror must mark its request or protest as follows:
  - (A) Solicitation specification or contract provision request for change (or protest); and
  - (B) Solicitation document number (or other identification as specified in the Solicitation Document).

**(3) County Response.** The County may not consider an Offerors request for change or protest after the deadline established for submitting a request or protest. The County will provide notice to the applicable Entity if it entirely rejects the request or protest. If the County agrees with the Entity's request or protest, in whole or in part, the County will either issue an Addendum reflecting its determination under Section 5.49.465 or cancel the solicitation under Section 5.49.495.

**(4) Extension of Closing.** If the County receives a written request for change or protest from an Offeror in accordance with this rule, the County may extend Closing if the County determines that an extension is necessary to consider the request or protest and to issue an Addendum, if any, to the Solicitation Document.

**(5) Clarification.** Prior to the deadline for submitting a written request for change or protest, an

Offeror may request that the County clarify any provision of the Solicitation Document. The County's clarification to an Offeror, whether orally or in writing, does not change the Solicitation Document and is not binding on the County unless the County amends the Solicitation Document by Addendum.

Stats. Implemented: ORS 279C.345, & 279C.365.

#### **5.49.465 Addenda to a Solicitation Document.**

(1) **Issuance; Receipt.** The County may change a Solicitation Document only by written Addenda. An Offeror must provide written acknowledgement of receipt of all issued Addenda with its Offer, unless the County otherwise specifies in the Addenda.

(2) **Distribution.** The County must send Addenda to all Entities known to have obtained the Solicitation Document or to have attended any mandatory pre-Offer conference. The County must notify prospective Offerors of Addenda in accordance with Section 5.49.420(f). The County may inform prospective Offerors of Addenda by telephone, but the County must confirm the oral notice in writing in accordance with Section 5.49.420(f).

(3) **Timelines; Extensions.** The County must issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The County should extend the Closing if the County determines that prospective Offerors need additional time to review Addenda. Except to the extent required by public interest, the County may not issue Addenda less than 72 hours before the Closing unless an Addendum also extends the Closing; however, for multitier bidding or proposal process the Addenda shall be issued a minimum of 5 days prior to step two and any subsequent step in the selection process.

(4) **Request for Change or Protest.** Unless a different deadline is set forth in the Addendum, an Offeror may submit a written request for change or protest to the Addendum as provided in Section 5.49.460, within 24 hours following issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under Section 5.49.460, whichever date is later. The County may consider only an Offerors request for change or protest to the Addendum; the County may not consider a request for change or protest to matters not added or modified by the Addendum.

#### **5.49.470 Pre-Opening Modification or Withdrawal of Offers.**

(1) **Modifications.** An Offeror may modify its Offer in writing prior to the Closing. An Offeror must prepare and submit any modification to its Offer to the County in accordance with Sections 5.49.440 and 5.49.445, unless otherwise specified in the Solicitation Document. Any modification must include the Offerors statement that the modification amends and supersedes the prior Offer. The Offeror must mark the submitted modification as follows:

- (a) Bid (or Proposal) modification; and

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

**(2) Withdrawals.**

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

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

(c) The Offeror must mark the written request to withdraw an Offer as follows:

(A) Bid (or Proposal) withdrawal; and

(B) Solicitation number (or other identification as specified in the Solicitation Document).

**(3) Documentation.** The County will include all documents relating to the modification or withdrawal of Offers in the appropriate solicitation file.

Stats. Implemented: ORS 279C360(2), 279C.365, 279C.375, 279C.395 & 279B.055.

**5.49.475 Receipt, Opening, and Recording of Offers.**

**(1) Receipt.** The County will electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The County may not open the Offer or modification, but must store it in a secure place until Opening. If the County inadvertently opens an Offer or a modification prior to Opening, the County must reseal and store the opened Offer or modification for Opening. The County must document the resealing for the solicitation file (e.g., "County inadvertently opened the Offer due to improper identification of the Offer").

**(2) Opening and Recording.** The County will publicly open Offers, including any modifications made to the Offer pursuant to Section 5.49.470. In the case of Invitations to Bid, to the extent practicable, the County will read aloud the name of each Bidder, the Bid price(s), and such other information as the County considers appropriate. In the case of Requests for Proposals or voluminous Bids, if the Solicitation Document so provides, the County will not read Offers aloud.

**(3) Availability.** After Opening, the County will make the Offers available for public inspection except for those portions of an Offer that the Offeror designates as trade secrets or as confidential proprietary data in accordance with applicable law. See ORS 192.501(2); ORS 646.461 to 646.475. Pursuant to ORS 279C.410, Proposals are not subject to disclosure until after notice of intent to award is issued. To the extent that the County determines that such a designation is not in accordance with applicable law, the County will make those portions available for public inspection. The Offeror will separate information designated as confidential from other non-confidential information at the time of submitting its Offer. Prices, makes, model or catalog numbers of items

Offered, scheduled delivery dates, and terms of payment are not confidential and will be publicly available regardless of an Offerors designation to the contrary.

Stats. Implemented: ORS 279C.365, 279C.375, 279C.395 & 279B.055.

#### **5.49.480 Late Offers, Late Withdrawals, and Late Modifications.**

Any Offer received after Closing is late. An Offerors request for withdrawal or modification of an Offer received after Closing is late. The County will not consider late Offers, withdrawals, or modifications except as permitted in Section 5.49.485 or 5.49.505.

#### **5.49.485 Mistakes.**

**(1) General.** To protect the integrity of the competitive solicitation process and to ensure fair treatment of Offerors, the County should carefully consider whether to permit waiver, correction, or withdrawal for certain mistakes.

**(2) County Treatment of Mistakes.** County will not allow an Offeror to correct or withdraw an Offer for an error in judgment. If the County discovers certain mistakes in an Offer after Opening but before award of the contract, the County may take the following action:

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

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

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

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

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

(c) The County may permit an Offeror to withdraw an Offer based on other errors only if the

Offeror shows by clear and convincing evidence:

- (A) The nature of the error; and
- (B) That the error is not a judgment error, minor informality, or clerical error.

**(3) Rejection for Mistakes.** The County will reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents accompanying the Offer, i.e., documents submitted with the Offer, pursuant to solicitation requirements.

Stats. Implemented: ORS 279C.375, 279C.395 & 279B.055.

#### **5.49.490 Time for County Acceptance; Extension.**

**(1) Time for Acceptance.** An Offerors Offer is a firm Offer, is irrevocable, and is valid and binding on the Offeror for not less than 30 Days from Closing unless otherwise specified in the Solicitation Document.

**(2) Extension of Time for Acceptance of Offer.** The County may request orally or in writing that Offerors extend in writing the time during which the County may consider their Offer(s). If an Offeror agrees to such an extension, the Offer will continue as a firm Offer, irrevocable, valid, and binding on the Offeror for the agreed-on extension period.

Stats. Implemented: ORS 279C.375(1).

#### **5.49.495 Cancellation of Solicitation.**

**(1) Cancellation in the Public Interest.** The County may cancel a solicitation for good cause if the County finds that cancellation is in the public interest. The County's reasons for cancellation will be made part of the solicitation file.

**(2) Notice of Cancellation.** If the County cancels a solicitation prior to Opening, the County must provide notice of cancellation in accordance with Section 5.49.435. Notice of cancellation must:

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

**(3) Disposition of Offers.**

(a) Prior to Opening. If the County cancels a solicitation prior to Opening, the County will return all Offers it received to Offerors unopened, provided that the Offeror submitted its Offer in a hard-copy format with a clearly visible return address. If there is no return address on the envelope, the County will open the Offer to determine the source and then return it to the Offeror.

(b) After Offer Opening. If the County rejects all Offers, the County will keep all the Offers as part of the County's solicitation file.

Stats. Implemented: ORS 279C.395 & 279B.100.

## **5.49.500 EVALUATION AND AWARD OF THE CONTRACT**

### **5.49.505 Offer Evaluation and Award.**

(1) **General.** If awarded, the County will award the contract to the Responsible Bidder submitting the lowest Responsive Bid or the Responsible Proposer submitting the best Responsive Proposal. The County may award by item, groups of items, or the entire Offer, provided that such an award is consistent with the Solicitation Document and in the public interest. The County may reject any or all Offers:

- (a) Not in compliance with the Solicitation Documents;
- (b) Not in compliance with all prescribed public solicitation procedures; or
- (c) For good cause, upon the County's finding that it is in the public interest to do so.

(2) **County Evaluation.** The County will evaluate an Offer only as set forth in the Solicitation Document and in accordance with applicable law. The County may not evaluate an Offer using any other requirement or criterion.

#### **(3) Offeror Submissions.**

(a) The County may require an Offeror to submit product samples, descriptive literature, technical data, or other material and may also require any of the following prior to award:

- (A) Demonstration, inspection, or testing of a product prior to award for characteristics such as quality or workmanship;
- (B) Examination of such elements as appearance, finish, taste, or feel; or
- (C) Other examinations to determine whether the product conforms to Specifications.

(b) The County will evaluate product acceptability only in accordance with the criteria disclosed in the Solicitation Document to determine that a product is acceptable. The County will reject an Offer that provides a product that does not meet the Solicitation Document requirements. The County's rejection of an Offer because it Offers nonconforming work or goods is not Disqualification and is not appealable under ORS 279C.445.

#### **(4) Evaluation of Proposals.**

(a) The County will evaluate Proposals only in accordance with criteria set forth in the RFP and applicable law. The County will evaluate Proposals to determine the Responsible Proposer submitting the best Responsive Proposal. The County may seek information from a Proposer only to clarify the Proposer's Proposal. Such clarification may not vary, contradict, or supplement the

Proposal. The County may not seek clarification of a nonresponsive Proposal. A Proposer must submit written and signed clarifications, and the clarifications become part of the Proposer's Proposal. Unless the County has permitted negotiation in accordance with Section 5.49.420 in its Request for Proposals, the County may negotiate only:

- (A) The statement of Work; and
- (B) The Contract Price as it is affected by negotiating the statement of Work.

(b) If the County permitted negotiation in the Request for Proposals in accordance with Section 5.49.420, the County will evaluate Proposals and negotiate as follows:

(A) If the Solicitation Document provided that negotiation may occur at the County's discretion, the County may forgo negotiations and evaluate all Proposals in accordance with subsection (5)(a) of this rule.

(B) Unless the solicitation is canceled, after the Opening the County will evaluate all Proposals in accordance with the evaluation criteria. After evaluation of all Proposals in accordance with the criteria set forth in the Request for Proposals, the County may negotiate with the highest-ranked Proposer or may determine the Proposers in the Competitive Range. The County may increase the Competitive Range if the County's evaluation of Proposals establishes a natural break in the scores of Proposers that indicates a number greater than the initial Competitive Range.

(C) The County will establish a negotiation team tailored for the acquisition. The County's team may include legal, technical, and negotiating personnel.

(D) In addition to the statement of Work and the Contract Price as it is affected by negotiating the statement of Work, the County will negotiate only other terms and conditions that are expressly authorized for negotiation under the Request for Proposals. A Proposer may submit alternative terms and conditions only to the terms and conditions the County expressly authorized for negotiation under the Request for Proposal.

(E) If the County determines a Competitive Range, the County must provide written notice to all Proposers identifying Proposers in the Competitive Range. A Proposer that is not within the Competitive Range may protest the County's evaluation and determination of the Competitive Range in accordance with Section 5.49.530(5) of these rules. All Proposals are open for public inspection subject to the Oregon Public Records Law.

(F) After the protest period provided in accordance with paragraph (5)(b)(E) expires, or after the County has provided a final response to any protest, whichever date is later, the County may begin negotiating with Proposers in the Competitive Range. The County's negotiation team may not favor any particular Proposer. The County may negotiate the Contract Price, designated terms and conditions, and the statement of Work. But the County may negotiate the Contract Price only to the extent that the Proposer would not be excluded from the Competitive Range, based on the County's evaluation criteria set forth in the Solicitation Document. The County may negotiate an alternative term or condition submitted by a Proposer only if the alternative term or condition is reasonably related to the term or condition the County authorized as negotiable. The County may not negotiate any other terms or conditions set forth in the Request for Proposals.

(G) The County may evaluate Offers negotiated with Proposers in the Competitive Range at any time during the negotiation process to determine whether the County will:

- (i) Continue negotiating with a particular Proposer; or

(ii) Terminate negotiations with a particular Proposer and continue negotiating with other Proposers in the Competitive Range; or

(iii) Conclude negotiations with all remaining Proposers in the Competitive Range in accordance with this paragraph (5)(b)(G).

(H) The County may terminate negotiations with a Proposer at any time. If the County does not cancel the solicitation at the conclusion of the County's negotiation with all remaining Proposers in the Competitive Range, the County will score the Proposals in the Competitive Range based on the evaluation criteria in the Request for Proposals.

(I) The County must provide written notice of intent to award the Contract to all Proposers. An unsuccessful Proposer may protest the County's evaluation and determination in accordance with 5.49.530.

(J) Nothing in this section (5) restricts or prohibits the County from canceling the solicitation at any time in accordance with Section 5.49.495.

Stats. Implemented: ORS 279C.335, 279C.365, 279C.370, 279C.375, 279C.395, 279B.110 & 279B.060.

#### **5.49.510 Bid or Proposal Evaluation and Award.**

**(1) General.** A Public Improvement contract, if awarded, must be awarded to the lowest Responsive and Responsible Bidder or the best Responsive and Responsible Proposer.

**(2) Special requirements.** The Solicitation Documents must set forth any special requirements and criteria that will be used to determine the lowest Responsive and Responsible Bidder or best Responsive and Responsible Proposer. No Bid or Proposal may be evaluated for any requirement or criterion that is not disclosed in the Solicitation Documents or County regulation.

**(3) Bid Evaluation and Award.** The evaluation format for competitive Bid pricing can be lump sum, unit price, or a combination of the two.

(a) Lump Sum. If the Bid form includes a lump-sum base Bid, plus additive or deductive alternates, the total Bid price, for the purpose of comparing Bids, will be the total sum computed from adding or deducting alternates, as selected by the County, to the base Bid. If the Bid form requires a lump-sum Bid, without additive or deductive alternates, or if the County has selected no additive or deductive alternates for award, Bids will be compared on the basis of lump-sum prices, or lump-sum base Bid prices, as applicable.

(b) Unit Price. If the Bid includes unit prices and extensions for estimated quantities, the total Bid price, for the purpose of comparing Bids, will be the total sum computed from multiplying estimated quantities by the unit prices entered on the Bid form by the Bidder, with due adjustments being made for additive or deductive alternates, if any, selected for award. In case of a conflict between a unit price and the corresponding extended amount, the unit price will govern, as provided in Section 5.49.485.

(c) Combination Lump Sum and Unit Price. The County may select a combination of factors

for purposes of Bid evaluation and contract award and use the methods described in (a) and (b) to compute and compare Bids.

**(4) Proposal Evaluation and Award.** If an alternative contracting method is authorized by the County's public contract review authority pursuant to ORS 279C.335 for use in procuring a Public Improvement, Proposals must be evaluated to determine which Proposer Offers the best solution to the County in accordance with the evaluation criteria set forth in the Solicitation Documents and in accordance with any applicable County rules.

**(5) No Assignment or Transfer of Contract Rights.** A contractor may not assign, sell, or neither transfer rights nor delegate responsibilities under a public contract, either in whole or in part, without first obtaining the County's prior written consent. Such written consent will not relieve a contractor of any obligations under a public contract, and any transferee will be considered the agent of the contractor and bound to abide by all provisions of the public contract. Except **in the event of a novation**, if the County consents in writing to an assignment, sale, or transfer of the contractor's rights and responsibilities, the contractor will remain ultimately liable to the County for complete performance of the public contract as if no such assignment, sale, or transfer had occurred.

Stats. Implemented: ORS 279A.065 & 279C.335.

#### **5.49.515 Rejection of Individual Bids or Proposals.**

**(1) General.** In accordance with ORS 279C.395, the County may reject any Offer not in compliance with all prescribed solicitation procedures and requirements and may reject for good cause any Offer upon the County's written finding that it is in the public interest to do so.

**(2) Rejection.** The County must reject an Offer upon the County's finding of any of the following:

(a) That the County required mandatory prequalification, but the Offeror has not been prequalified under ORS 279C.430 or the Offeror has been disqualified.

(b) That the contract is for a Public Work, and the Commissioner of the Bureau of Labor and Industries has declared the Offeror ineligible under ORS 279C.860.

(c) That the Offer is contingent on the County's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document, or the Offeror takes exception to terms and conditions (including Specifications), or an Offer attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law.

(d) That the Offered Work or goods fail to meet the Specifications of the Solicitation Document.

(e) That the Offeror is not responsible. Offerors are required to demonstrate their ability to perform satisfactorily under a contract. Before awarding a contract, the County must have information that indicates that the Offeror meets the applicable standards of responsibility. To be a Responsible Offeror, the County must determine that the Offeror:

(A) Has available the appropriate resources and expertise, or the ability to obtain the resources and

expertise, necessary to demonstrate the capability of the Offeror to meet all contractual responsibilities.

(B) Has a satisfactory record of contract performance. The County should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the County should determine whether the Offeror's deficient performance was expressly excused under the terms of contract or the Offeror took appropriate corrective action. The County may review the Offeror's performance on both private and public contracts in determining the Offeror's record of contract performance. The County will make its basis for determining an Offeror non-responsible under this paragraph part of the solicitation file;

(C) Has a satisfactory record of integrity. An Offeror may lack integrity if the County determines that the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to the County. The County may find an Offeror non-responsible based on the lack of integrity of any Entity having influence or control over the Offeror (such as a key employee of the Offeror who has the authority to significantly influence the Offeror's performance of the contract or a parent company, predecessor, or successor Entity). The standards for Conduct Disqualification under Section 5.49.515 may be used to determine an Offeror's integrity. The County will make its basis for determining that an Offeror is non-responsible under this paragraph part of the solicitation file.

(D) Is qualified legally to contract with the County.

(E) Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Offeror fails to promptly supply information requested by the County concerning responsibility, the County will base the determination of responsibility upon any available information or may find the Offeror non-responsible.

(f) That the contract is for a Public Improvement, and the Construction Contractors Board lists the Offeror as not qualified.

(g) That the Offeror has not met the requirements of ORS 279A.105(1) or 279A.105(2) if required by the Solicitation Document.

(h) That the Offeror has not submitted properly executed Bid or Proposal security as required by the Solicitation Document.

(i) That the Offeror has failed to provide the certification required under Section 4 of this rule.

(j) That other circumstances relevant to the Offer or Offeror indicate that acceptance of the Offer may impair the integrity of the competitive procurement process.

**(3) Form of Business Entity.** For purposes of this rule, the County may investigate any Entity submitting an Offer so that previously disqualified Entities or their officers and directors or principal owners may not by subterfuge, change of ownership, or other adjustments in formal appearance avoid application of this rule or of the disqualification provisions of ORS 279C.440 to 279C.450 and Section 5.49.515.

**(4) Certification of Nondiscrimination.** The Offeror must certify and deliver to the County written certification as part of the Offer that the Offeror has not discriminated against minorities,

women, or emerging small business enterprises in obtaining any required subcontracts.

Stats. Implemented: ORS 279C.375, 279C.380, 279C.395, 279C.105, 279C.110, 279B.100 & 279B.110.

#### **5.49.520 Disqualification of an Entity.**

**(1) Authority.** The County may disqualify an Entity from consideration of award of the County's contracts after providing the Entity with notice and a reasonable opportunity to be heard in accordance with Sections (2), (3) & (4) of this rule.

(a) Standards for Conduct Disqualification. As provided in ORS 279C.440, the County may disqualify an Entity for:

(A) Conviction of a criminal offense in obtaining or attempting to obtain a public or private contract, or subcontract or in the performance of a contract or subcontract.

(B) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects the Entity's responsibility as a contractor.

(C) Conviction under state or federal antitrust statutes.

(D) Violation of a contract provision that is regarded by the County to be so serious as to justify Disqualification. A violation under this subsection (1)(a)(D) may include but is not limited to material failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. But an Entity's failure to perform or its unsatisfactory performance caused by acts beyond the Entity's control is not a basis for Disqualification.

(b) Standards for DBE Disqualification. As provided in ORS 200.065, 200.075 or 279A.110, the County may disqualify an Entity's right to submit an Offer or to participate in a contract (e.g., subcontractors) as follows:

(A) For a DBE Disqualification under ORS 200.065, the County may disqualify an Entity upon a finding that:

(i) The Entity fraudulently obtained or retained, or attempted to obtain or retain, or aided another person to fraudulently obtain or retain, certification as a disadvantaged, minority, women, or emerging small business enterprise; or

(ii) The Entity knowingly made a false claim that any person is qualified for certification or is certified under ORS 200.055 for the purpose of gaining a contract or subcontract or other benefit; or

(iii) The Entity has been disqualified by another County pursuant to ORS 200.065.

(B) For a DBE Disqualification under ORS 200.075, the County may disqualify an Entity upon a finding that:

(i) The Entity has entered into an agreement representing that a disadvantaged, minority, women, or emerging small business enterprise, certified pursuant to ORS 200.055 ("Certified Enterprise"), will perform or supply materials under a Public Improvement contract without the knowledge and consent of the Certified Enterprise; or

(ii) The Entity exercises management and decision-making control over the internal

operations, as defined by ORS 200.075(1)(b), of any Certified Enterprise; or

(iii) The Entity uses a disadvantaged, minority, women, or emerging small business enterprise to perform services under a contract or to provide supplies under a Public Improvement contract to meet an established DBE/MBE/WBE/ESB goal, and the enterprise does not perform a commercially useful function, as defined by ORS 200.075(3), in performing its obligations under the contract.

(iv) If an Entity is Disqualified for a DBE Disqualification under ORS 200.075, the affected County shall not permit such Entity to participate in that County's contracts.

(C) For a DBE Disqualification under ORS 279A.110, the County may disqualify an Entity if the County finds that the Entity discriminated against minority, women, or emerging small business enterprises in awarding a subcontract under a prior contract with that County.

**(2) Notice of Intent to Disqualify.** The County must notify the Entity in writing of a proposed Disqualification personally or by registered or certified mail, return receipt requested. This notice must:

- (a) State that the County intends to disqualify the Entity;
- (b) Set forth the reasons for the Disqualification;
- (c) Include a statement of the Entity's right to a hearing if requested in writing within the time stated in the notice and that if the County does not receive the Entity's written request for a hearing within the time stated, the Entity will have waived its right to a hearing.
- (d) Include a statement of the authority and jurisdiction under which the hearing will be held;
- (e) Include a reference to the particular sections of the statutes and rules involved;
- (f) State the proposed Disqualification period; and
- (g) State that the Entity may be represented by legal counsel.

**(3) Hearing.** The County must schedule a hearing upon the County's receipt of the Entity's timely request. The County must notify the Entity of the time and place of the hearing and provide information on the procedures, right of representation, and other rights related to the conduct of the hearing prior to hearing.

**(4) Notice of Disqualification.** The County must notify the Entity in writing of its Disqualification, personally or by registered or certified mail, return receipt requested. The notice must contain:

- (a) The effective date and period of Disqualification;
- (b) The grounds for Disqualification; and
- (c) A statement of the Entity's appeal rights and applicable appeal deadlines. For a Conduct Disqualification or a DBE Disqualification under ORS 279A.110, the Disqualified Entity must notify the County in writing within three business days after receipt of the County's notice of Disqualification if the Entity intends to appeal the County's decision.

Stats. Implemented: ORS 200.065, ORS 200.075, ORS 279C.440, 279C.445, 279C.450 & ORS 279A.110.

#### **5.49.525 Rejection of All Offers.**

- (1) Rejection.** The County may reject all Offers for good cause upon the County's written finding that it is in the public interest to do so. The County will notify all Offerors of the rejection of all Offers, along with the good-cause justification and finding.
- (2) Criteria.** The County may reject all Offers upon a written finding that:
  - (a) The content of or an error in the Solicitation Document, or the solicitation process unnecessarily restricted competition for the contract;
  - (b) The price, quality, or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;
  - (c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;
  - (d) Causes other than legitimate market forces threaten the integrity of the competitive procurement process, including but not limited to causes that tend to limit competition, such as restrictions on competition, collusion, corruption, unlawful anticompetitive conduct, and inadvertent or intentional errors in the Solicitation Document;
  - (e) The County cancels the solicitation in accordance with Section 5.49.530; or
  - (f) Any other circumstance indicating completion of the solicitation would not be in the public interest.

Stats. Implemented: ORS 279C.395 & 279B.100.

#### **5.49.530 Protest of Contractor Selection, Contract Award.**

- (1) Purpose.** An adversely affected Offeror must exhaust all avenues of administrative review and relief before seeking judicial review of the County's contractor selection or contract award decision.
- (2) Notice of Competitive Range.** If the County chooses to determine a Competitive Range, the County must provide written notice to all Proposers of the County's determination of the Proposers included in the Competitive Range. The County's notice of the Proposers included in the Competitive Range will not be final until the later of the following:
  - (a) Ten Days after the date of the notice, unless otherwise provided therein; or
  - (b) Until the County provides a written response to all timely filed protests that denies the protest and affirms the notice of the Proposers included in the Competitive Range.
- (3) Notice of Intent to Award.** Unless otherwise provided in the Solicitation Document, the County will provide written notice to all Offerors of the County's intent to award the contract. The County's award will not be final until the later of the following:

- (a) Seven Days after the date of the notice, unless otherwise provided therein; or
- (b) Until the County provides a written response to all timely filed protests that denies the protest and affirms the award.

**(4) Right to Protest Award.**

(a) An adversely affected Offeror may submit to the County a written protest of the County's intent to award within ten Days after issuance of the notice of intent to award the contract, unless a different protest period is provided under the Solicitation Document.

(b) The Offerors protest must be in writing and must specify the grounds on which the protest is based.

(c) An Offeror is adversely affected only if the Offeror is eligible for award of the contract as the Responsible Bidder submitting the lowest Responsive Bid or the Responsible Proposer submitting the best Responsive Proposal and is next in line for the award, i.e., the protesting Offeror must claim that all lower Bidders or higher-scored Proposers are ineligible for the award:

(A) Because their Offers were nonresponsive; or

(B) The County committed a substantial violation of a provision in the Solicitation Document or of an applicable procurement statute or administrative rule, and the protesting Offeror was unfairly evaluated and would have, but for such substantial violation, been the lowest Bidder or the highest-ranked Proposer.

(d) The County will not consider a protest submitted after the period established in this rule or a different period that might be provided in the Solicitation Document.

**(5) Right to Protest Competitive Range.**

(a) An adversely affected Proposer may submit to the County a written protest of the County's decision to exclude the Proposer from the Competitive Range within ten Days after issuance of the notice of the Competitive Range, unless a different protest period is provided under the Solicitation Document.

(b) The Proposer's protest must be in writing and must specify the grounds on which the protest is based.

(c) A Proposer is adversely affected only if the Proposer is responsible and submitted a Responsive Proposal and is eligible for inclusion in the Competitive Range, i.e., the protesting Proposer must claim that it is eligible for inclusion in the Competitive Range if all ineligible higher-scoring Proposers are removed from consideration and that those ineligible Proposers are ineligible for inclusion in the Competitive Range because:

(A) Their Proposals were not responsive; or

(B) The County committed a substantial violation of a provision in the RFP or of an applicable procurement statute or administrative rule, and the protesting Proposer was unfairly evaluated and would have, but for such substantial violation, been included in Competitive Range.

(d) The County will not consider a protest submitted after the period established in this rule or a different period that might be provided in the Solicitation Document. A Proposer may not protest

the County's decision to not increase the Competitive Range above the Competitive Range set forth in the RFP.

**(6) Authority to Resolve Protests.** The head of the County, or that person's designee, has the authority to settle or resolve a written protest submitted in accordance with the requirements of this rule.

**(7) Decision.** If a protest is not settled, the head of the County, or that person's designee, must promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

( See ORS 279B.415, 279B.420, 279B.425, 279C.450 & 279C.460).

**(8) Award.** The successful Offeror must promptly execute the contract after the award is final. The County will execute the contract only after it has obtained all applicable required documents and approvals.

Stats. Implemented: ORS 279B.400, 279C.375, 279C.380, 279C.390, 279B.135,279B.400, 279B.075, 279B.405, 279B.115, 279B.420, 279B.425 & 279B.060.

#### **5.49.535 Negotiation with Bidders Prohibited.**

**(1) Bids.** Except as permitted by ORS 279C.340, the County may not negotiate with any Bidder. After award of the contract, the County and the contractor may modify the contract only by change order or amendment to the contract and in accordance with Section XXX

**(2) Requests for Proposals.** The County may negotiate with Proposers only in accordance with Sections 5.49.420 and 5.49.505.

Stats. Implemented: ORS 279C.340 & 279C.375.

#### **5.49.540 Negotiation When Bids Exceed Cost Estimate.**

**(1) General.** In accordance with ORS 279C.340, if all responsive and responsible Bids on a competitively Bid Project exceed the County's Cost Estimate, prior to a contract award the County may negotiate Value Engineering and Other Options with the lowest responsive and responsible Bidder in an attempt to bring the project within the County's Cost Estimate.

**(2) Rejection of Bids.** In determining whether "all responsive and responsible Bids" exceed the Cost Estimate, only those Bids that have been formally rejected by the County in accordance with public contracting law may be excluded from consideration.

**(3) Scope of Negotiations.** Negotiations will not result in contract award if the scope of the Project is significantly changed from the original Bid. The scope is considered to have been

significantly changed if the pool of competition would likely have been affected by the change; that is, if other Bidders would have been expected to participate in the Bidding process had the change been made during the solicitation process rather than during negotiation. This rule cannot be construed to prohibit resolicitation of trade subcontracts.

**(4) Discontinuing Negotiations.** The County may discontinue negotiations at any time and will do so if it appears to the County that the apparent low Bidder is not negotiating in good faith or fails to share cost and pricing information upon request. Failure to rebid any portion of the project or to obtain subcontractor pricing information upon request will be considered a lack of good faith.

**(5) Limitation.** Negotiations may be undertaken only with the lowest Responsive and Responsible Bidder pursuant to ORS 279C. 340. That statute does not provide any additional authority to further negotiate with Bidders next in line for contract award.

**(6) Public Records.** ORS 279C.340 may not be construed as creating any additional public records if that result is not otherwise contemplated by the Public Records law, ORS Chapter 192. Records of a Bidder used in contract negotiations under that statute may not become public records unless they are also submitted to the County. In any event the records are exempt from disclosure until after the negotiated contract is awarded or after the negotiation process has been terminated.

Stats. Implemented: ORS 279C.340.

#### **5.49.545 Documentation of Award & Availability of Award Decisions.**

**(1) Basis of Award.** After award, the County will make a record showing the basis for determining the successful Offeror part of the County's solicitation file.

**(2) Contents of Award Record.** The County's record must include:

- (a) Bids.
  - (A) Completed Bid tabulation sheet; and
  - (B) Written justification for any rejection of lower Bids.
- (b) Proposals.
  - (A) Completed evaluation of the Proposals;
  - (B) Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and
  - (C) If the County permitted negotiations in accordance with 5.49.420, the County's completed evaluation of the initial Proposals and the County's completed evaluation of final Proposals.

**(3) Contract Documents.** To the extent required, the County will deliver to the successful Offeror, a Signed purchase order, price agreement, or other contract document(s), as applicable.

**(4) Notification to Unsuccessful Offerors.** An Entity may obtain tabulations of awarded Bids or evaluation summaries of Proposals for a nominal charge, in person or by submitting to the County a written request accompanied by payment. The request must provide the Solicitation Document number and enclose a self-addressed, stamped envelope. In addition, many tabulations of Bids and Proposals awarded by the Oregon Department of Administrative Services and other participating agencies are available on-line through the State of Oregon Vendor Information Program.

**(5) Availability of Solicitation Files.** The County must make completed solicitation files available for public review at the County.

**(6) Copies From Solicitation Files.** Any Entity may obtain copies of material from solicitation files upon payment of a reasonable copying charge.

Stats. Implemented: ORS 279C.365, 279C.375, 279B.055 & 279B.060.

#### **5.49.550 Performance & Payment Security.**

**(1) Public Improvement Contracts.** The contractor must execute and deliver to the County a performance bond and a payment bond in a sum equal to the Contract Price for all Public Improvement contracts in excess of \$10,000. Exceptions:

(a) The County Administrator may, in the County Administrator's discretion, waive the bond requirements of ORS 279C.380 if the amount of the Public Improvement Contract is less than \$100,000.

(b) The County Contract Review Board exempts a contract or class of contracts from the required performance bond under ORS 279C.390.

**(2) Other Public Contracts.** The County may require performance security for other public contracts. The requirements must be expressly set forth in the Solicitation Document.

**(3) Requirement for Surety Bond.** The County will accept only a performance bond furnished by a surety company authorized to do business in Oregon unless otherwise specified in the Solicitation Document (i.e., the County may accept a cashier's check or certified check in an amount equal to 100 percent of the Contract Price if specified in the Solicitation Document).

**(4) Time for Submission.** The apparent successful Offeror must promptly furnish the required performance security upon the County's request. If the Offeror fails to furnish the security as requested, the County may reject the Offer and award the contract to the Responsible Bidder with the next lowest Responsive Bid or to the Responsible Proposer with the next highest-scoring Responsive Proposal, and at the County's discretion, the Offeror will forfeit its Bid or Proposal security.

Stats. Implemented: ORS 279C.380, 279C.390 & 279C.600.

#### **5.49.555 Substitute Contractor.**

If the contractor provided a performance and payment bond, the County may afford the contractor's surety the opportunity to provide a substitute contractor to complete performance of the contract. A substitute contractor must perform all remaining contract Work and comply with all terms and conditions of the contract, including the provisions of the performance and payment bond. Substitute performance does not involve the award of a new contract and is not subject to the competitive procurement provisions of ORS 279C.

Stats. Implemented: ORS 279C.365, 279C.370, 279C.375, 279C.380 & 279C.390.

#### **5.49.560 Foreign Contractor.**

If the Contract Price exceeds \$10,000 and the contractor is a Foreign Contractor, the contractor must promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, contract duration, and any other information the Department of Revenue may require before final payment can be made on the contract. A copy of the report must be forwarded to the County. The County awarding the contract must satisfy itself that the above requirements have been complied with before it issues final payment on the contract.

Stats. Implemented: ORS 279A.065.

#### **5.49.565 Records Maintenance; Right to Audit Records.**

##### **(1) Records Maintenance; Access.**

(a) Contractors and subcontractors must maintain all fiscal records relating to contracts in accordance with generally accepted accounting principles ("GAAP"). In addition, contractors and subcontractors must maintain all other records necessary to clearly document:

(A) Their performance; and

(B) Any claims arising from or relating to their performance under a public contract.

(b) Contractors and subcontractors must make all records pertaining to their performance and any claims under a contract (the books, fiscal records, and all other records, hereafter referred to as "Records") accessible to the County at reasonable times and places, whether or not litigation has been filed as to such claims.

**(2) Inspection and Audit.** The County may at reasonable times and places have access to and an opportunity to inspect, examine, copy, and audit the Records of any Entity that has submitted cost or pricing data according to the terms of a contract to the extent that the Records relate to such cost or pricing data. If the Entity must provide cost or pricing data under a contract, the Entity must maintain the Records that relate to the cost or pricing data for three years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing.

**(3) Records Inspection; Contract Audit.** The County and its authorized representatives are

entitled to inspect, examine, copy, and audit any contractor's or subcontractor's Records, as provided in Section (1) of this rule. The contractor and subcontractor must maintain the Records and keep the Records accessible and available at reasonable times and places for at least three years from the date of final payment under the contract or subcontract, as applicable, or until the conclusion of any audit, controversy, or litigation arising out of or related to the contract, whichever date is later, unless a shorter period is otherwise authorized in writing.

Stats. Implemented: ORS 279A.030, 279C.375 & 279C.440.

#### **5.49.570 Right to Inspect Plant.**

**(1) Time for Inspection.** The County may inspect the part of the plant or the contractor's or subcontractor's place of business that is related to the performance of any awarded contract.

**(2) Access.** Offerors agree as a condition of submitting an Offer that the County's representative may enter an Entity's plant or place of business during normal business hours for the following purposes:

(a) To inspect and/or test supplies or services for the County's acceptance pursuant to the terms of the Offer; and

(b) To investigate a minority business certification, or Offeror qualification in connection with an Offerors application.

**(3) Contractual Provisions.** A contract may provide that the County may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether such supplies and services conform to the Solicitation Document or to the contract requirements and are acceptable. The inspections and tests must be conducted in accordance with the terms of the contract.

**(4) Procedures.** The County may establish operational procedures governing the testing and trial use of equipment, materials, and the application of resulting information and data to Specifications or procurements.

**(5) Conduct of Inspections.**

(a) The County, or authorized representative, will inspect or test so as not to unduly delay the Work of the contractor or subcontractor. The inspector may not require a change in the contract, including the Specifications, without the County's written authorization, unless otherwise specified in the Solicitation Document. The presence or absence of an inspector will not relieve the contractor or subcontractor from any requirement of the contract.

(b) When an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor must provide without charge all reasonable facilities and assistance for the safety and convenience of the County or authorized representative performing

the inspection or testing.

(c) The inspector must perform inspection or testing of supplies and services at the plant or place of business of a contractor or subcontractor at reasonable times during normal business hours.

**(6) Inspection of Construction Projects.** The County or its authorized representative may perform on-site inspection of construction in accordance with the terms of the contract.

Stats. Implemented: ORS 279C.375 & 279C.440.

## **5.49.600 ALTERNATIVE CONTRACTING METHODS FOR PUBLIC IMPROVEMENT CONTRACTS**

### **5.49.610 Purpose.**

These rules are intended to provide guidance on the use of Alternative Contracting Methods for Public Improvement contracts as may be directed by the Contract Review Board after the approval of appropriate findings under ORS 279C.335. ( See ORS 279C.330 and Section 5.49.645 of these rules). Those methods include but are not limited to Design/Build, Energy Savings Performance Contract (ESPC) and Construction Manager/General Contractor (CM/GC) forms of contracting. These rules also specify the circumstances under which Competitive Negotiation or Noncompetitive Negotiation may be utilized (e.g., when all Bids exceed a County's cost estimate).

### **5.49.615 Use of Alternative Contracting Methods.**

**(1) Competitive Bidding Exemption Required.** ORS Chapter 279C requires a competitive Bidding process for Public Improvement contracts unless a statutory exemption applies, a class of contracts has been exempted, or an individual contract has been exempted in accordance with ORS 279C.335 and any applicable County rules. Unless a proposed Public Improvement contract is exempt under a statutory exemption or a class exemption, as provided in these rules, the County must justify and obtain a special exemption from the Contract Review Board pursuant to Section 5.49.700.

**(2) Competitive Negotiation, Exceptions.** Each of these Alternative Contracting Methods requires an open and competitive procurement through Competitive Negotiation, as further described in these rules

**(3) Post-Project Evaluation Required for Contracts Over \$100,000.** ORS 279C.355 requires that the County prepare a formal post-project evaluation of Public Improvement projects in excess of \$100,000 for which the competitive Bidding process was not used. The purpose of this evaluation is to determine whether it was actually in the County's best interest to use an Alternative Contracting Method. The evaluation must be delivered to the Contract Review Board within 30 Days of the date on which the County "accepts" the Public Improvement project, which event is typically defined in the contract documents. In the absence of such definition, acceptance of the project occurs on the

latter of the date of final payment or the date of final completion of the Work. The evaluation will include but not be limited to the following matters:

- (a) The actual project cost as compared with original project estimates.
- (b) The amount of any Guaranteed Maximum Price.
- (c) The number of project change orders issued by the public agency.
- (d) A narrative description of successes and failures during the design, engineering, and construction of the project.
- (e) An objective assessment of the use of the Alternative Contracting Methods as compared to the findings required by ORS 279C.335. Evaluations required by this section must be made available for public inspection.

Stats. Implemented: ORS 279C.335 & 279C.355.

#### **5.49.620 Pricing Mechanisms.**

(1) Competitive Negotiation at its simplest may result in a firm fixed price (lump sum) contract, as in the case of competitive Bidding, but factors other than price may be considered in the contract award. Alternatively, a cost reimbursement contract may be negotiated (e.g., a cost plus fixed fee contract in which additional costs beyond those estimated are reimbursable, but the fee does not increase for the original Work scope).

(2) Economic incentives or disincentives may be included to reflect stated County purposes related to time of completion, safety, or other public contracting objectives, including least-cost mechanisms such as life-cycle costing.

(3) A Guaranteed Maximum Price is used as the pricing mechanism for CM/GC if a total contract Price is provided in the design phase in order to assist the County in determining whether the project scope is within the County's budget and allowing for design changes during preliminary design rather than after final design Work has been completed.

(a) If this collaborative process is successful, the contractor will propose a final GMP that may be accepted by the County and included within the contract.

(b) If this collaborative process is not successful and no mutually agreeable resolution on GMP can be achieved with the contractor, then the County will terminate the contract with the contractor, subject to provisions defined in the contract documents. The County may then proceed to negotiate a new contract (and GMP) with the firm that was ranked next in the original selection process or employ another suitable means for continuing the project under ORS Chapter 279C and these rules.

(4) When cost-reimbursement contracts are utilized, regardless of whether a GMP is included, the County must provide for audit control that will effectively verify rates and ensure that costs are reasonable, allowable, and properly allocated.

#### 5.49.625 Competitive Negotiation, Generally.

The County may utilize Competitive Negotiation, in which Proposal evaluation and award follow established rules for an RFP process, allowing flexibility in both Proposal evaluation and contract negotiation, but only in accordance with state law and County rules.

**(1) Proposal Evaluation.** Factors in addition to price may be considered in the selection process, but only as set forth in the RFP. Proposal evaluation must be as objective as possible. Evaluation factors need not be precise predictors of future costs and performance, but to the extent possible such evaluation factors must:

- (a) Be reasonable estimates based on information available to the County;
- (b) Treat all Proposals equitably; and
- (c) Recognize that public policy requires that Public Improvements be constructed at the least overall cost to the County. ORS 279C.305.

**(2) Evaluation Factors.**

(a) In basic negotiated construction contracting, where the only reason for an RFP is to consider factors other than price, those factors may consist of firm and personnel experience on similar projects, adequacy of equipment and physical plant, sources of supply, availability of key personnel, financial capacity, past performance, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service, and related matters that affect cost or quality.

(b) In CM/GC contracting, in addition to (a) above, those factors may also include the ability to respond to the technical complexity or unique character of the project, coordination of multiple disciplines, the time required to commence and complete the improvement, and related matters that affect cost or quality.

(c) In Design/Build contracting, in addition to (a) and (b) above, those factors may also include design professional qualifications, specialized experience, preliminary design submittals, technical merit, *design/builder team experience, and related matters* that affect cost or quality.

**(3) Contract Negotiations.** Contract terms may be negotiated to the extent allowed by the RFP and these rules, if the general Work scope remains the same and the field of competition does not change as a result of material changes to the requirements stated in the Solicitation Document. Terms that may be negotiated consist of details of contract performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters that affect cost or quality.

Stats. Implemented: ORS 279C.305, 279C.335 & 279A.065.

#### 5.49.630 Design/Build.

**(1) General.** The Design/Build form of contracting has technical complexities that are not readily apparent. The County will utilize this contracting method only with the assistance of knowledgeable staff and/or consultants who are experienced in its use. In order to utilize the Design/Build process, the County must be able to reasonably anticipate the following benefits:

(a) Obtaining, through a Design/Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control, and required documentation as a fully integrated function;

(b) Integrating value engineering suggestions into the design phase, as the construction contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing contract changes;

(c) Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction contractors' building from designs in which they have had no opportunity for input, with the potential of reducing contract claims;

(d) Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance Work) commences prior to completion of a "biddable" design, or if a design solution is still required (as in complex or phased projects); and

(e) Obtaining innovative design solutions through the collaboration of the contractor and design team that would not otherwise be possible if the contractor had not yet been selected.

**(2) Licensing.** If the Design/Build contractor is not a licensed or registered design professional, the Design/Build process contemplates that state licensing and registration requirements related to architectural and engineering services may be fulfilled by design professionals at the time of entering into subcontracts. Under this approach, Design/Build contractors are not required to fulfill design licensing or registration requirements at the time of submitting original Proposals. In order to clearly establish that relationship the contract must:

(a) Delineate services to be provided by the Design/Build contractor, versus those services to be obtained through design professionals;

(b) Separate the method and/or amount of compensation to be provided to design professionals, versus that provided to the Design/Build contractor; and

(c) Specifically identify the licensed design professionals by individual or firm names.

**(3) Contract Requirements.** The County's Design/Build contracting practices must conform to the following requirements:

(a) Design Services. The level or type of design services required must be clearly defined within the procurement and contract documents, along with a description of the level or type of design services previously performed for the project. The services to be performed must be clearly delineated as either design Specifications or performance standards, and performance measurements must be identified.

(b) Professional Liability. The contract documents must clearly identify the liability of design professionals with respect to the Design/Build contractor and/or owner, as well as requirements for professional liability insurance.

(c) Risk Allocation. The contract documents must clearly identify the extent to which the owner requires an express indemnification from the Design/Build contractor for any failure to perform, including professional errors and omissions, design warranties, construction operations, and faulty Work claims.

(d) Warranties. The contract documents must clearly identify any express warranties made to the owner on characteristics or capabilities of the completed project (regardless of whether errors occur as the result of improper design, construction, or both), including any warranty that a design will be produced that meets the stated project performance and budget guidelines.

(e) Privity of Contract. The contract documents must clearly identify any third-party beneficiary arrangements by which privity of contract may be established between the owner and design professional when the design professional is not otherwise under contract directly with the owner.

(f) Incentives. The contract documents must clearly identify any economic incentives and/or disincentives, the specific criteria that apply, and their relationship to other financial elements of the contract.

(g) Honoraria. If provided for in the RFP, honoraria or stipends may be provided for early design submittals from qualified finalists during the solicitation process on the basis that the County is benefited from such deliverables.

Stats. Implemented: ORS 279C.335 & 279A.065.

#### **5.49.635 Construction Manager/General Contractor (CM/GC).**

**(1) General.** The CM/GC form of contracting is a technically complex project-delivery system. The County will utilize this contracting method only with the assistance of knowledgeable staff and/or consultants who have a demonstrated capability of managing the CM/GC process in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, public contracting, and project management. In order to utilize the CM/GC method, the County must reasonably anticipate that use of the process will:

(a) Successfully result in a collaborative or team effort between the owner County, project designers and the general contractor (who is required to be particularly suited to a project and involved early in the development process); and

(b) Be particularly advantageous due to the complexity of the project (such as Work involving occupied structures, unusual coordination or technical complexities), projects with accelerated schedules, multimillion dollar projects, historic renovations, and other uncertainties.

**(2) Basis for Payment.** The CM/GC process adds specified construction manager services to traditional general contractor services, requiring full contract performance within a negotiated Guaranteed Maximum Price (GMP). The basis for payment is reimbursable direct costs as defined

under the contract, plus a fee constituting full payment for Work and services rendered, that together may not exceed the GMP.

**(3) Contract Requirements.** The County must conform its CM/GC contracting practices to the following requirements:

(a) Setting the GMP. The GMP must be set at an identified time consistent with industry practice, such as between the schematic design phase and the design development phase, or between the design development phase and the construction document phase, and must define with particularity both what is included and excluded from the GMP. A set of drawings and Specifications will be produced establishing the GMP scope.

(b) Adjustments to the GMP. The contract documents must clearly identify the standards or factors under which changes or additional Work will be considered outside of the Work scope and warrant an increase in the GMP, as well as criteria for decreasing the GMP. The GMP may not be increased without a concomitant increase to the scope defined at the establishing of the GMP.

(c) Cost Savings. The contract documents must clearly identify the disposition of any cost savings resulting from completion of the Work below the GMP; that is, under what circumstances, if any, the CM/GC might share in those cost savings, or whether they accrue only to the owner's benefit. (Note that unless there is a clearly articulated reason for sharing such cost savings, they should accrue to the County.)

(d) Cost Reimbursement. The contract documents must clearly identify what items or categories of items are eligible for cost reimbursement within the GMP, including any category of "General Conditions" (a general grouping of direct costs that are not separately invoiced, subcontracted, or included within either overhead or fee), and may also incorporate a mutually agreeable cost reimbursement standard.

(e) Audit. Cost reimbursements must be made subject to final audit adjustment, and the contract documents must establish an audit process to ensure that contract costs are allowable, properly allocated, and reasonable.

(f) Fee. Compensation for the CM/GC's services will be paid on the basis of a fee that includes profit, overhead, and all other indirect or nonreimbursable costs. Costs determined to be included within the fee should be expressly defined wherever possible. The fee, first expressed as a *proposed percentage of all reimbursable costs*, must be identified during and become an element of the selection process. The fee will subsequently be expressed as a fixed amount when reimbursable costs are established within the GMP.

(g) Incentives. The contract documents must clearly identify any economic incentives, the specific criteria that apply, and their relationship to other financial elements of the contract (including the GMP).

(h) Controlled Insurance Programs. For projects expected to exceed \$75 million, the contract documents must clearly identify whether an owner-controlled or contractor-controlled insurance program is anticipated or allowable. If so, those documents must clearly identify (1) anticipated cost savings from reduced premiums, claims reductions, and other factors; (2) the allocation of cost savings; and (3) safety responsibilities and/or incentives.

(i) Early Work. The RFP shall clearly identify, whenever feasible, the circumstances under which any of the following activities may be authorized and undertaken for compensation prior to establishing the GMP:

- (A) Early Procurement of materials and supplies;
- (B) Early release of Bid Packages for such things as site development; and
- (C) Other advance Work related to critical components of the Contract.

(j) Subcontractor Selection. The contract documents must clearly describe the methods by which the CM/GC will publicly receive, open, and record sealed Bids or price quotations and competitively select subcontractors to perform the contract Work based on price, as well as the mechanisms by which the owner may waive those requirements. The documents must also describe completely the methods by which the CM/GC and its affiliated or subsidiary entities *may compete to perform the Work, including* at least advance notice to the public of the CM/GC's intent to compete and a public Opening of Bids or quotations by an independent party.

(k) Subcontractor Approvals and Protests. The contract document must clearly establish whether the County must approve subcontract awards and to what extent, if any, the County will resolve procurement protests of subcontractors and suppliers. The related procedures and reporting mechanisms must be established with certainty, including whether the CM/GC acts as the owner's "agent" in this process and whether the CM/GC's subcontracting records are considered to be public records. In any event, the County will retain the right to monitor the subcontracting process in order to protect County interests.

(l) CM/GC Self-Performance. Whenever feasible, the Contract shall establish the elements of Work the CM/GC may self-perform without competition, including, for example, the Work of the job-site general conditions. In the alternative, the Contract shall include a process for the County approval of CM/GC self-performance.

(m) Socioeconomic Programs. The contract documents must clearly identify conditions relating to any required socioeconomic programs (such as Affirmative Action or Prison Inmate Labor Programs), including the manner in which such programs affect the CM/GC's subcontracting requirements, the enforcement mechanisms available, and the respective responsibilities of the CM/GC and owner.

Stats. Implemented. ORS 279C.335 & 279C. 380 (2).

#### **5.49.640 Energy Savings Performance Contracts (ESPC)**

**Generally.** The rules in this section include a limited, efficient method for the County to enter into ESPCs outside the competitive Bidding requirements of ORS 279C.335 for existing buildings or structures, but not for new construction. If the County chooses not to utilize the ESPC Procurement method provided for by these rules, they may still enter into an ESPC by complying with the competitive Bidding exemption process set forth in ORS 279C.335, or by otherwise complying with the Procurement requirements applicable to any County not subject to all the requirements of ORS 279C.335.

**(2) ESPC Contracting Method.** The ESPC form of contracting means a Public Improvement Contract between the County and a Qualified Energy Service Company for the identification, evaluation, recommendation, design, and construction of Energy Conservation Measures (ECMs)

including a Design-Build Contract that guarantees energy savings or performance. This form of contract has unique technical complexities associated with the determination of what ECMs are feasible for the County, as well as the additional technical complexities associated with a Design-Build Contract. The County shall only utilize the ESPC contracting method with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to utilize the ESPC contracting process, the County must be able to reasonably anticipate one or more of the following types of benefits:

(a) Obtaining, through an ESCO, the following types of integrated services: facility profiling, energy baseline studies, ECMs, Technical Energy Audits, project development planning, engineering design, plan preparation, cost estimating, life cycle costing, construction administration, project management, construction, quality control, operations and maintenance staff training, commissioning services, M & V services and required documentation as a fully integrated function with a single point of responsibility;

(b) Obtaining, through an ESCO, an Energy Savings Guarantee;

(c) Integrating the Technical Energy Audit phase and the Project Development Plan phase into the design and construction phase of Work on the project;

(d) Reducing the risk of design flaws, misunderstandings and conflicts inherent in the construction process, through the integration of ESPC services;

(e) Obtaining innovative design solutions through the collaboration of the members of the ESCO integrated ESPC services team;

(f) Integrating cost-effective ECMs into an existing building or structure, so that the ECMs pay for themselves through savings realized over the useful life of the ECMs;

(g) Preliminary design, development, implementation and an Energy Savings Guarantee of ECMs into an existing building or structure through an ESPC, as a distinct part of a major remodel of that building or structure that is being performed under a separate remodeling Contract; and

(h) Satisfying local energy efficiency design criteria or requirements.

**(3) Authority.** Contracting Agencies desiring to pursue an exemption from the competitive Bidding requirements of ORS 279C.335 (and, if applicable, ORS 351.086), shall utilize the ESPC form of contracting only in accordance with the requirements of 5.49.610 to 5.49.640.

**(4) No Findings Required.** The County is only required to comply with the ESPC contracting procedures set forth in these rules in order for the ESPC to be exempt from the competitive Bidding processes of ORS 279C.335. No Findings are required for an ESPC to be exempt from the competitive Bidding process for Public Improvement Contracts pursuant to ORS 279C.335, unless the The County is subject to the requirements of ORS 279C.335 and chooses not to comply with the ESPC contracting procedures set forth in these rules.

**(5) Selection.** ESPC selection criteria may include those factors set forth above in 5.49.420 (2)(b), (3), (4) & 5.49.505. Since the Energy Savings Guarantee is such a fundamental component in the ESPC contracting process, Proposers must disclose in their Proposals the identity of any Person providing (directly or indirectly) any Energy Savings Guarantee that may be offered by the successful ESCO during the course of the performance of the ESPC, along with any financial statements and related information pertaining to any such Person.

**(6) Licensing.** If the ESCO is not an Oregon licensed design professional, the County shall require that the ESCO disclose in the ESPC that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction services.

**(7) Performance Security.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the ESCO must provide a performance bond and a payment bond, each for 100% of the full Contract Price, including the construction and design and related

professional services specified in the ESPC Design-Build Contract, pursuant to ORS 279C.380(1)(a). For ESPC Design-Build Contracts, these "design and related professional services" include conventional design services, commissioning services, training services for the County's operations and maintenance staff, and any similar professional services provided by the ESCO under the ESPC Design-Build Contract prior to final completion of construction. M & V services, and any services associated with the ESCO's Energy Savings Guarantee are not included in these ORS 279C.380(1)(a) "design and related professional services." Nevertheless, a The County may require that the ESCO provide performance security for M & V services and any services associated with the ESCO's Energy Savings Guarantee, if the County so provides in the RFP.

**(8) Contracting Requirements.** Contracting Agencies shall conform their ESPC contracting practices to the following requirements:

(a) General ESPC Contracting Practices. An ESPC involves a multi-phase project, which includes the following contractual elements:

(A) A contractual structure which includes general Contract terms describing the relationship of the parties, the various phases of the Work, the contractual terms governing the Technical Energy Audit for the project, the contractual terms governing the Project Development Plan for the project, the contractual terms governing the final design and construction of the project, the contractual terms governing the performance of the M & V services for the project, and the detailed provisions of the ESCO's Energy Savings Guarantee for the project.

(B) The various phases of the ESCO's Work will include the following:

(i) The Technical Energy Audit phase of the Work;

(ii) The Project Development Plan phase of the Work;

(iii) A third phase of the Work that constitutes a Design-Build Contract, during which the ESCO completes any plans and Specifications required to implement the ECMs that have been agreed to by the parties to the ESPC, and the ESCO performs all construction, commissioning, construction administration and related services to actually construct the project; and

(iv) A final phase of the Work, whereby the ESCO, independently or in cooperation with an independent consultant hired by the County, performs M & V services to ensure that the Energy Savings Guarantee identified by the ESCO in the earlier phases of the Work and agreed to by the parties has actually been achieved.

(b) Design-Build Contracting Requirements in ESPCs. At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the County shall conform its Design-Build contracting practices to the Design-Build contracting requirements set forth in Section 5.49.630 above.

(c) Pricing Alternatives. The County may utilize one of the following pricing alternatives in an ESPC:

(A) A fixed price for each phase of the services to be provided by the ESCO;

(B) A cost reimbursement pricing mechanism, with a maximum not-to-exceed price or a GMP; or

(C) A combination of a fixed fee for certain components of the services to be performed, a cost reimbursement pricing mechanism for the construction services to be performed with a GMP, a single or annual fixed fee for M & V services to be performed for an identified time period after final completion of the construction Work, and a single or annual Energy Savings Guarantee fixed fee payable for an identified time period after final completion of the construction Work that is conditioned on certain energy savings being achieved at the facility by the ECMs that have been implemented by the ESCO during the project (in the event an annual M & V services fee and annual Energy Savings Guarantee fee is utilized by the parties, the parties may provide in the Design-Build Contract that, at the sole option of the County, the ESCO's M & V services may be terminated prior to the completion of the M & V/ Energy Savings Guarantee period and the County's future obligation to pay the M & V services fee and Energy Savings

Guarantee fee will likewise be terminated, under terms agreed to by the parties).

(d) Permitted ESPC Scope of Work. The Scope of Work under the ESPC is restricted to implementation and installation of ECMs, as well as other Work on building systems or building components that are directly related to the ECMs, and that, as an integrated unit, will pay for themselves over the useful life of the ECMs installed. The permitted scope of Work for ESPCs resulting from a Solicitation under these rules does not include maintenance services for the project facility.

Stats. Implemented: ORS 279C.335, ORS 279A.065, ORS 279C

## **5.49.700 EXEMPTIONS FROM COMPETITIVE BIDDING**

### **5.49.710 Purpose.**

These rules establish exemptions from the competitive bidding requirements of ORS Chapter 279C and these rules.

### **5.49.715 Exemptions Generally.**

All public contracts must be based on competitive bidding, except the following:

- (1) Specific Exemptions for Individual Contracts.** Contracts that have been specifically exempted under ORS 279C.335 or 279C.345;
- (2) Statutory Exemptions.** Contracts excepted under ORS 279C.335; and
- (3) Class Exemptions.** Contracts covered by the class exemptions contained Section 5.50.900.

### **5.49.720 Exemption Procedures.**

**(1) Request for Exemption.** The County Administrator may request a resolution from the Contract Review Board exempting a particular contract or class of contracts from competitive bidding if the contract or contracts are not otherwise exempted under these rules.

**(2) Contents of Exemption Request.** Exemption requests must contain the following:

- (a) The nature of the project;
- (b) Estimated cost of the project;
- (c) Findings supporting the substantial cost savings anticipated by the exemption from competitive bidding as required by ORS 279C.335 (2) (b).
- (d) Findings supporting why it is unlikely that an exemption from competitive bidding would encourage favoritism or diminish competition for the public contract as required by ORS 279C.335(2)(a);

- (e) Information regarding the following factors as required by ORS 279C.330:
  - (A) Operational, budget, and financial data;
  - (B) Public benefits;
  - (C) Value Engineering;
  - (D) Specialized expertise required;
  - (E) Public safety;
  - (F) Market conditions;
  - (G) Technical complexity; and
  - (H) Funding sources.
- (f) Proposed alternative contracting and purchasing practices to be employed; and
- (g) The estimated date by which it would be necessary to let the contract.

**(3) Hearing Required When Request for Exemption Involves Public Improvement.**

(a) If the exemption request involves or would apply to a contract or contracts for a Public Improvement, the County must hold a public hearing prior to adoption of the findings required by subsections (1) and (2).

(b) Notification of the public hearing must be published in at least one trade newspaper of general statewide circulation at least 14 Days before the hearing.

(c) The notice must state that the public hearing is for the purpose of taking comments on the County's draft findings for an exemption from the competitive bidding requirement. At the time of the notice, copies of the draft findings must be made available to the public.

(d) At the public hearing, the County must offer an opportunity for any interested party to appear and present comment.

(e) If a County is required to act promptly due to circumstances beyond its control that do not constitute an emergency, notification of the public hearing can be published simultaneously with the County's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five Days after the meeting and approval of the findings.

**(4) Exempted Public Improvements in Excess of \$100,000.** Upon completion of and final payment for any Public Improvement contract in excess of \$100,000 for which the County did not use the competitive bidding process, the County must prepare and deliver to the Contract Review Board an evaluation of the Public Improvement project pursuant to 5.49.615(3) above.

**5.50.900 CLASSES OF CONTRACTS AND CLASS SPECIAL PROCUREMENTS EXEMPT FROM COMPETITIVE BIDDING**

**5.50.910 Contract Amendments (Including Change Orders and Extra Work).**

(1) An amendment for additional Work or product that is reasonably related to the scope of Work under the original contract, including change orders, Extra Work, field orders, or other change in the original Specifications that increases the original contract price, may be made with the contractor or without competitive bidding, subject to the following conditions:

(a) The original contract was let by (A) competitive bidding or alternative procurement process; (B) unit prices or additive alternates were provided that established the cost basis for the additional Work or product; and a (C) binding obligation exists on the parties covering the terms and conditions of the additional Work; or

(b) The original contract was let pursuant to a declaration of emergency, in accordance with ORS 279C.335(5) and Sections 5.47.250 & 5.49.410 or these rules; or

(c) The additional Work is required by reason of existing regulations or ordinances of federal, state, or local agencies, dealing with the prevention of environmental pollution and the preservation of natural resources, that affect performance of the original contract, and such regulations or ordinances, as provided in ORS 279C.525, either were not cited in the original contract or were enacted or amended after submission of the successful bid or Proposal; or

(d) The original contract was for the renovation or remodeling of a building.

(2) Except for amendments entered into pursuant to subsections (1)(a) to (d) of this rule, the aggregate increase resulting from all amendments to a contract may not exceed 20 percent of the initial contract price. Contracts for the renovation or remodeling of buildings may have aggregate amendments not exceeding 33 percent of the initial contract price. But amendments made pursuant to subsection (1)(a) of this rule are not to be applied against either the 20 percent or the 33 percent aggregate limit on contract amendments. And contracts amended pursuant to subsection (1)(b) or (c) of this rule are not subject to either the 20 percent or the 33 percent aggregate limit on contract amendments.

(3) If the original contract required the contractor to provide a performance and payment bond, and the County has terminated the contract and notified the surety of the termination, the County may allow the contractor's surety an opportunity to provide a substitute contractor to complete performance of the original contract. Such substitute performance and any amendment of the original contract that makes a substitute contractor a party to the contract and is not an award of a public contract and will not be subject to the competitive procurement provisions of ORS 279.

#### **5.50.915 Advertising Contracts.**

(1) The County may purchase advertising, regardless of dollar value, without competitive bidding.

(2) The County may sell advertising for County publications or activities, regardless of dollar value, without competitive bidding.

#### **5.50.920 Equipment Repair and Overhaul.**

(1) The County may enter into a public contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:

(a) Service or parts required are unknown, and the cost cannot be determined without

extensive preliminary dismantling or testing; or

(b) 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

(c) The County purchases within the limits and pursuant to the methods in (2) of this rule.

(2) The following limitations apply to this rule:

(a) If the contract is for less than \$100,000, the County must document in its procurement file the reasons why competitive Bids or quotes were deemed to be impractical and may directly enter into the contract.

(b) If the County believes the contract may exceed \$100,000, the County may enter directly into the contract after documenting in its procurement file the reasons why competitive Bids were deemed to be impractical.

#### **5.50.922 Contracts for Price-Regulated Items.**

The County may, regardless of dollar value and without competitive Bidding, contract for the direct purchase of goods or services if the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority. (This class of contracts is exempt per ORS 279A.025 (2) (f)).

#### **5.50.925 Purchases Under Federal Contracts.**

When the price of goods and services has been established by a contract with the federal government pursuant to a federal contract award, the County may purchase the goods and services in accordance with the federal contract without subsequent competitive Bidding. In exercising this authority under this exemption, the County must:

(1) Include in the contract file a memorandum confirming the federal official who granted permission to the County to purchase under the federal contract; and

(2) Include in the contract file documentation showing the cost savings to be gained from anticipated purchases from the federal contract. (This class of contracts is exempt per ORS 279A.025 (2) (a)).

#### **5.50.927 Copyrighted Materials.**

The County may, without competitive Bidding and regardless of dollar amount, purchase copyrighted materials. Examples of copyrighted materials covered by this exemption may include, but are not necessarily limited to, new adopted textbooks, workbooks, curriculum kits, reference materials, books, periodicals, audio and visual media, and non-mass-marketed software.

#### **5.50.930 Investment Contracts.**

The County may, without competitive Bidding, and regardless of dollar amount, contract for the purpose of the investment of public funds or the borrowing of funds by the County when such investment or borrowing is contracted pursuant to duly enacted statute, ordinance, charter, or constitution. (This Class of contracts is exempt per ORS 279A.025 (2) (q) (C). )

### **5.50.932 Food Contracts.**

(1) The intent of this rule is to provide a method for the County to procure food products that are available for a limited time at "lower than normal" prices (also referred to as "spot buys").

(2) The County may procure an unlimited dollar value of food using a competitive Bid or quote process when all the following conditions are present:

(a) A nonexclusive requirements contract or regularly scheduled Bid process already exists for the item being purchased;

(b) The proposed unit price of the item to be purchased is significantly less than a comparable item's price on an existing requirements contract or recent Bid (as described in subsection (3) of this rule), and the amount saved exceeds any additional administrative costs incurred to purchase, using this exemption;

(c) The produce being purchased has limited availability (ie., the product may no longer be available upon completion of normal Bid processes);

(d) Any cooperative contracts currently in place for the items being purchased contain clauses allowing for the use of this exemption;

(e) The purchase does not jeopardize fulfillment of a guaranteed minimum volume under an existing cooperative contract.

(3) Purchases may be made under this exemption only after the County documents the following in its procurement file: The County's attempt and method to obtain quotes from at least three sources; the written quote or Bid, if obtained; item Specifications; quantity; unit pricing; delivery; and other pertinent information. Contract or Bid pricing used for comparison must be representative of current pricing available and must have been obtained or confirmed no more than six months prior to the current purchase. When practical, written quotes are recommended.

### **5.50.940 Used Personal Property — Purchase.**

(1) Subject to the provisions of this rule, the County may purchase used property or equipment without competitive Bidding and without obtaining competitive quotes, if it has determined that the purchase will result in cost savings to the County and will not diminish competition or encourage favoritism. "Used personal property or equipment" is property or equipment that has been placed in its intended use by a previous owner or user for a time recognized in the relevant trade or industry as qualifying the personal property or equipment as "used," at the time of the County purchase. "Used personal property or equipment" generally does not include property or equipment if the County was the previous user, whether under a lease; as part of a demonstration, trial or pilot project; or under a similar arrangement.

(2) For purchases of used personal property or equipment costing less than \$100,000, the County must obtain three competitive quotes, unless the County has determined and documented that a purchase without obtaining competitive quotes will result in cost savings to the County and will not diminish competition or encourage favoritism.

(3) For purchases of used personal property or equipment totaling \$100,000 or greater, the County must obtain and keep a written record of the source and amount of quotes received. If three quotes are not available, a written record must be made of the attempt to obtain quotes.

#### **5.50.942 Used Personal Property — Sale.**

(1) The County may sell used property or equipment by liquidation without obtaining competitive Bids or quotes, if a liquidation sale would bring in substantially greater revenue to the County than would be gained through Bids. As used in this section, "Surplus Personal Property or Equipment" is property or equipment that has been determined to be no longer useful to the County. It may be property or equipment that the County has used for some time and that is fully used up or obsolete. It may be property or equipment that is the natural excess or leftover from a project, such as cable, wire, carpet, etc., that has been cut or partially used in some manner so that it cannot be returned to the supplier for a refund.

(2) For sales of surplus property valued at more than \$25,000 per item or lot, the County must attempt to obtain at least three competitive quotes. The County will keep a written record of the source and number of quotes received. If three quotes are not available, a written record must be made of the attempt to obtain quotes.

#### **5.50.945 Information Technology Contracts.**

The County may enter into a contract to acquire information technology hardware and software, without competitive Bidding, subject to the following conditions:

(1) If the contract amount does not exceed \$100,000, the County must follow 912(1). Prior to selecting a contractor, the County will make reasonable efforts to solicit Proposals from three or more vendors. Justification of award must be documented and become a public record of the County.

(2) If the contract amount exceeds \$100,000, the County must solicit written Proposals in accordance with the requirements of the RFP process. The County must document the evaluation and award process that will be part of the public record justifying the award.

#### **5.50.947 Telecommunications Systems Contracts.**

The County, having delegated purchasing authority, may enter into a contract to acquire telecommunications system hardware and software without competitive Bidding, subject to the following conditions:

(1) If the contract amount does not exceed \$100,000, the County must at least obtain competitive quotes. Prior to selection of a contractor, the County will make reasonable efforts to solicit Proposals from three or more vendors. Justification of award must be documented and become a

public record of the County.

(2) If the contract amount exceeds \$100,000, the County must solicit written Proposals in accordance with the requirements of the rules governing Request for Proposals.

#### **5.50.950 Telecommunications Services.**

(1) This rule is intended to allow the County to secure the most competitive, cost-effective telecommunications services of the quality needed to meet all service performance requirements while minimizing administrative and service delivery costs.

(2) In determining the appropriate procurement method for telecommunications services, the County determines whether competition exists. The County may consider the following factors:

(a) The extent to which alternative providers exist in the relevant geographic and service market. The relevant market will vary with the geographic area and from service category to service category, depending on changes in the regulatory environment and competitive marketplace. Thus, the relevant market will depend on the facts and circumstances of each case. For example, an alternative local access service or private line provider might offer services in Portland, but not in Medford or the rest of the state.

(b) The extent to which alternative services offered are comparable or substitutable in technology, service provided, and performance. (For example, if the County requires digital services, analog services are not comparable or substitutable, or if the County requires fiber optic technology, then copper, microwave, or satellite transmission technology may not be comparable or substitutable).

(c) The extent to which alternative providers can respond to the County's interests in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management, and limiting County liability. For example, to be considered as the state's telephone long distance provider, any long distance service vendor must be able to meet, support, and interface with the state's centralized automated billing requirements. The County must document for the record its findings on these factors or any other factors used in determining whether competition exists. In developing its findings, the County may solicit the information either through informal telephone or written contacts or through a formal request for information.

(3) Upon determining that competition does not exist for the relevant service and geographical area, the County may proceed to secure the service on a sole source basis, and follow all applicable rules and procedures.

#### **5.50.952 Fuel and Asphalt Contracts.**

Regardless of dollar amount, the County is exempt from competitive Bidding requirements for the purchase of gasoline, diesel fuel, heating oil, lubricants, and asphaltic products if the County seeks competitive quotes from at least three vendors and makes its purchase from the least expensive source. Written records for the quotations and purchases made will be kept by the Purchasing

Department as public records.

#### **5.50.955 Hazardous Material Abatement.**

(1) The County may enter into public contracts without competitive Bidding, regardless of dollar amount, when ordered to clean up oil or hazardous waste pursuant to the authority granted the Oregon Department of Environmental Quality (“DEQ”) under ORS Chapter 466, especially ORS 466.605 through 466.680. In exercising its authority under this exemption:

(a) The County must to the extent reasonable under the circumstances encourage competition by attempting to obtain informal quotes from potential suppliers of goods and services.

(b) The department responsible for managing or coordinating the cleanup must submit a written description of the circumstances that require the cleanup and a copy of the DEQ order for the cleanup to the County Purchasing Department along with a requisition authorizing the contract.

(c) The County Purchasing Department must record the measures taken under subsection (a) of this section to encourage competition, the amount of the quotes or Proposals obtained, if any, and the reason for selecting the contractor to whom award is made.

(2) The County may not contract pursuant to this exemption in the absence of an order from the DEQ to clean up a site that includes a time limit that would not allow the County to hire a contractor under normal competitive Bidding procedures. Goods and services to perform other hazardous material removal or cleanup will be purchased in accordance with normal competitive Bidding procedures as described in these rules and policies.

#### **5.50.957 Insurance and Employee Benefits.**

(1) The County may purchase employee benefit insurance without competitive Bidding, regardless of dollar amount, subject to the terms of any collective bargaining. (This class of contracts is exempt per ORS 279A.025 (2) (r)).

(2) The County may purchase liability and other insurance without competitive Bidding and regardless of dollar amount by selecting either a vendor directly or by appointing an agent of record.

#### **5.50.960 Office Copier Purchases.**

(1) The County may enter into multiple requirements contracts for the purchase, rental, or lease of office copying equipment. Except for this multiple award exemption, such contracts must otherwise conform to the requirements of these rules.

(2) In exercising this exemption, the County must fully consider the operating capabilities, limitations, and cost of each brand or model and select the brand that will produce the best combination of performance and cost per copy for each application.

#### **5.50.962 Radio and Television Contracts for County Activities.**

(1) **Generally.** The County must use a competitive procurement method, e.g., an Invitation to Bid

or Request for Proposals, to obtain written Bids or Proposals to provide commercial radio and television services for any County activity or program, including athletics, if the value of the services totals \$100,000 or more, regardless of whether the County is paying or receiving revenue from such contractors.

**(2) Specific and Ancillary Services.** The Solicitation Document used to invite Bids or Proposals to furnish radio or television services to County programs must include the minimum Bidder or qualifications and service Specifications and will conform to the other requirements of the "Request for Proposal" rule herein. The Solicitation Document may invite interested Bidders or Proposers to offer other ancillary services. Each ancillary service, if offered, must be accompanied by a dollar value that reflects the current purchase price for the service and a description of the service and its use and application.

**(3) Term of Contract.** A contract for radio or television services may be awarded for up to five years.

#### **5.50.967 Donated Materials or Services.**

The County may authorize a person to construct a Public Improvement or perform services without Competitive Bidding or other competitive process and regardless of dollar amount, if:

**(1)** The person has agreed to donate all or a significant portion of the materials or services necessary to construct the Public Improvement or perform the service; and

**(2)** The person enters into a license or agreement with the County whereby the person agrees to comply with the public contract requirements applicable to the particular project and any requirements that the County deems necessary or beneficial to protect the County.

#### **5.50.970 Concession Contracts.**

The County may enter into concession or franchise contracts without Competitive Bidding regardless of dollar amount. For the purposes of this section a "concession contract" or "franchise" means that the County authorizes the use of its property or facilities for a private commercial purpose in return for fee or a percentage of revenue from the operation.

**SECTION 2-B**  
**SUPPLIES, SURPLUS, AND FIXED ASSETS**

A. CENTRAL SUPPLY ROOM:

- 2B.0 A central supply room shall be stocked and maintained by the Purchasing Agent.
- 2B.1 The purpose of the central supply room is to stock office supplies and paper products that are used by all departments. Supplies stocked in the central supply room shall be available to all departments. Office supplies from the Central Supply Room may be obtained by submitting a written request to the Purchasing Agent. The form for submittal of written requests shall be as prescribed by the Purchasing Agent.
- 2B.2 Office supplies and paper products shall be purchased in quantity, and price and quality shall be items of consideration.
- 2B.3 The office supplies and paper products that are stocked in the central supply room shall be determined by the Purchasing Agent. The determining factor shall be office supplies and paper products that are used by County departments on a daily basis.
- 2B.4 Any contract or agreement for purchase of supplies and paper products with a cost of \$150,001 or more shall comply with formal bid procedure. Purchase of supplies with a value of less than \$150,000 shall comply with the applicable procedure.
- 2B.5 Purchasing for the County shall be combined with other government agencies whenever efficiency or economy can be achieved by a joint venture.

B. PAYMENT FOR MATERIALS, SUPPLIES, EQUIPMENT, AND SERVICES:

- 2B.6 Payment for office supplies and paper products stocked in the central supply room shall be charged against the Central Services budget.
- 2B.7 Payment for materials, supplies, equipment, and services that are requested by a department and that are not stocked in the central supply room shall be charged against the budget of the department requesting the purchase.
- 2B.8 All purchase orders shall include pertinent information pertaining to budget line item to be charged for purchase requested.
- 2B.9 It shall be the responsibility of the department head to determine that there are adequate budgeted funds for the requested purchase of materials, supplies, equipment

and services.

- 2B.10 Department heads shall be responsible for expenditure of funds in the departmental budget(s). A written request to expend funds from other budget(s) must be submitted to the Purchasing Agent. The purchase order and the claim for payment for such expenditures will be processed by the Purchasing Agent. The Purchasing Agent may delegate authority to the Budget & Finance Department Director to administer specific line items in the Central Services budget and the non-Departmental budgets.
- 2B.11 Any change in adopted budget appropriations shall require adoption of a Resolution by the Board of Commissioners. The adopted Resolution shall contain the reason for the appropriation change and the amount of the appropriation change.
- 2B.12 Transfers between account lines, of an expense already recorded, shall require a written request from the department head with explanation and documentation of the reason for the request. Final approval of the transfer shall be made by the Budget & Finance Officer.
- 2B.13 All requests to the Budget & Finance Department for payment of claims shall be signed by the appropriate department head.
- 2B.14 Purchasing, bid procedure and contracting shall be in compliance with Oregon Revised Statutes, County Ordinances, and the County Charter.

C SURPLUS EQUIPMENT AND SUPPLIES:

2B.15 Excess Property – Disposal/Transfer of Surplus:

All trade-ins, transfers, selling as scrap, donations, destruction, advertising for third party liquidator, or auction of Hood River County surplus property will be handled in accordance with the following policy. Surplus property is property of the County that has been determined by a department as being of limited remaining life, use, or value to the County.

1. SURPLUS PROPERTY

- a. The Board of Commissioners and the County Administrator will determine how to dispose of surplus property valued at \$5,000 or more.
- b. If the item has a value of \$5,000 or more and has been purchased with grant funding, the funding agency shall be notified of the condition of the equipment and its potential for surplus or disposal. The funding agency will supply in writing to Hood River County an approval to surplus the grant funded item and the County will follow 1(c) of the policy. If the

funding agency fails, in writing, to approve or issue disposition instructions within a 120 day calendar-day period, the County shall follow 1(c) of this policy.

- c. Methods of disposal may include, but are not limited to, trade-ins, donations, selling as scrap, and advertising for sale, auction, destruction, or disposal through the State of Oregon, Department of General Services, and Surplus Property Division.
- d. All surplus property sold or donated pursuant to this section will be sold as-is without any warranty, either expressed or implied of any kinds, including but not limited to warranties of title or fitness for any purpose. Upon receiving payment for the surplus property from the successful buyer or bidder, the person or company conducting the sale will execute an appropriate bill of sale, which will recite that the sale is without warranty as provided in this sub-section.

## 2. PROPERTY DISPOSAL

- a. Sale of Surplus Property (not including tax foreclosure property)
  - i. Surplus property may be sold at auction if the County determines that selling at auction will result in a higher net return.
  - ii. Surplus property may be sold, including recyclable or reclaimed materials, without a competitive process if the County determines that a sale will result in increased net revenue and the following conditions are complied with:
    - 1. When the current market value per item is deemed to be less than \$5,000, the County Administrator may establish a selling price, schedule an advertise a sale date, and sell to the first qualified buyer meeting the sale terms.
    - 2. When the current market value per item is \$5,000 or more, but less than \$25,000, the County Administrator by Board of Commissioners authorization shall establish a selling price and terms. The County will schedule and advertise a sale date, and sell to the first qualified buyer meeting the sale terms upon approval by the County Administrator or his designee.
    - 3. When the current value per item is deemed to be \$25,000

or more, the surplus property through the authorization of the Board of Commissioners will be offered for written competitive bid and be advertised, or be offered for sale at public auction. If no bids are received or if a determination is made that the market value of the property exceeds the offer of the highest responsible bidder, all bids may be rejected.

iii. The County may sell or dispose of any surplus property through the State of Oregon Department of General Services, Surplus Property Division without first offering the item to the public while following 1(a) or 1(b), whichever is applicable.

b. Liquidation Sales of Surplus Property

i. The County may sell surplus property as outlines in the policy through a commercially recognized third party liquidator, if the County determines that a liquidation sale will result in increased net revenue.

c. Dumpster Disposal or Recycling of Surplus Property

i. The County Administrator may dispose of surplus property in any manner and without competitive process, if the County determines the item value is less than \$5,000; and the items meets one of the following criteria: unsafe, inoperable, or not reasonably repairable. The County will take all reasonable precautions to assure that all electronic office equipment is disposed of in a manner that is safe with the environment.

d. Donations of Surplus Property

i. The County may donate or sell surplus property, including recyclable or reclaimed materials to another public agency, or nonprofit organization, subject to the following conditions:

1. The County Administrator has determined that the surplus property is not needed for other County purposes and is of a value less than \$5,000.
2. The following conditions apply if the surplus property has current market value of \$5,000 or more:

- a. Include documentation that it is in the public interest and,
- b. Approval by the Board of Commissioners.
- e. Trade-in of Surplus Property
  - i. All surplus property must be declared surplus by the County, following this policy, prior to being used as a trade-in.

### 3. DOCUMENTATION OF SURPLUS TRANSACTIONS

- a. The Director of Budget & Finance will maintain a record of all surplus transactions.
- b. Records for surplus equipment originally purchased with State or Federal grant funding must be maintained for a minimum of 5 years from the date of transaction.

## D FIXED ASSETS

- 2B.16 Fixed assets are defined as land, land improvements, buildings, fixtures, furniture, equipment, and property under construction. These assets are held for use in County operations and not intended for resale. The useful life of a fixed asset is generally long term and will be determined on a fiscal policy basis. These types of assets are budgeted and recorded as capital outlay, then tracked as an asset fund group in County fiscal records.
- 2B.17 The limitation for considering a purchase to be a fixed asset subject to capital outlay consideration is any amount of \$5,000.00 or more, or any addition/repair cost that materially extends the expected life of the asset.
- 2B.18 Department Heads are responsible for reporting their department's fixed asset activity. The Director of Budget & Finance is responsible for the fixed asset record keeping and is authorized to determine the structure and form of the fixed asset system. All fixed asset purchases, disposals, transfers, and surplus records are to be forwarded to that department for recording.
- 2B.19 The prescribed fixed asset recording/tracking form supplied by the Budget and Budget & Finance Department is to be used by any County department and forwarded to Budget and Finance for all fixed asset activity. Any assets determined to be disposable surplus by any given department are inventoried as such by Budget and Finance who will then present that inventory to the Board of Commissioners for

disposal approval.

- 2B.20 All fixed assets are identified as County property with a sequentially numbered inventory tag permanently assigned to that item. At the time of authorized disposal that tag will be removed and forwarded to Budget and Finance as verification of the asset retirement.
- 2B.21 An exception to this fixed asset policy is desktop computer equipment, i.e. CPUs, monitors, keyboards, printers, software, etc. This type of equipment is not typically held in the County fixed asset fund group, but is tracked for reporting and record keeping purposes by the Administration Department in corporation with the tech support employee; if applicable. A separate sequentially numbered tagging system is utilized for that purpose and maintained by the administration department. A copy of those records is provided to the Budget & Finance Department on a semi-annual basis. This exception does not include the purchase or acquisition of a “system” i.e., an entire network or file server is established in one transaction or a major assets is acquired, i.e. a printer, over \$5K. Those items would be considered a fixed asset and treated as such.
- 2B.22 A department is able to request a Budget and Finance review of fixed asset/capital outlay classifications on purchases for items such as tools, pieces of equipment or furniture that may not fit the fixed asset classification due to questions on useful life, wear and tear, disposability issues, etc. The Budget & Finance Director will make the final determination after discussion with the Department Head.

**SECTION 3-A**  
**PROCEDURE FOR PROCESSING CLAIMS FOR PAYMENT OF BILLS**

(Adopted 11/1/99)

A. GENERAL PROCEDURES:

3A.0 Billings for charges incurred against the County shall be processed and paid within 30-days. Each department shall be responsible for timely preparation and submittal of purchase orders and claims for payment of bills incurred by the department in order to assist in reducing the time between incurring an obligation and payment of the bill.

**EXCEPTIONS:** Purchase orders or claims involving more than one department's budget may be prepared by Administration or Budget & Finance. Purchase orders or claims for Central services or non-department budget shall be prepared by Administration or Budget & Finance, with Budget & Finance preparing claims for items they have been delegated to administer.

3A.1 Claims submitted for payment shall include as an attachment the original invoice, copy of the packing slip with a signature indicating receipt of the goods or a notation on the original invoice indicating the purchase was received (as applicable). The accounts payable copy of a purchase order or claim form shall be appropriately filled out with all required information and approved by the department head or authorized signer for the department. In order to avoid duplicate payments on any vendor account, **NO PAYMENTS WILL OCCUR ON PURCHASE ORDERS OR CLAIMS SUBMITTED WITH ACCOUNT STATEMENTS OR PACKING SLIPS AS THE DOCUMENTATION OF THE PURCHASE.**

**NOTE:** Individual departments are responsible to review all billings before submission to Budget & Finance to avoid duplicate payments or other issues that could jeopardize the County's position as the administrator of public funds.

Signature on the purchase order or claim form by the department head or authorized signer for the department is required. By signing, the department head acknowledges that all County policies in regard to purchasing have been complied with and that the claim is complete, valid and due for payment. The department head accepts the responsibility for accurate information and that the purchase was made within the confines of the department's annual budget as adopted or with consideration for authorized budget modifications made during the course of the fiscal year.

3A.2 All purchase orders and claims shall be submitted to Budget & Finance for payment and will be reviewed for approval by the Budget & Finance Director. All paperwork will be reviewed for

accuracy and completeness. Any errors or omissions will cause the purchase order or claim to be returned to the originating department for resolution. That department will be responsible for correcting the error and the prompt return of the paperwork to Budget & Finance.

Claims and purchase orders exceeding \$5,000 will also require approval by the County Administrator before being paid.

3A.3 Procedure for employee reimbursement of expenses shall be in accordance with Section 50 of the Personnel Code.

3A.4 Reimbursement for incidental expenses up to the \$20 level may be obtained from Petty Cash funds in the appropriate department: Administration, Budget & Finance, Parks & Buildings, Forestry, Health, or Justice Court. Any reimbursement from Petty Cash exceeding \$20 shall require approval from Budget & Finance Director.

A. SCHEDULE FOR SUBMITTAL AND PROCESSING OF PURCHASE ORDERS AND CLAIMS

3A.5 Purchase orders and claims shall be submitted to the Department of Budget & Finance as soon as the invoices are available to the respective department for processing. Emergency requests shall be restricted to exceptional emergent situations. All department heads and staff are expected to plan payment requirements to the greatest extent possible.

3A.6 Accounts payable checks shall be processed every Friday, with exception for holidays that may interfere with that normal processing day, in which case the processing would occur on the preceding business day.

Purchase orders and claims received by 5:00PM on the Tuesday prior to a check run will be included in that Friday's check-run.

Accounts payable checks will be mailed to all vendors on the day they are produced. Any other form or timing of payment delivery is subject to approval by the Budget & Finance Director at least 48 hours prior to the day of the check being produced.

**SECTION 4-A**  
**GRANT APPLICATIONS AND GRANT FUNDS**

(Revised 12/20/10)

A. GENERAL PROCEDURES:

4A.0 Grant funds may become available that can be advantageously used by the County to enhance existing projects and programs, or to provide funds for a new project or program.

4A.1 Department heads are encouraged to pursue and apply for grant funds that will be of benefit to the respective department, and that will provide needed funds to maintain, improve, or increase the level of services.

Consideration of the increase to administrative cost shall be a part of the grant application process. Coverage of administrative costs within the funding opportunity shall be a high priority consideration.

4A.2 The applicant shall submit a “Grant Application Questionnaire” to the Budget & Finance Director indicating the intent of the grant, the amount of the grant and any County obligation. The Questionnaire will also be forwarded to the County Administrator for sign off.

In order to derive maximum coordination of activities, programs, and projects, the County Administrator and Budget & Finance Director shall review and give prior approval to the preparation of any new or renewing application for grant funds.

4A.3 Final approval to submit an application for grant funds shall be given by the County Administrator or the Board of Commissioners:

1. The County Administrator shall give final approval if the revenue and expenditure is anticipated in the annual budget, or the grant is less than \$25,000 and does not require more than \$5,000 of in-kind/matching services.

2. The Board of Commissioners shall give final approval if the revenue and expenditure is not anticipated in the annual budget or the grant is \$25,000 or more.

4A.4 Any application for grant funds from an outside agency that requires endorsement from the Board of Commissioners, as the governing body of the County, shall require approval from the Board of Commissioners. An applicant for the grant shall submit a completed “Grant Application Questionnaire” indicating the intent

of the grant, the amount of the grant, and any County obligation.

4A.5

Final grant fund approval shall be given by the County Administrator or the Board of Commissioners, based on the value factors in 4A.3. A grant agreement or award requiring approval and signature by the governing body shall be referred to the Board of Commissioners for final approval. All grant agreements or award letters requiring signature must first be reviewed and approved by legal counsel. The County Administrator may elect to refer acceptance of any grant to the Board of Commissioners.

4A.6

Submittal of an application for grant funds shall not commit matching funds or in-kind services for the ensuing fiscal year.

4A.7

Grant revenue determined as reasonably anticipated to be received and the total related anticipated expenditure shall be included in the original annual departmental budget.

4A.8

Grant revenue received after the original budget has been adopted shall be added to the departmental budget prior to expenditure via the budget adjustment process determined to be appropriate by the Budget & Finance Director.

4A.9

All grant funds shall be administered by the Budget & Finance Department. The applicable Department Head shall administer the grant program.

4A.10

All grant funds shall be expended in accordance with provisions of the grant agreement.

4A.11

A program, project, or service funded entirely with grant funds or funds from outside sources shall be terminated upon expiration of the grant funds or funds from outside sources. Continuing a program, project or service beyond the funding period shall require compliance with budget policy and inclusion of an appropriation in the annual County budget. The Board of Commissioners shall determine the level of services that will be provided.

4A.12

A program, project, or service funded partially with grant funds or other outside sources and combined with direct County funds shall be re-evaluated upon expiration of the grant funds or funds from outside sources. Level of services and amount of funding for continuing the project, program, or service shall be determined and approved by the Board of Commissioners.

**SECTION 5-A  
TRADES OF MATERIALS OR SERVICES**

A. GENERAL PROCEDURES:

- 5A.0 All proposed trades of materials or services shall receive prior approval from the Board of Commissioners.
- 5A.1 A proposal for trade of materials or services shall include the following information.
1. The reasons that the trade is preferred to an outright purchase;
  2. The value of the item(s) offered for trade;
  3. The value of the item(s) received in trade; and
  4. An explanation as to the budgeted line (items b and c above) that will be recorded.
- 5A.2 All trades of materials or services must be recorded at the fair market value as both a revenue and an expense in the budget. Even if cash is not involved, the value exchanged may cause a budgeted line item to reach the maximum of its appropriation. Once a budgeted line has been expended in its entirety no additional funds may be expended from that budgeted line without an appropriate budget adjustment.

**SECTION 6-A**  
**BOARD OF COMMISSIONERS**

A. ORGANIZATION AND STRUCTURE:

- 6A.0 The election of the Chair of the Board of Commissioners and the County Commissioners, organization of the Board, duties and responsibilities of the Board, shall be in accordance with provisions of the Hood River County Charter (Revised May 2008).
- 6A.1 In accordance with provisions of the Hood River County Charter (Revised May 2008), the Board of Commissioners shall hold an annual organizational meeting at the first meeting of the calendar year and shall select from among its members a Vice-Chair to serve in the absence of the Chair.
- 6A.2 In the event of a vacancy on the Board of Commissioners by reasons stated in the Hood River County Charter (Revised May 2008), appointment of a replacement shall be in accordance with provisions of the Hood River County Charter (Revised May 2008).

B. RESPONSIBILITIES:

- 6A.3 The Board of Commissioners shall execute its responsibilities and authorities as stipulated in the Hood River County Charter (Revised May 2008).
- 6A.4 The Board of Commissioners is the County's governing body and policy making body, and the primary responsibility of the Board of Commissioners shall be general legislative authority over all matters of County concern; to establish policy for all County departments and County employees; to provide facilities and services for County residents that are needed and necessary; to represent and be responsive to the citizenry of Hood River County.
- 6A.5 The Board of Commissioners shall appoint a County Administrator in accordance with provisions of the Hood River County Charter (Revised May 2008).
- 6A.6 The Board of Commissioners shall have absolute control over County funds and County expenditures.
- 6A.7 The Board of Commissioners shall have control over County owned real property, real property improvements, and personal property.
- 6A.8 The Board of Commissioners shall establish County departments, and subject to approval of the Budget Committee and availability of funds, provide funds in the

annual budget for department heads to effectively and efficiently operate departments.

- 6A.9 The Board of Commissioners shall give direction to the negotiator for contracts with recognized Bargaining Units. During the period of time that contracts are being negotiated, the Board of Commissioners shall receive periodic status reports.
- 6A.10 The Board of Commissioners shall establish and revise all County fee schedules.
- 6A.11 The Board of Commissioners shall coordinate its efforts with those of other public jurisdictions, and particular emphasis shall be placed on eliminating duplication of services, thereby providing the taxpayers of the County with the best services and facilities possible in the most efficient and economical manner.
- 6A.12 In accordance with provisions of the Hood River County Charter (Revised May2008), the Board of Commissioners shall adopt and periodically review an Administrative Code.
- 6A.13 The Board of Commissioners shall adopt and periodically review a Personnel Code.
- 6A.14 The Board of Commissioners shall adopt a salary plan for non-union employees and a classification plan for all employees each year during the budget process. The salary and classification plans shall be reviewed on an annual basis by the County Administrator. The Board of Commissioners may authorize special classification and salary review by a specialized consultant.
- 6A.15 The Board of Commissioners shall function within the following guidelines:
1. The Board of Commissioners delegates' authority to the County Administrator to appoint and to supervise department heads.
  2. The Board of Commissioners delegates authority to the County Administrator to administer and manage all affairs of Hood River County.
  3. The Board of Commissioners may delegate whatever authority it deems necessary to the County Administrator. The Board of Commissioners may at any time request an oral report or a written report from the County Administrator. The Board of Commissioners may at any time request, through the County Administrator, a written or oral report from a department head. Such reports may be reviewed at any scheduled meeting of the Board of Commissioners.

4. Members of the Board of Commissioners shall recognize their responsibility to discuss policies, programs, projects, or other items of concern with citizens of Hood River County; however, members of the Board of Commissioners shall also recognize that provisions of the Hood River County Charter (Revised May2008) requires an affirmative vote of at least three Board members for any action to be binding, and therefore, an individual member of the Board of Commissioners cannot make a binding decision or make a commitment on behalf of the Board of Commissioners.

5. Members of the Board of Commissioners may refer any complaint or request to the County Administrator for research, recommendation, or solution.

C. BOARD OF HEALTH:

6A.16 The Board of Commissioners shall serve as the Board of Health in accordance with provisions of Oregon Revised Statutes.

D. RESOLUTIONS, ORDERS, ORDINANCES:

6A.17 Resolutions and Orders shall become effective upon the signature of the Presiding Officer, or ten days following Board action, whichever comes first.

6A.18 Except as otherwise provided in the Hood River County Charter, every adopted Ordinance shall become effective thirty days after adoption or the date specified therein.

6A.19 Ordinance procedure shall be in accordance with provisions of the Hood River County Charter.

E. JAIL INSPECTION:

6A.20 The Board of Commissioners may visit the regional county jail at least once each year to examine its facilities, health, cleanliness, and discipline, in accordance with provisions of Oregon Revised Statutes.

F. COMMISSIONER ASSIGNMENT TO COMMITTEES:

6A.21 The Board of Commissioners by majority vote may appoint at least one of its members to the following committees. Board representation is not limited to these committees:

Board of Property Tax Appeals  
CAP Board of Directors

Commission on Children & Families  
Emergency Medical Services Committee  
Emergency Services Committee  
Forest Advisory Committee  
Museum Board  
Health Care Facility Board of Directors  
Mid-Columbia Economic Development District Board of Directors  
Mid-Columbia Council of Governments Board of Directors  
Parkdale Community Center Board of Directors  
Public Works Advisory Committee  
Tri-County Mental Health Board of Directors  
9-1-1- Advisory Committee  
AOC Committees

6A.22 Commissioners' committee assignments shall be considered at the second regular meeting in January of each calendar year.

6A.23 The Board of Commissioners by majority vote may appoint one of its members, or its representative, to a special committee assignment as the need arises.

G. AUDIT:

6A.24 In accordance with provisions of the Hood River County Charter (Revised May 2008), the Board of Commissioners shall appoint a qualified person or firm to audit, at least every twelve months, the accounts of all officers having the care, management collection, or disbursement of moneys belonging to the County, or moneys received or disbursed by the County under authority of the law.

H. COUNTY SERVICE DISTRICT:

6A.25 Unless otherwise provided for by the Board of Commissioners acting in its capacity as the governing body of a County Service District, the rules of procedure adopted herein shall be applicable to the conduct of proceedings for the Board of County Commissioners of Hood River County acting as the Board of Directors of a County Service District.

**SECTION 6-B**  
**AGENDAS; PREPARATION AND DISTRIBUTION**

(Revisions approved by BOC 1/2/01)  
(Revisions approved 5/2/05)  
(Revisions Approved 1/16/07)

A. RESPONSIBILITY FOR PREPARATION OF AGENDA:

6B.0 The agenda for each meeting of the Board of Commissioners shall be prepared by the staff of the County Administrator's office and shall be reviewed by the Chair of the Board of Commissioners.

B. SUBMITTAL OF AGENDA ITEMS:

6B.1 All requests for agenda items shall be in writing.

6B.2 New items may be placed on the agenda at the direction of the Chair or one Commissioner.

6B.3 Any individual, group, or public agency may request an item to be placed on the agenda provided the subject matter is of County concern. All items must be submitted in writing to the County Administrator for review. The item will be reviewed and forwarded to the Chair for consideration of placement on the next available agenda. No such request may be for reconsideration of a Board of Commissioners decision that has been made within the past twelve (12) months.

6B.4 Agenda material that is submitted to the Board of Commissioners shall be as complete as possible and shall contain any background information that will be of assistance to the Board of Commissioners in making a decision.

6B.5 Submittal of agenda items by department heads shall be in a format prescribed by the County Administrator.

C. CONTENTS OF AGENDA:

6B.6 The printed agenda shall contain the date, time, and place of the meeting and all items to be considered at the meeting.

D. UNSCHEDULED ITEMS:

6B.7 The printed agenda shall include a time for unscheduled items from the general public.

E. REPORTS

6B.8 The printed agenda shall also make provision for scheduled written or oral reports from the County Administrator, County Counsel(s), Board of Commissioners and department heads.

F. RECOMMENDATIONS:

6B.9 Agenda items shall contain the recommendation of the appropriate department head(s) and the County Administrator, in order to be placed on the agenda.

6B.10 A recommendation or request that could have legal implications, i.e. contracts, agreements MOU's etc., shall be submitted to County Counsel for review at least two weeks prior to the agenda request deadline. The County Administrator shall determine the need for submittal of resolutions, proposed ordinances, and other legal documents, to County Counsel for review prior to submittal to the Board of Commissioners.

G. DISTRIBUTION OF AGENDAS AND NOTICE OF MEETINGS:

6B.11 Notice and agendas for all regular meetings, special meetings and emergency meetings shall be given in accordance with public meeting laws.

6B.12 A copy of the agenda shall be mailed or otherwise delivered to all persons or agencies having an item on the agenda no later than the close of the business day on the Friday immediately prior to the meeting.

6B.13 The agenda shall be made available to persons requesting a copy.

H. SUPPLEMENTAL AGENDA:

6B.14 After the deadline for receipt of agenda items, additional items may be printed on a supplemental agenda only if they are received in the Board of Commissioners office not later than 1:00 p.m., or otherwise allowed by the administration office, on the day of the meeting and are approved by the Chair. A supplemental agenda item shall be allowed only when immediate action is necessary and delay to the next meeting of the Board of Commissioners would cause problems. An item submitted to the County Administrator's office for inclusion on the printed supplemental agenda must include all necessary documentation. No such items shall be considered at that meeting of the Board of Commissioners, unless there is majority consent of the Board.

I. APPROVALS RECEIVED BY TELEPHONE/ E MAIL POLL:

6B.15 A telephone/e-mail poll may only be conducted if there is an emergency situation that would otherwise require a special or emergency Board of Commissioners meeting. A telephone/e-mail poll shall be conducted by the County Administrator's office or by a department head after receiving authorization from the County Administrator. Approved items shall be placed on the next Commissioners agenda for confirmation.

J. NOTIFICATION OF BOARD OF COMMISSIONERS DECISION:

6B.16 After a decision is made by the Board of Commissioners, the appropriate department, agency public jurisdiction, or individual shall be notified in writing of the Board of Commissioners final decision.

K. SUBMITTAL OF AGENDA SUMMARY TO CANDIDATES FOR COUNTY COMMISSIONER:

6B.17 Officially recognized Candidates for County Commissioner may each receive an agenda summary. A candidate for County Commissioner may request and receive information included in the agenda packet for any item that is on the agenda summary, at no cost; EXCEPT information pertaining to an item that will be considered in an Executive Session will not be released to a candidate for County Commissioner.

**SECTION 6-C**  
**PROCEDURE FOR MEETINGS OF THE BOARD OF COMMISSIONERS**

A. GENERAL PROCEDURES - PLACE - TIME:

- 6C.0 Unless otherwise indicated in advance, all meetings of the Board of Commissioners shall be held in the Hood River County Business Administration Building. Time and location shall be established by the Chair of the Board of Commissioners in a timely manner.
- 6C.1 The duties of the Chair shall be as prescribed by the Hood River County Charter (Revised May, 2008).
- 6C.2 The Chair of the Board of Commissioners shall be the Presiding Officer at all meetings of the Board of Commissioners.
- 6C.3 The Vice-Chair shall be the Presiding Officer in the absence of the Chair and shall have, at such times, the authority to sign appropriate documents.
- 6C.4 In the absence of the Chair and Vice-Chair, the remaining three members shall elect a temporary Presiding Officer.
- 6C.5 The Presiding Officer shall preserve procedure, order, and decorum and decide questions of procedure, order, and decorum, subject to appeal by a vote of three or more members of the Board of Commissioners.
- 6C.6 The Chair may make a motion or second a motion, and shall vote on all matters before the Board of Commissioners.
- 6C.7 The order of business at all meetings of the Board of Commissioners shall be determined by the printed agenda.
- 1 Any item not presented in time for the supplemental printed agenda may be considered at the time specified on the printed agenda for unscheduled items.
  2. Any individual addressing the Board on an unscheduled item shall do so from the podium and shall speak into the microphone after first stating his/her name and address.
  - 3 Unscheduled items from the general public shall be limited to five minutes per person per subject, unless additional time is granted by the Presiding Officer. Discussion of unscheduled items from County Commissioners, department heads, or items included in the printed supplemental agenda shall

be subject to majority consent from the Board of Commissioners.

- 4 Department Heads requesting consideration of an unscheduled item shall be responsible for distribution of information pertaining to an unscheduled item to the Commissioners, staff, and news media
  - 5 A decision on any unscheduled agenda item may be delayed or tabled pending submittal of additional information required by the Board of Commissioners to make a decision. It shall be the general policy of the Board of Commissioners to delay a decision on an unscheduled item until the procedure has been followed for submittal of information, documentation, signed approvals, and the recommendation from the appropriate department head(s) or public jurisdiction(s).
- 6C.8 Voting at Board of Commissioners meetings shall be in accordance with the Hood River County Charter (Revised May 2008 ).
- 6C.9 Each member of the Board of Commissioners is deemed to have notice of all prior proceedings.
- 6C.10 When a matter is called for a vote, the Presiding Officer may, before a vote is taken, state in general terms the question that is before the Board of Commissioners, and in accordance with provisions of the Hood River County Charter, all voting shall be by recorded roll call vote.
- 6C.11 A motion to reconsider an item may be made by any member of the Board of Commissioners regardless of whether the vote on that item was affirmative or negative. Such motion shall be made not later than the next regular meeting following the original action of the Board of Commissioners.
- 6C.12 Any item may be taken out of order by the Presiding Officer, except that no public hearing shall be held prior to the date and time specified in the public notice, and no item with a time certain on the agenda shall be considered prior to the specified time.
- 6C.13 By Order of the presiding officer, a person, or persons creating a disturbance or otherwise obstructing the orderly process of County business may be ejected from the meeting by the Sheriff or deputies.
- 6C.14 Any item may be continued to any subsequent meeting upon affirmative vote by at least three Board members and shall be continued to the next regularly scheduled meeting of the Board of Commissioners unless another date and time is specifically stipulated by a vote of three or more Board members. All persons appearing on record before the Board of Commissioners shall receive prior notification of the

meeting at which the continued item shall be acted upon again. When the decision on any item discussed in a regular or special meeting of the Board of Commissioners has been tabled to a date certain, held in abeyance pending receipt of further information or other response, said item shall be placed on the next regular agenda and on all subsequent agendas until the decision has been reached. This policy does not apply to items which are tabled without a date certain.

6C.15 Upon adjournment of any regular, special, or emergency meeting, the Chair and Commissioners shall sign those documents that require signature as a result of their action at that meeting.

6C.16 The use of tobacco in any form is prohibited at all Board meetings.

B. PROCEDURE - REGULAR MEETINGS:

6C.17 Regular meetings of the Board of Commissioners shall be held on the third Monday of each month. When the regular meeting date fall on a legally observed County holiday, the meeting shall be held on the following Tuesday. The third Monday meeting may be held in the afternoon at a time designated by the Chair of the Board of Commissioners.

6C.18 The Board of Commissioners may cancel or reschedule the date or dates of regular meetings as it deems fit, subject to the notice provisions of Oregon Revised Statutes, and subject to provisions of the Hood River County Charter (Revised May 2008) requiring that the Board of Commissioners meet regularly at least once each month.

C. PROCEDURE - SPECIAL MEETINGS:

6C.19 Special meetings of the Board of Commissioners may be called by the Chair or by three Commissioners in accordance with provisions of the Hood River County Charter (Revised May 2008).

6C.20 Subjects discussed at a special meeting shall be limited to the agenda items and the supplemental agenda items.

6C.21 Final decisions may be made at a special meeting.

D. PROCEDURE - WORK SESSIONS:

6C.22 Work sessions of the Board of Commissioners may be called by the Chair or by three Commissioners. Work sessions may be held for the purpose of discussion or receiving or giving information.

6C.23 Subjects discussed at a work session shall be limited to the agenda items for the work

session.

6C.24 Final decisions shall not be made at a work session.

6C.25 A work session may be held in conjunction with a regular meeting or a special meeting. Final action may be taken at a regular or special meeting held in conjunction with a work session or at the next regular or special meeting.

E. PROCEDURE - EMERGENCY MEETINGS:

6C.26 Emergency meetings of the Board of Commissioners may be held upon a call of the Chair or by three members of the Board of Commissioners.

6C.27 Only such matters as pertain to the emergency meeting may be discussed at such meeting.

6C.28 Final action may be taken at an emergency meeting.

F. EXECUTIVE SESSIONS:

6C.29 Executive Sessions may be held on certain matters in accordance with provisions of Oregon Revised Statutes.

6C.30 Executive Sessions may be scheduled separately or may be held at a regular meeting, special meeting, emergency meeting, or work session, after the Presiding Officer has identified the authorization under Oregon Revised Statutes for the holding of such Executive Sessions. Executive Sessions shall be called by the Chair in accordance with provisions of the Hood River County Charter (Revised May, 2008).

6C.31 Representatives of the news media shall be allowed to attend Executive Sessions but the Board of Commissioners may require that specified information be undisclosed. Prior to representatives of the news media attending any Executive Sessions, the party responsible for attendance shall sign an agreement to comply with Oregon State law pertaining to disclosures, and a copy of the agreement shall be kept on record with the Department of Records and Assessment.

6C.32 No final action may be made in an Executive Session. Final action must be made at a regular meeting, special meeting, or emergency meeting. If an Executive Session is not held in conjunction with a regular, special, or emergency meeting, final action shall be delayed until the next regular meeting or special meeting. In an emergency, an emergency meeting may be immediately called.

G. HEARINGS:

- 6C.33 Hearings will be held at a regular Board of Commissioners meeting, or may be held at a special Board of Commissioners meeting or in conjunction with a regular Board of Commissioners meeting. To accommodate the general public, hearings will not be scheduled before 5:00 p.m.
- 6C.34 Hearings shall be conducted in accordance with the Administrative Code Procedure for Hearings.

H. OPEN MEETINGS:

- 6C.35 It shall be the policy of the Board of Commissioners to comply with both the letter and the spirit of the Oregon Public Meeting Law, and Oregon Laws concerning public records.
- 6C.36 No secret ballots of any kind whatsoever shall be taken by the Board of Commissioners. Violation of this provision shall render the decision made by a secret ballot void ab initio.

I. CONFIDENTIAL COMMUNICATIONS:

- 6C.37 The Board of Commissioners recognizes the right of any citizen to communicate in confidence with the elected and appointed officials.
- 6C.38 Any correspondence which is directed to the Board of Commissioners and is marked "confidential" shall remain confidential until after it has been placed on a regular agenda and the time for consideration of the confidential matter has arrived.
- 6C.39 No action may be taken on any confidential communications until the fact of the communication and its content has been made public.

J. CLERK OF THE BOARD:

- 6C.40 The Clerk of the Board, or a qualified alternate designated by the County Administrator, shall be present at each meeting of the Board and shall provide, at minimum, a written summary of actions taken at the Board meetings, and shall include (1) all motions, proposals, resolutions, ordinances, and measures proposed and their disposition; (2) the results of the roll call vote on all motions; (3) the substance of any discussion on any matter.

K. ORDINANCES:

6C.41 Ordinance procedures shall be in accordance with provisions of the Hood River County Charter (Revised May, 2008).

L. ROBERT'S RULES OF ORDER:

6C.42 All meetings of the Board of Commissioners shall be governed by the latest edition of the Roberts' Rules of Order, except as otherwise provided herein.

M. REMOTE MEETING ATTENDANCE:

6C.43 Participation by telecommunication means that commissioner(s) not present in person will communicate by telephone or other electronic device that permits all participants to hear and speak with each other. Except for hearings on quasi-judicial matters and executive session, a Commissioner may attend a Commission meeting by telecommunication, subject to the following:

1. Commissioners' remote attendance shall be counted for the purposes of establishing a meeting quorum.
2. No Commissioner shall remotely attend more than two consecutive meetings.
3. No Commissioner shall remotely attend more than 4 meetings in a calendar year.
4. If the Chair remotely attends a meeting, the meeting will be chaired by the Vice Chair.

**SECTION 6-D  
PROCEDURE FOR HEARING**

A. GENERAL PROCEDURES:

The following procedures shall apply to hearings conducted by the Board of Commissioners:

- 6D.0 Depending upon the circumstances, the Board of Commissioners may hold legislative hearings or adjudicative hearings.
- 6D.1 Publication and other notice of hearing shall be given in accordance with applicable State law, County Ordinance, or County Charter. Failure by any person to receive notice shall not nullify the proceedings.
- 6D.2 The date and time of a hearing shall be scheduled by the Board of Commissioners.
- 6D.3 The applicant and the appellant, or designated representative, shall receive prior to the hearing date, an exact copy of the record as submitted to the Board of Commissioners. The record shall be mailed or otherwise delivered to the applicant and appellant or designated representative, not later than the date it is furnished to the Board of Commissioners. The applicant and appellant, or designated representative, may request and receive additional copies of the record and shall be charged the established fee for copies.
- 6D.4 Procedure for providing copies of other information, documentation, etc., related to a hearing shall be the same as specified in Section 3.3.1.
- 6D.5 A designated representative is the person, other than the applicant or appellant, who signs an application or appeal.
- 6D.6 A representative may be designated, or a designated representative may be changed, by filing written notification with the Board of Commissioners office.
- 6D.7 With the exception of hearings on the Planning Commission record, all persons shall have the right to be heard.
- 6D.8 No person shall have the right to be disorderly or disruptive or to present irrelevant testimony. By majority vote, the Board of Commissioners may make a determination that testimony is irrelevant.
- 6D.9 Reports presented by Hood River County personnel shall be deemed relevant unless there is objection to the material and it is deemed by the Board of Commissioners

that the material is irrelevant.

- 6D.10 Any person has the right to be represented by Counsel.
- 6D.11 Any person has the right to a transcript of the proceeding upon payment of the minimum fee established for copies in the Department of Records and Assessment. The person requesting preparation of a transcript shall be required to make a deposit of at least half the estimated cost of the entire transcript. A reasonable time shall be allowed for preparation of a transcript.
- 6D.12 Any person has the right of access to the record of the proceeding at reasonable times, places and circumstances.
- 6D.13 Testimony from any individual shall be limited to ten minutes unless prior approval is received from the Chair.
- 6D.14 Hearings shall be recorded and all persons testifying shall be required to state his/her name and address.
- 6D.15 At the hearing, the Presiding Officer shall provide an opportunity for the Commissioners to ask questions and receive responses, and shall provide an opportunity for Commissioners to state their position.
- 6D.16 At the hearing, the Presiding Officer shall provide an opportunity for the appropriate department head , County Administrator, other staff or special consultant to give a staff report.
- 6D.17 At any time during a hearing, the Board of Commissioners may consult with its legal counsel, a department head, County Administrator, staff or special consultant.
- 6D.18 To facilitate an orderly hearing the Presiding Officer may specify special procedures.
- 6D.19 A hearing may be continued to a date and time certain.
- 6D.20 With the exception of a hearing on the Planning Commission record, provision shall be made in the published notice of hearing for submittal of written testimony into the record.
- 6D.21 If it is anticipated that a large number of people will testify at a hearing, a sign-in system may be used.
- 6D.22 With the exception of a hearing on the Planning Commission record, exhibits may be submitted into the record. Exhibits shall be properly recorded and become part of the

record. Exhibits may not be removed from the record until any appeal period has elapsed or any appeal has been resolved.

- 6D.23 The Presiding Officer may close a public hearing, but allow additional written testimony to be submitted until a specified date and time.
- 6D.24 Public hearings shall not continue beyond 11:00 p.m. except upon affirmative vote of three (3) or more Board members. Any hearing not concluded by 11:00 p.m. shall be continued to the earliest possible time. The date and time when the hearing shall be continued shall be stipulated by the Presiding Officer.
- 6D.25 Any person has the right of access to a hearing record at reasonable times, places and circumstances, and may purchase a copy of a record at the established fee for copies.
- 6D.26 At Legislative Hearings, both oral and written testimony will be accepted until a decision has been made.

B. LAND USE HEARINGS:

In addition to the above general hearing provisions, the following shall apply to land use hearings:

- 6D.27 Land use hearings may address the zoning ordinance, comprehensive plan, or subdivision ordinance, or any topic determined to be a land use issue under State law.
- 6D.28 The Board of Commissioners shall determine whether the appellant has standing to file an appeal.
- 6D.29 Depending upon the circumstances, a land use hearing may be an adjudicative hearing or a legislative hearing and may be held de novo or on the Planning Commission record.
- 6D.30 The criteria for determining an adjudicative hearing shall be as follows:
  - 1. The effect is narrow in scope, focusing on specific individuals or situations, rather than general in scope affecting a broad class of individuals or situations;
  - 2. The result is the application of a general rule of policy rather than the formulation thereof;
  - 3. The preceding is retrospective in the determination of the rights and duties of parties under existing law and with relationship to existing facts rather than prospective in nature, determining what policy or law shall apply in future

cases; and

4 The exercise of judgment rather than the exercise of discretion is made.

6D.31 When an adjudicative matter is before the Board of Commissioners, the Board of Commissioners shall act in a quasi-judicial capacity in conducting such hearing.

6D.32 Hearing procedure shall comply with applicable County Ordinance and applicable State law for land use hearings.

6D.33 In order to provide individual rights and conduct county business in an orderly manner, the Board may:

1. Provide for a hearings officer who shall make relevant inquiry, take proper testimony, receive appropriate evidence and provide the Board with a transcript and exhibits, and if so ordered, findings and recommendations;

2. Provide for a method of placing witnesses under oath;

3 View property.

6D.34 The burden is upon the moving party to justify the merit of the application. The moving party shall justify the application by preponderance of evidence.

6D.35 The primary standard for the Board in land use matters shall be the Comprehensive Plan applicable to the land in question.

6D.36 Appeals from a Planning Commission decision shall be filed with the Department of Record and Assessment.

6D.37 Within 30 days after the appeal is filed with the Department of Records and Assessment, the Planning Department shall submit to the County Administrator's Office a copy of the appeal, a copy of the minutes of the Planning Commission hearing, and all documentation for a determination on whether the hearing will be heard de novo or on the Planning Commission record. The record shall be submitted to the Board of Commissioners at its next regular meeting. Unless there are extenuating circumstances, the normal procedure shall be that appeals will be heard on the Planning Commission record.

6D.38 If the applicant or appellant, or the designated representative, needs additional time to review the record and to prepare for the hearing, the County Administrator's Office shall be so notified prior to scheduling of the hearing. Allowing the additional time

for review of the record may necessitate a delay in scheduling the hearing.

- 6D.39 All interested parties have the right, insofar as possible, to have the Board members free from personal interest or prehearing contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. No decision or action of the Board of Commissioners shall be invalid due to ex parte contact or bias if the member of the Board of Commissioners receiving the contact: (a) places on the record the substance of any written or oral ex parte communications concerning the decision or action; and (b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

Communications with County staff, County Counsel or the Planning Commission shall not be considered an ex-parte contact.

- 6D.40 The following procedures shall govern the conduct of quasi judicial hearings conducted before the Board of Commissioners.

1. An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Board of Commissioners. Such issues shall be raised with sufficient specificity so as to afford the Board of Commissioners and the parties an adequate opportunity to respond to each issue.
2. Notice of the hearings governed by this section shall be provided to the applicant, appellant, or representative(s) of record, and to owners of record of property on the most recent property tax assessment roll where such property is located:
  - a. Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary.
  - b. Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
  - c. Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

1. Notice shall also be provided to any neighborhood or

community organization recognized by the governing body and whose boundaries include the site.

3. The notice provided by the County shall:
  - a. Explain the nature of the application and the proposed use or uses which could be authorized;
  - b. List the applicable criteria from the ordinance and the plan that apply to the application at issue;
  - c. Set forth the street address or other easily understood geographical reference to the subject property;
  - d. State the date, time and location of the hearing;
  - e. State that failure of an issue to be raised at a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
  - f. Be mailed at least:
    1. Twenty days before the evidentiary hearing; or
    2. If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;
  - g. Include the contact name and telephone number of the County Administrator where additional information may be obtained;
  - h. State that a copy of the application, all documents, and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - i. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
4. The hearing record used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to limitations of O.R.S. 215.428 or 227.178.

5. At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:
  - a. Lists the applicable substantive criteria;
  - b. States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
  - c. States that failure to raise an issue with sufficiency specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of appeals based on that issue.
  - d. Unless there is a continuance if a participant so requests before the conclusion of the evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of O.R.S. 215.428 or 227.178.
6. When the Board of Commissioners reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision-making which apply to the matter at issue.
7. The failure of the property owner to receive notice as provided herein shall not invalidate such proceedings if can be demonstrated by affidavit that notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio.

6D.41 After reaching a decision at any adjudicative or legislative hearing, the Board of Commissioners shall make findings to substantiate its decision and the findings shall be included in an Order and become part of the record. The Board of Commissioners may affirm the Planning Commission decision, reverse the Planning Commission decision or remand back to the Planning Commission. Criteria for reversing or remanding the Order shall be as contained in the Hood River County Zoning Ordinance.

An Order remanding to the Planning Commission shall specifically set forth the issues that are being remanded and that are to receive further consideration by the Planning Commission through the public hearing process.

C. HEARINGS ON THE PLANNING COMMISSION RECORD:

In addition to general hearing provisions and land use hearing provisions, the following procedures shall be used in processing a hearing that the Board of Commissioners has determined shall be heard on the Planning Commission record.

- 6D.42 Unless there are extraordinary circumstances, appeals will be heard on the Planning Commission record.
- 6D.43 A transcript of the Planning Commission hearing shall be required for a hearing on the Planning Commission record. An exception may be made if the appellant requests, substituting the minutes of the Planning Commission hearing for the transcript, and the Board of Commissioners agrees to the substitution. If the Board agrees to a record containing minutes of the Planning Commission Hearing(s) only and not a transcript(s), the appeal filing fee shall be reduced by one-half (1/2).
- 6D.44 The normal procedure shall be that a hearing on the Planning Commission record shall be scheduled at the earliest possible date. If a transcript is required and is of extraordinary length, a hearing date will be coordinated with the Planning Department to allow sufficient time for preparation of a transcript.
- 6D.45 The published notice and notice to applicant, appellant, and adjacent property owners shall occur so as to provide advance notice of the requirement that an application for submittal of new evidence or testimony must be submitted fifteen days prior to the date of the hearing.
- 6D.46 The County Administrator's Office shall receive from the Planning Department a complete Planning Commission hearing record, including the transcript, if not exempt pursuant to provisions in 3.44 above, at least 15 days prior to the hearing date. The Planning Department Director may submit a supplemental staff report. If the record is of exceptional length, every effort shall be made for an earlier submittal to the County Administrator's Office.
- 6D.47 A complete record, including any application to submit new evidence or testimony, shall be submitted to the Board of Commissioners at least 7 days prior to the hearing date. At such times as there is a hearing record of exceptional length, or the content of the record is complex, every effort will be made for an earlier submittal to the Board of Commissioners.
- 6D.48 Applications for submittal of new evidence or new testimony shall be the first item of consideration at the hearing before the Board of Commissioners.
- 6D.49 The Board of Commissioners shall determine whether new evidence or testimony

shall be received. New evidence or testimony shall be defined as:

1. Information that was absolutely not available at the time of the Planning Commission hearing;
2. A person requesting an opportunity to testify who was absolutely not able, or was unavailable to testify either verbally or in writing at the Planning Commission hearing.

6D.50 If the Board of Commissioners determines that there is new evidence or testimony, the new testimony may be remanded to the Planning Commission for a hearing, or the Board of Commissioners may determine to hear the new testimony.

6D.51 The Planning Department Director may give a staff report, legal counsel may inform the Board of Commissioners, and the Board of Commissioners may ask questions and receive response from the Planning Department Director and legal counsel. This shall not be considered as new testimony.

6D.52 One person representing the proponent and one person representing the opponent shall be allowed to argue the record. Arguments shall be restricted to the content of the record.

6D.53 If new testimony or evidence is, allowed the proponent, opponent, and other persons with standing shall be allowed to testify as pertains to the new evidence or testimony and shall be allowed to cross-examine and to rebut.

6D.54 The Presiding Officer shall provide an opportunity for members of the Board of Commissioners to ask questions and receive responses, from the proponent and opponent and anyone testifying at the hearing. The Presiding Officer shall also provide an opportunity for members of the Board of Commissioners to state their position if they so desire.

6D.55 The Board of Commissioners may affirm the Planning Commission decision, reverse the Planning Commission decision, or remand it back to the Planning Commission. Criteria for reversing or remanding the Order shall be as contained in the Hood River County Zoning Ordinance.

D. DE NOVO HEARINGS:

In addition to general hearing provisions and land use hearing provisions, the following procedures shall be used in processing a hearing that the Board of Commissioners has determined shall be heard de novo.

6D.56 The Board of Commissioners may request a transcript of the Planning Commission

hearing.

- 6D.57 Publication and notification for de novo hearings shall be in accord with provisions of the applicable ordinance or state law.
- 6D.58 The normal procedure shall be that a de novo hearing shall be scheduled at the earliest possible date. If a transcript of the Planning Commission hearing is requested and it is of extraordinary length, a hearing date shall be coordinated with the Planning Department to allow sufficient staff time for preparation of the transcript.
- 6D.59 A complete Planning Commission record shall be submitted to the County Administrator's Office at least 15 days prior to the hearing date. The Planning Department Director may submit a supplemental staff report.
- 6D.60 A complete record shall be submitted to the Board of Commissioners at least 7 days prior to the hearing date. At such times as there is a hearing record of exceptional length, or the content of the record is complex, every effort will be made for an earlier submittal to the Board of Commissioners.
- 6D.61 Any person has the right to testify at a de novo hearing, provided it is relevant material and competent evidence. By majority vote, the Board of Commissioners may rule testimony or evidence to be irrelevant.
- 6D.62 Any person testifying at a de novo hearing has the right to cross examine other persons testifying, providing:
- 1 Such right is asserted at the meeting in which the person giving testimony has spoken, with regard to such testimony.
  2. Such right is asserted at the first available opportunity.
- 6D.63 Any person who testifies at a de novo hearing has the right to present rebuttal testimony and evidence.
- 6D.64 A de novo hearing may be continued to a time certain.
- 6D.65 The Chair may close a de novo hearing, but allow additional written testimony to be submitted until a specified date and time. If submittal of additional written testimony is allowed, a date and time shall also be specified for hearing rebuttal on the additional written testimony.
- 6D.66 The applicant and appellant, or designated representative, shall each receive one copy, without charge, of additional written testimony. The applicant and appellant or

designated representative, may receive additional copies of the additional written testimony, and shall be charged the established fee for copies. Other interested persons may receive a copy of the additional written testimony from the County Administrator's Office, and shall be charged the established fee for copies.

6D.67 The Chair shall advise all persons present at a de novo hearing of the date and time the Board of Commissioners will make a decision and state its findings.

6D.68 The Board of Commissioners may affirm the Planning Commission decision, may reverse the Planning Commission decision, or remand back to the Planning Commission. Criteria for reversing or remanding the Order shall be as contained in the Hood River County Zoning Ordinance.

E. ADVISORY HEARINGS:

6D.69 The Board of Commissioners may schedule public hearings that are advisory only and are for the purpose of informing the general public or receiving input from the general public.

6D.70 Notice of an advisory hearing shall be given as is appropriate to the circumstances.

6D.71 All persons shall be allowed to testify at an advisory hearing provided the testimony is relevant to the subject. By majority vote the Board of Commissioners may rule any testimony to be irrelevant.

6D.72 Provision shall be made for submittal of written testimony into the record.

6D.73 No person shall be allowed to be disorderly or disruptive.

6D.74 An opportunity shall be provided for appropriate staff reports, staff recommendations, and input.

6D.75 At any time during an advisory hearing, the Board of Commissioners may consult with legal counsel or staff or ask questions of those testifying.

6D.76 An advisory hearing may be continued to a time certain.

6D.77 Upon conclusion of an advisory hearing it shall not be necessary for the Board of Commissioners to make a decision.

**SECTION 15-A**  
**COUNTY DEPARTMENTS**  
(Revised 4/16/01)

15A.0 In accordance with provisions of Article I, Section II of the Hood River County Charter Revised May 2008 the Hood River County Board of Commissioners hereby creates the following Hood River County Departments and or Divisions:

911 Communication Service District  
Administration Department  
Animal Control Division  
Budget & Finance Department  
Community Development Department  
Commission on Children & Families  
Community Corrections Department  
District Attorney Office  
Emergency Management Division  
Forestry Department  
Health Department  
History Museum  
Human Resources Department  
Justice of the Peace  
Juvenile Department  
Law Enforcement Department  
Marine Patrol Division  
Parks & Buildings Division  
Public Works Department  
Records and Assessment Department  
Veterans' Service Division  
Weed & Pest Division

15A.1 Unless otherwise stipulated, department heads shall be appointed by the County Administrator, and shall be under the supervision of the County Administrator.

15A.2 County Departments shall be under the direction and supervision of the department heads.

15A.3 The County Administrator shall coordinate County Departments and shall provide any assistance needed or required by department heads.

- 15A.4 All County Departments and Divisions shall comply with provisions of Oregon Revised Statutes, the Hood River County Charter, the Hood River County Administrative Code, the Hood River County Personnel Code, policies adopted by the Board of Commissioners and administrative policies, procedures, and directives.
- 15A.5 A department head shall submit communications, correspondence, requests, etc., to the County Administrator's Office. The County Administrator shall make the determination as to whether the matter can be handled administratively or referral to the Board of Commissioners is required.
- 15A.6 All department heads shall provide the Budget & Finance Department with a list of departmental fixed assets, and the list shall be kept current.

**SECTION 16-A**  
**ADMINISTRATIVE DEPARTMENT**  
(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

- 16A.0 Pursuant to provisions of the Hood River County Charter (Revised May 2008) an Administrative Department is hereby created and shall be under the control and supervision of a County Administrator.
- 16A.1 In accordance with provisions of the Hood River County Charter (Revised May 2008), a County Administrator shall be appointed by the Board of Commissioners and shall serve at the will of the Board of Commissioners.
- 16A.2 In accordance with provisions of the Hood River County Charter (Revised May 2008), the County Administrator shall be the head of the Administrative Branch of County Government; shall be responsible for the proper administration of all affairs of Hood River County; and for carrying out policies established by the Board of Commissioners.

B. RESPONSIBILITIES:

- 16A.3 In conformance with provisions of the Hood River County Charter and the intent of the Hood River County Charter in establishing an Administrative Branch of County Government, the Administrative Department shall have the following responsibilities:
1. Staff to Board of Commissioners:
    - a. Research shall be conducted pertaining to new or existing programs or projects, availability of grant funds, proposed legislation, etc., that may be of benefit to the County or have an impact on the County. The Board of Commissioners shall be kept informed of all facets of County government and shall receive written reports and recommendations.
    - b. The Administrative Department shall provide staff assistance to the Board of Commissioners.
    - c. The Clerk to the Board of Commissioners shall be an employee of the Administrative Department.

2. Department Heads:

- a. Department heads shall be appointed by the County Administrator, and department heads shall be responsible to the County Administrator. The County Administrator shall be responsible for discipline and termination of department heads.
- b. Performance of appointed department heads shall be reviewed on an annual basis.
- c. Department heads shall be advised of accepted and adopted procedures and policies.
- d. Any question or problem a department head may encounter in departmental operation shall be referred to the County Administrator. Whenever possible, any problem or question shall be resolved administratively. If a question or problem cannot be resolved to the satisfaction of all concerned or a policy question is involved, the County Administrator has the option of referral to the Board of Commissioners.
- e. Monthly staff meetings shall be held with department heads.

3. General Administration:

- a. County departments shall be coordinated to achieve County Government in the most effective and efficient method possible, and in accordance with accepted management practices: to derive the best possible use from office space and equipment; and to avoid duplication of services and programs.
- b. As the need arises, the County Administrator may make administrative policies or directives. Administrative policies and directives may apply to all departments and their employees or to a specific department and its employees.
- c. Assistance as requested may be provided to appointed committees, commissions, boards.
- d. The Administrative Office shall have an "open door" policy, and the County Administrator shall be available to meet with department heads, individual citizens, groups, civic organizations, public

agencies, news media, or other persons or groups on matters involving County Government or matters of County concern.

- e. Arrangements may be made for the County Administrator to appear before groups or civic organizations to explain County policies, procedures, programs, projects, or matters of mutual concern.
  - f. Coordination and cooperation with other public jurisdictions shall occur so that the best possible services are available to the residents of Hood River County in the most economical manner.
  - g. Programs, projects, systems, methods, and procedures shall be evaluated on an on-going basis. The County Administrator shall have authority to administratively make changes that will improve methods and procedures; except programs, projects, systems, methods or procedures that were adopted by the Board of Commissioners may not be changed unless there is majority approval by the Board of Commissioners.
4. Purchasing:
- a. The County Administrator shall be the designated purchasing agent for Hood River County.
  - b. Purchasing procedures and bid procedures shall be administered in accordance with provisions of the County Charter (Revised May 2008), State Law, and purchasing procedures established in the Administrative Code.
5. Fixed Assets:
- a. The County Administrator shall ensure that an inventory of the county's fixed assets is maintained.
6. Delegation of Authority:
- a. The County Administrator may delegate authority to a department head or to an Administrative Department employee.

**SECTION 17-A**  
**BUDGET & FINANCE DEPARTMENT**

(Revised 4/16/01, 11/7/05, 10/18/10)

A. ORGANIZATION AND STRUCTURE:

- 17A.0 The Budget & Finance Department shall be under the supervision of a Budget & Finance Department Director who shall be appointed by and under the supervision of the County Administrator.
- 17A.1 The Budget & Finance Department shall be located in the Hood River County Business Administration Building or other location as deemed appropriate by the Board of Commissioners.
- 17A.2 In addition to the Budget & Finance Department Director, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to assure the efficient and effective operation of the Budget & Finance Department.

B. RESPONSIBILITIES:

- 17A.3 The primary responsibility of the Budget & Finance Department is the accounting, collection disbursement and administration of funds for which the County is responsible per ORS 294.
- 17A.4 The Budget & Finance Department shall be operated within the following policy guidelines:
1. Taxes, fees and other monies due the County shall be collected and disbursed. Property taxes shall be collected and distributed in compliance with ORS 311 and 312.
  - b. County funds, trust funds, pensions, and insurance plans shall be in the custody of and administered by the Budget & Finance Department.
  - c. The Budget & Finance Department shall administer other district's funds held by the County.
  - d. The annual budget shall be prepared and administered in accordance with ORS 294 adopted County budget procedures.

- e. Departmental budget expenditures shall be reviewed on a monthly basis and a recommendation submitted to the appropriate department on any budget adjustment, which may be necessary to avoid over-expending budget appropriation, or any curtailment of expenditures that may be necessary to avoid over-expending budget appropriations.
- f. County funds shall be disbursed in conformance with the adopted annual budget, in conformance with adopted purchasing procedures, and in conformance with the adopted procedures for processing and payment of claims.
- g. County funds not required for current expenses shall be invested so that the County derives maximum benefit from interest earnings. Investment of funds shall be in accordance with the Investment Policy, per ORS 194.035, which has been adopted by the Board of Commissioners.
- h. An accurate and complete accounting of all collections and disbursements shall be maintained.
- i. Semi-monthly payrolls for county officials and all staff shall be prepared.
- j. Accurate records of vacation and sick leave benefits accrued by each County employee shall be maintained.
- k. Required payroll reports shall be prepared and submitted in a timely manner to the appropriate agency.
- l. Subject to a Department Heads request, required reports for reimbursement of grant funds shall be prepared and submitted to the appropriate agency.
- m. The Budget & Finance Department shall issue licenses and fees not specifically assigned to other Departments.
- n. In collaboration with the designated County auditor, the Budget & Finance Department is responsible for the timely compilation and publication of the annual audit of County financial records. Recommendations, from the auditor, appropriate to the actual operations of Hood River County, shall be implemented at the earliest possible time.
- o. The financial software system shall be under the management of the Budget & Finance Department. Departmental requests for program additions or modifications shall be processed through the Budget & Finance

- Department. Any program modification or addition shall be limited to funds provided for this purpose in the annual budget.
- p. The Budget & Finance Department shall make available to each County department a monthly report of budgeted expenditures and revenues.
  - q. The Budget & Finance Department shall provide to the Board of Commissioners and County Administrator, on a quarterly basis, a report of budgeted expenditures and revenues to date.
  - r. The Budget & Finance Department shall analyze on an ongoing basis the County's financial situation and cash position and advise the Board of Commissioners and County Administrator of the findings.
  - s. A list of delinquent taxes shall be prepared on an annual basis, the applicable property owners notified, and the tax foreclosure process administered in accordance with provisions of Oregon Revised Statutes.
  - t. A cash handling policy shall be administered by the Budget & Finance Department, which maintains and safeguards the County's cash assets.
  - u. A listing of all fixed assets in County ownership shall be maintained. Subject to approval by the Board of Commissioners designated unneeded or unused surplus property; shall be managed in accordance with Section 2-B-Supplies, Surplus and Fixed Assets sub-section C of the Administrative Code. The Director of Records and Assessments shall establish the minimum value for any surplus real property. The County's administrative expenses shall be added to the minimum value of the sale price of real property. The Budget & Finance Department shall report the results of the sale and appropriately record the financial transaction(s) in the County financial and fixed asset records. Tax foreclosure real property sales will be processed as required by ORS 275, 311.390 and 311.395.
  - v. The Budget & Finance Director is authorized to administratively approve and authorize payment of any tax refund up to \$2,000 that is required by O.R.S. 311.806.
  - w. The Budget & Finance Director in conjunction with the County Administrator shall develop and administer the Hood River County Loss Prevention Program.

**SECTION 18-A**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
(Revised 12/6/04)

A. ORGANIZATION AND STRUCTURE:

18A.0 The Community Development Department shall be administered by the Community Development Director who shall be appointed and supervised by the County Administrator.

18A.1 The Community Development Department shall have offices located in the Hood River County Business Administration Building or other location as deemed appropriate by the Board of Commissioners.

18A.2 In addition to the Community Development Director (CDD), additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to ensure the efficient and effective operation of the Department.

18A.3 The Community Development Department is responsible for the following County functions:

**a.** Building Codes.

Building Codes shall be under the technical supervision of a certified Building Official. Building Codes shall be under the administrative supervision of the Community Development Director. The Building Official shall be selected by and under the supervision of the Community Development Director.

**b.** Planning and Zoning.

Planning and Zoning shall be under the supervision of the CDD. The CDD shall serve as the Planning Director and as a non-voting member of the Planning Commission.

**c.** Information Services.

Information Services shall be under the supervision of the Information services Manager. The Information Services Manager shall be selected by and under the supervision of the CDD.

- d. Veteran's Services.  
Veterans' Services shall be supervised by the County Veterans' Service Officer (VSO). The County VSO shall be selected by and under the supervision of Wasco County. The Hood River County Veterans' Services program and office are under the supervision of the CDD. The County VSO shall provide service to Hood River County under a current Intergovernmental Agreement.
- e. Economic Development.  
Economic Development will be under the supervision of the Economic Development Coordinator. In the absence of an Economic Development Coordinator, economic development will be under the supervision of the CDD or his/her designee. The Economic Development Coordinator shall be selected by and under the supervision of the CDD.

B. RESPONSIBILITIES:

18A.4 Building Codes

- a. Receives and processes applications and permits for the erection, siting, and alterations and occupancy of buildings and structures, including residential, farm, commercial and industrial to ensure compliance with the Oregon Specialty (Building) Codes and other application State laws and local ordinances.
- b. Coordinates all permits with applicable County departments and local agencies.
- c. Issues notices and orders deemed necessary for the removal of illegal or unsafe conditions as per adopted State codes and the most current version of the Hood River County Dangerous Buildings Code.
- d. Assures compliance with State building codes and other State and local ordinances, and issues notices and orders or subpoenas for noncompliance with State and local building codes at the discretion of the Building Official or Community Development Director.
- e. Maintains a permanent file of applications, plans, permits, certificates issued, fees collected, inspection reports, and notices and orders issued; with the exception that plans for one or two family dwellings and accessory buildings shall be retained for the minimum requirements of the Oregon State Archives Retentions Schedule "Archives Div. 166-150". Once the State Archives retention time has been met the construction plans

may be returned to the owner of the structure. The plans for one or two family dwellings may be destroyed in the event they are not picked up by the applicant within ninety days after notification.

- f. All records shall be open for public inspection, as allowed by law.
- g. Submits state reports in accordance with requirements of the State of Oregon.
- h. Issues Filling & Grading permits and work inspected as per Oregon 1998 Structural Specialty Code, appendix Chapter 33.
- i. Collects all fees in accordance with the fee-schedule adopted by the Board of Commissioners, and all fees collected shall be submitted to the Budget & Finance Department on a regular basis. Any structure that is determined to meet the State definition of an agricultural building shall be exempt from the fee schedule and shall not require inspections or permits from Building Codes.

#### 18A.5 Planning and Zoning

- a. Receives and processes applications for the use or development of land to ensure compliance with the County Comprehensive Plan, State Laws and administrative rules, and local ordinances.
- b. Coordinates all land use applications and permits with appropriate State agencies, County departments and local agencies.
- c. Requires safeguards deemed necessary for the safety of individuals, the preservation of natural resources or to preclude nuisances to neighboring properties during the construction period.
- d. Assures compliance with the County Comprehensive Plan and other local ordinances, and issue enforcement orders, subpoenas or other actions for noncompliance at the discretion of the Planning Director.
- e. Maintains a permanent file of applications, decision letters, appeal results, fees collected, notices and orders in accordance with State retention guidelines.
- f. All records shall be open for public inspection, as allowed by law.
- g. Submits State reports in accordance with the requirements of the

State of Oregon.

- h. Collects all fees collected with the fee schedule adopted by the Board of Commissioners, and all fees collected shall be submitted to the Budget & Finance Department on a regular basis.
- i. Develops background and technical reports as needed or requested to provide a basis for land use decisions by the Planning Director, Planning Commission or the Board of Commissioners.
- j. Drafts proposals for updating the Comprehensive Plan, zoning and land use ordinances, subdivision ordinance, and other such ordinances as deemed necessary by the Board of Commissioners, Planning Commission or Planning Director to protect or enhance the general welfare of the County.
- k. Generates citizen interest, input and participation into the planning process insofar as is allowed by existing laws and ordinances.

18A.6 Information Services

- a. Coordinates all computer hardware and software purchases, installation, maintenance and performance monitoring.
- b. Provides redundant support for mission critical computer systems as required.
- c. Reviews and coordinates software licensing and copyright agreements to ensure that all current software has been legally obtained and currently licensed.
- d. Maintains the Information Systems strategic plan including all computing, data, software, systems operations, and data/video communications systems.

18A.7 Veterans' Services

- a. Assist veterans and their families in making application for Federal and State Veterans' benefits and to serve as a liaison between the veterans and their families and the U.S. Department of Veterans' Affairs, the Oregon Department of Veterans' Affairs and all agencies that provide special benefits to Veterans.
- b. Provides logistical assistance to local Veterans' services organizations

in coordinating and planning for major Veteran related events to include the use of County meeting rooms, printed agendas, etc.

18A.8 Economic Development

- a. Liaisons with local state and federal agencies and organization working in the region for economic development. Ensures that appropriate and necessary contracts and resources are known and made available to local businesses, individuals, and representatives from appropriate agencies and special interest committees and work groups.
- b. Staffs the Hood River County Economic Development Committee, if active, to develop, update and implement the Development Action Plan and to facilitate progress with respect to achievement of measureable goals and outcomes.
- c. Directs and coordinates the County's efforts with regard to the development of enterprise activities, particularly in the areas of renewable energy – wind, hydro, biomass, & solar, as well as other potential technologies as they develop.
- d. Maintains records and files pertaining to relevant research and development programs, efforts, and meetings and serves as a clearinghouse for economic development and enterprise development resources and information generated by others.
- e. Serves as the contact point with potential businesses to locate or expand in the county. Brings principals together for potential businesses to locate or expand in the County.

**SECTION 19-A**  
**COMMISSION ON CHILDREN & FAMILIES DEPARTMENT**

(Adopted 6/7/99)  
(Revised 4/16/01)

**A. ORGANIZATION & STRUCTURE**

- 19A.0 The Department of Children and Families shall be under the direction of a Director who shall be appointed and supervised by the County Administrator.
- 19A.1 To assure effectiveness and efficiency, in addition to the Director, additional staff shall be provided as required by State law or as determined necessary by the Commission on Children and Families; subject to approval by the County Administrator, Board of Commissioners, and the Budget Committee.

**B. RESPONSIBILITIES**

- 19A.2 The Department of Children and Families shall comply with provisions of Oregon Revised Statutes, the Hood River County Charter, The Hood River County Administrative Code, and the Hood River County Personnel Code, policies adopted by the Board of Commissioners, County administrative policies, directives and procedures and applicable Oregon Administrative Rules.
- 19A.3 The primary responsibility of the Department of Children and Families include:
- a. **Comprehensive Community Planning and Implementation.**
    - i. Lead and coordinate a local planning process.
    - ii. Convene and engage broad community participation.
    - iii. Facilitate the local process of compiling and analyzing data, mapping services, identifying gaps, barriers, needs, and strengths.
    - iv. Develop collective strategic actions plans.
    - v. Determine Hood River County Commission on Children & Families investments of time and resources.

- vi. Promote shared leadership among agencies and community organizations to implement and monitor the comp plan and related service plans.

**b. Policy Development (Shaping Policy and Law).**

- i. Provide leadership and expertise on children, youth, and family issues.
- ii. Develop policy recommendations addressing identified issues.
- iii. Provide information and resources regarding best practices.
- iv. Advise reform regarding children, youth and families.

**c. Community Mobilization.**

- i. Engage community members in addressing issues facing children, youth, and families.
- ii. Strengthen links between the community and formal service networks.
- iii. Build community awareness, knowledge, and advocacy around children, youth, and family issues.
- iv. Facilitate development of community solutions and partnerships.
- v. Celebrate community successes.

**d. System Development.**

- i. Work together across multiple disciplines and partners to develop and assure a comprehensive continuum of services.
- ii. Act as a catalyst for system delivery improvement through increased effectiveness, efficiency, and innovation.
- iii. Build community capacity to better manage and develop resources.
- iv. Facilitate mediation and other alternative conflict resolution approaches for community groups seeking to develop collaborations or partnerships.

**e. Service Delivery Improvements.**

- i. Identify services and service delivery improvements needed in the county.
- ii. Improve existing services through promotion of evidence based practices.
- iii. Invest Commission on Children and Families resources for the implementation of programs and initiatives that address issues identified in the coordinated comprehensive plan and monitor, evaluate and manage those resources.
- iv. Monitor and evaluate local comprehensive plan effectiveness.

**SECTION 20-A**  
**COMMUNITY CORRECTIONS DEPARTMENT**

**A. ORGANIZATION AND STRUCTURE:**

- 20A.0 Hood River County shall provide a Community Corrections Program, and shall administer this program in accordance with established County policies and procedures and provisions of the Intergovernmental Agreement between Hood River County and the State of Oregon Department of Corrections.
- 20A.1 Community Corrections shall be under the supervision of a Community Corrections Director who shall be appointed and supervised by the County Administrator.
- 20A.2 The Community Corrections Director shall be responsible for planning and implementation of the corrections programs as set forth in the local Corrections Plan approved by the Board of Commissioners, set forth in the Intergovernmental Agreement between Hood River County and the State of Oregon Department of Corrections, and set forth in ORS 423.500-423.560.
- 20A.3 In addition to the Community Corrections Director, additional staff shall be provided as deemed necessary by the Budget Committee and the Board of Commissioners and County Administrator to assure the efficient and effective operation of Community Corrections.
- 20A.4 The Community Corrections Director shall coordinate programs and projects with the County Administrator and follow established County policies and procedures.

**B. RESPONSIBILITIES:**

- 20A.5 The primary responsibility of Community Corrections shall be counseling, and guidance of individuals placed on probation, parole, or post-prison supervision in accordance with established County policies and procedures and the Intergovernmental Agreement between the County and the State of Oregon Department of Corrections. Provide investigation, reporting, and imposition of Intermediate Structured Sanctions. Provide referral services to clients which assist in their reformation.

20A.6

Community Corrections shall be operated within the following guidelines:

- a. Submit accurate and timely pre-sentence investigations, release investigations, and other reports at the request of the Circuit Court.
- b. Assign and monitor Community Services as directed by the Circuit Court, as staff resources allow.
- c. Coordinate and network with other local social service agencies such as the Employment Division, Vocational rehabilitation, and mental health etc., to design and facilitate the development of rehabilitative programs for offenders sentenced to probation within the County.
- d. Prepare release plans, local control post-prison supervision orders, and warrants of Local Control clients for the signature of the local supervisory authority, prepare violation hearings for Local Control post-prison clients.

**SECTION 21-A**  
**FORESTRY DEPARTMENT**

(Revised 2/17/04)

A. POLICY

21A.0      Manage the county forest to benefit Hood River County citizens through revenue to County Government derived from the sale of forest products managed in a sustainable manner in compliance with applicable laws.

B. ORGANIZATION AND STRUCTURE:

21A.1      The Forestry Department is created and shall be under the supervision and direction of a Forest Manager who shall be appointed and supervised by the County Administrator.

21A.2      The Department of Forestry shall have offices in the Forestry Building located in the Department of Public Works complex or other location as deemed appropriate by the Board of Commissioners.

21A.3      In addition to the Forest Manager, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to ensure the effective and efficient operation of the Forestry Department.

C. RESPONSIBILITIES:

21.4      The Forestry department shall comply with provisions of Oregon Revised Statutes (ORS), the Hood River County Charter, the Hood River County Administrative Code, the Hood River County Personnel Code, policies adopted by the Board of Commissioners, and administrative policies, the Oregon Forest Practices Act, procedures and related directives and the Oregon Administrative Rules.

21A.5      The primary responsibility of the Forestry Department shall be the management of approximately 49,000+ acres of land dedicated as County Forest. The management goal shall be to derive the most favorable sustained benefit from the sale of forest products in compliance with the Oregon Forest Practice Act and approved allowable cut. Revenues derived from sale of county forest products shall offset taxes in the County General Fund.

21A.5      The Forestry Department shall be operated within the following policy guidelines:

- a. The forest management activities of the county forest shall be in compliance with the Oregon Forest Practices Act, ORS 527 and other forestry-related Oregon Revised Statutes i.e. ORS 477 (Protection of Forest & Vegetation from Fire); ORS 527 (insects & Disease; Forest Practices); ORS 532 (Branding of Forest Products); ORS 634 (Pesticide Control); applicable Oregon Administrative Rules in chapter 629.
- b. A County Forest Management Plan may be initiated and maintained for management activities. The County Forest Management Plan will be consistent with sustained yield forest management.
- c. The County Forest Management Plan and any amendments or revisions to the Management Plan shall be reviewed by the Forest Advisory Committee prior to being submitted to the Board of Commissioners for review and approval.
- d. Revenue derived from the sale of county forest products shall be a resource to the County General Fund.
- e. Sale of county forest products shall comply with established county bid procedures or the Oregon Revised Statutes. A request for a contract extension shall be in accordance with the contract or considered on the basis of guidelines set forth in the Resolution adopted by the Board of Commissioners.4

The Forestry Department may request and receive written and oral bids for county forest timber sales. The Board of Commissioners shall award all contracts for County Forest timber sales; except, the Forestry Department may negotiate and sell County Forest timber sales with a value of less than \$5,000 and waive bid requirements for County Forest timber sales with a value of less than \$5,000 (ORS 275.340).

Revenue derived from forest products, which are sold for future fiscal years, but which are removed prior to those fiscal years, shall be placed in the Timber Deposit Fund and used for budgeting purposes in the fiscal years that the forest products were scheduled for removal.

- f. Revenue from timber sales are placed in the Timber Deposit Fund. Interest earnings from the Timber Deposit Fund shall accumulate in a Timber Deposit Interest Fund, which is managed by the Budget & Finance Director, and each year the Budget Committee may transfer interest earnings from the Timber Deposit Interest Fund to the County General Fund. The amount of the transfer will depend upon average interest earnings.

- g. Roads designated as county forest roads shall be kept open for use by the general public; except any closures necessary due to weather, hazardous road conditions or fire danger shall comply with provisions of the Ordinance adopted by the Board of Commissioners. A use or maintenance fee may be assessed on non-dedicated county forest roads in accordance with provisions of the Resolution adopted by the Board of Commissioners.

Roads and logging spurs built for removal of forest products may be closed in cooperation with adjacent landowners and compliance with Oregon Forest Practices Act.

- h. The Forestry Department may issue personal use permits for removal of firewood, plants, or other natural resources to the general public from County Forest land. The County Forest land on which removals of natural resources is allowed shall be as designated by the Forest Manager. The Forest Manager may impose rules and regulations that are deemed necessary. The Board of Commissioners shall establish the permit fee for removing natural resources.
- i. It is recognized that forest emergencies could develop as a result of fire, insects, wind and other natural or unplanned events. Therefore, effective July 1, 1985, five percent of the revenue derived in each fiscal year from the allowable cut and other forest revenues, up to \$75,000 (revised 2/20/96) per fiscal year, shall be placed into a Forest Emergency Fund and used only in the event of a forest emergency. When the Forest Emergency Fund exceeds \$1,000,000.00 the amount placed in the Forest Emergency Fund may be reduced to \$50,000 each fiscal year. Funds shall accrue until a maximum of \$2,000,000.00 is in the Forest Emergency Fund. Interest from the Forest Emergency Fund shall be credited to the County General Fund and may be used during any budget year for General Fund purposes.
- j. After receiving input from the Forestry Department, Forest Advisory Committee or other interested agencies the Board of Commissioners may declare a county forest emergency. When a forest emergency is declared, the funds accumulated in the Forest Emergency Fund shall be used at the discretion of the Board of Commissioners to offset the financial impact of the forest emergency.
- k. Land exchanges shall be in accordance with Hood River County Ordinance No. 271, or subsequent Ordinances prescribing exchanges of county forestland.
- l. Procedures and regulations for parties installing water lines that cross County Forest land shall be in accordance with provisions of the Ordinance adopted by the Board of Commissioners.

- m. The Forestry Department will review all federal and state laws and rules applicable to forestry and forest management and make recommendations to the Board of Commissioners.
- n. It is recognized that conferences, meetings and schools will be held that pertain to established or reviewing regional natural resources policy that may require elected officials to attend. A member of the Board of Commissioners may attend these meetings as an advocate for local forestry practices.
- o. Requests from other county departments that may have an effect to forest management of the county forest or access to the county forest shall be submitted to the Forestry Department for comment.

**SECTION 22-A**  
**HEALTH DEPARTMENT**  
(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

- 22A.0 The Health Department shall be under the direction of a Health Department Director who shall be appointed by and under the supervision of the County Administrator. The Health Department Director shall qualify as a public health administrator according to O.R.S. 431.418(1), OAR 333-014-0070, and CLHO Minimum Standards.
- 22A.1 The Health Department shall be located at, 1109 June Street, Hood River, Oregon or other location as deemed appropriate by the Board of Commissioners.
- 22A.2 The staff of the Health Department shall consist of at least the Health Department Director, Environmental Health Supervisor, and Health Officer/Medical Examiner. With the approval of the County Administrator, Board of Commissioners, and Budget Committee, other staff shall be appointed to effectively and efficiently carry out the duties and responsibilities of the Local Public Health Authority.

B. RESPONSIBILITIES:

- 22A.3 The Health Department shall perform all of the duties and functions imposed upon it by Oregon Revised Statutes, Oregon Administrative Rules, Department of Human Services, County Ordinances, and the Board of Commissioners. The Hood River County Health Department shall perform the following duties.
- 22A.4 Administer and enforce the rules of the local public health authority and public health laws and the rules of the Department of Human Services-Public Health Division.
- 22A.5 Assure activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction as provided in the annual plan of the authority per ORS 431.416. These activities shall include but not be limited to:
- a. Epidemiology and Control of Preventable Diseases and Disorders:
- Assure the control of acute communicable diseases, provide diagnostic consultation services, epidemiological investigations and institute appropriate measures for the communicable disease hazards in the County,

and provide immunizations against vaccine preventable communicable diseases. Epidemiological studies will also be carried out on chronic and non-infectious diseases and conditions.

b. Child and Family Health Services:

Includes family planning clinics as described in O.R.S. 435.205, nutrition services which may be provided through the Women, Infant, Children (WIC) Program, perinatal services (CAHS) immunization services, school health and other services required or contracted.

c. Health Statistics:

Collection and reporting of health statistics as required by designation as the local office of vital statistics; gathering of data required or through a reasonable request.

d. Health Information and Referral Service:

Maintain current information of services available to specific groups of people, counsel and refer to existing programs in order to prevent duplication.

e. Medical Examiner:

Serve as the office for reports and expenditures for cases specified by the office of the State Medical Examiner and by rules and regulations of the State and County.

f. Public Health Emergency Preparedness

Serve as the office that coordinates appropriate action/operation plans in case of a public health emergency.

g. Environmental Health Services:

1. Food Services: Contracts with the Health Division to conduct inspections of food service facilities within the County, according to an agreement with the State Health Division.

Respond to other agencies for sanitation services when requested and as provided for by agreement or contract.

Address public and professional groups. Provide education, as requested including food handler classes.

2. Domestic Water: Conduct sanitary surveys of public water supply systems and sample if water supply source is acceptable.
3. Swimming Pools: Inspect public and limited use pools and spas (which include apartments, lodges, motels and campgrounds) to insure a healthy and safe environment.
4. Communicable Disease: Conduct Epidemiological Investigations relating to food, waterborne and other outbreaks. Participate with Health Department investigative team in appropriate situations.
5. Solid Waste Control Services: Perform as described in Hood River County Nuisance Abatement Ordinance.

C. POLICY GUIDELINES:

- 22.6 The Health Department shall be operated within the following policy guidelines:
- a. Medical programs and the dispensing of medications shall be under the direction and supervision of the Health Officer.
  - b. An accurate and complete inventory and records of dispensing of medications shall be maintained in accordance with Oregon Board of Pharmacy.
  - c. All medical and counseling consultations shall be confidential with the exception of those specified by law as being available to the public.
  - d. The County may enter into contract agreements with the State of Oregon and other agencies, public or private, in order to provide necessary services. Such programs shall be administered according to the guidelines of the contracts.
  - e. The Health Department shall coordinate its services with those of other social service agencies and medical practices to provide maximum service and avoid duplications.

**SECTION 23-A**  
**HUMAN RESOURCES DEPARTMENT**

(adopted 2/22/00)

(adopted 7/20/09)

A. ORGANIZATION AND STRUCTURE:

- 23A.0 The Human Resources Department shall be administered by the Human Resources Director who shall be appointed and supervised by the County Administrator.
- 23A.1 The Human Resources Department shall have offices located in the Hood River County Business Administration Building or other location as deemed appropriate by the Board of Commissioners.
- 23A.2 In addition to the Human Resources Director, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee and the Board of Commissioners to ensure the efficient and effective operation of the department.

B. RESPONSIBILITIES:

- 23A.3 The primary responsibility of the Human Resources Department shall be to:
- a. Administer, interpret, and consult regarding the Personnel Code, related elements of the Administrative Code, Collective Bargaining Agreements, county classification system, job descriptions, and salary schedule.
  - b. Develop, maintain, and administer compensation packages for county employees which include group benefit programs.
  - c. Retain and store confidential records, appraisals, files, and documents according to and/or required by law.
  - d. Develop and maintain procedures, protocols, codes, forms, and supervisory training for the selection, discipline, appraisal, and reinstatement procedures for all county employees.
  - e. Develop and maintain risk management programs, safety standard programs, and work related claims management for county departments and employees.
  - f. Identify and support management/supervisory training or workshops pertaining to personnel policies and human resource issues.
  - g. Serve as a resource for relevant changes in the law or relevant draft legislation. Also watch and suggest support of relevant draft Legislation to the Administrator and Board of Commissioners.

- h. Serve as the County Representative during labor negotiations, grievance resolutions, administrative law hearings, employment & workers compensation hearings and all other investigative/or representation matters pertaining to employee rights & entitlements under the law.
- i. Provide General Public Service – Serves the general public or not-for profit agencies with regard to the sharing of general public information such as but not limited to: the applicable laws of the State and Federal government, county personnel code elements, policies, forms, classifications, protocols, procedures, and related issues.
- j. Provide Management data – tracks and provides data based trends regarding human resource activities.
- k. Ensure Compliance by all departments and employees with applicable provisions of State and Federal law, the Hood River County Charter, Administrative Code and the Personnel Code.
- l. Watch for applicable grants, subject to the related county codes, rules, and procedures.
- m. Develop volunteer programs and the registration and assignment of emergency volunteer projects in a declared emergency, subject to the requirements of the emergency incident commander or county administrator.
- n. Department Head shall be responsible for the develop and tracking of the Human Resource department's budget.

**SECTION 24-A**  
**JUSTICE DEPARTMENTS – DISTRICT ATTORNEY and JUSTICE COURT**  
(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

- 24A.0 The Justice Department shall include the Justice Court and the District Attorney and shall be under the direction and supervision of the elected positions of Justice of the Peace and District Attorney respectively.
- 24A.1 Suitable office space shall be provided in the Cascade Locks area for the Justice Court with safe, secure workstations and courtroom.
- 24A.2 The District Attorney shall have offices located in the Hood River County Courthouse, or other location as deemed appropriate by the Board of Commissioners.
- 24A.3 Adequate office space and court facilities shall be provided in the Hood River County Courthouse for Circuit Court.
- 24A.4 In addition to the elective positions of Justice of the Peace and District Attorney, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to assure the efficient and effective operation of the Justice Court and the District Attorney's Office.

B. RESPONSIBILITIES:

- 24A.5 The Department of Justice shall function in accordance with applicable State Laws.

District Attorney Department:

- 24A.6 The District Attorney Department shall be operated within the following policy guidelines.
- a. The practice and procedure as to prosecution, trial and punishment for County offenses shall be the same as is provided under law for similar crimes under State Law. A County offense means any crime defined or made punishable by County Ordinance or Charter.
  - b. The District Attorney may serve as County Counsel to the Board of Commissioners, County Administrator, and County Departments in accordance with provisions of Oregon Revised Statutes. Remuneration to

the District Attorney for services provided as County Counsel shall be determined by the Budget Committee and the Board of Commissioners.

- c. The District Attorney will ensure staff in the District Attorney's Office complies with the County Administrative Code, and Personnel Code.
- d. The District Attorney shall administer and supervise the Victims' Assistance Program.

Justice Court/Justice of the Peace:

- 24A.7 The Justice of the Peace must:
  - a. Abide by the Judges Code of Ethics
  - b. Be bonded
  - c. Attend or participate in a minimum of 30 hours of continuing legal education program every two calendar years
  - d. May perform marriages anywhere in the State of Oregon
  - e. Be a citizen of the United States
  - f. Must be a resident of Oregon for 3 years and a resident of the Justice Court District one year prior to becoming a non-partisan candidate for election to the office.
  
- 24A.8 The Justice Court Office must comply with local and state laws, County Administrative Code, Personnel Code, and county policies and procedures.

**SECTION 25-A  
JUVENILE DEPARTMENT**

A. ORGANIZATION AND STRUCTURE:

- 25A.0 The Juvenile Department shall be administered in accordance with established County policies and procedures and provisions of the Intergovernmental Agreement between Hood River County and the State of Oregon Department of Corrections for Adult Probation.
- 25A.1 The Juvenile Department shall be under the direction of the Juvenile Director who shall be appointed and supervised by the County Administrator.
- 25A.2 The Juvenile department shall have offices located in the Hood River County Courthouse or other location as deemed appropriate by the Board of Commissioners.
- 25A.3 In addition to the Juvenile Director additional staff may be provided as deemed necessary by the County Administrator, subject to approval by the full Budget Committee to assure the efficient and effective operation of the Department.

B. RESPONSIBILITIES:

- 25A.4 The Director shall keep the County Administrator apprised of departmental programs, policies, procedures and projects, as well as other issues deemed appropriate.
- 25A.5 The primary and statutory responsibility of the Juvenile probation division from apprehension forward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability, and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior.
- 25A.6 In order to fulfill the above primary responsibilities, the following guidelines shall apply:

- a. Probation supervision of each youth placed under the jurisdiction of the Court shall be provided and the extent of the supervision shall depend on the individual situation involved.
- b. Counseling and referral to other community agencies providing needed specialized services will be a goal of the Department.
- c. The Juvenile Division staff shall accept responsibility for intake decisions and will enter into pre-adjudicatory crisis interventions as needed.
- d. At least one professional staff person shall be available during non-office hours for emergencies.
- e. Programs shall be coordinated with other social service agencies and local schools to avoid any duplication of services and programs.

**SECTION 26-A**  
**DEPARTMENT OF LAW ENFORCEMENT**  
**SHERIFF'S DEPARTMENT**

(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

26A.0 The Department of Law Enforcement shall be under the direction and supervision of an elected Director of Law Enforcement who shall be known as the Hood River County Sheriff.

26A.1 The Organization and Structure of the Department of Law Enforcement shall be in accordance with Article X of the Hood River County Charter (Revised May 2008).

B. RESPONSIBILITIES:

26A.2 Responsibilities of the Department of Law Enforcement shall be in conformance with Article X of the Hood River County Charter (Revised May 2008), and Oregon Revised Statutes.

26A.3 The County Jail shall be administered and operated in accordance with provisions of Oregon Revised Statutes.

C. COUNTY CHARTER - ADMINISTRATIVE CODE - PERSONNEL CODE:

26A.4 There shall be conformance with provisions of the Hood River County Administrative Code and the Hood River County Personnel Code.

D. PURCHASING PROCEDURES:

26A.5 There shall be compliance with the adopted Purchasing Procedures and established procedure for expenditure of budgeted funds.

E. BUDGET PROCEDURE:

26A.6 There shall be compliance with the adopted Budget Procedures.

F. EQUIPMENT INVENTORY:

26A7 A list of all fixed assets shall be furnished to the Budget & Finance Department and the list shall be kept current.

**SECTION 26-B**  
**DEPARTMENT OF LAW ENFORCEMENT**  
**ANIMAL CONTROL DIVISION**

(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

26B.0 Animal Control shall be under the direction and supervision of the County Sheriff. The County Sheriff shall appoint an Animal Control Officer.

26B.1 Animal Control shall be located in the Department of Law Enforcement, Hood River County Courthouse.

B. RESPONSIBILITIES:

26B.2 The primary responsibility of the Animal Control Division is to enforce the Ordinance adopted by the Board of Commissioners that prohibits dogs from running at large in Hood River County; and provides for the licensing, regulating, conduct, care and treatment of certain animals; prohibits activities, establishes procedures and provides penalties.

26B.3 The general public shall be made aware through the local news media and other methods of the requirement to license dogs.

26B.4 Licensing programs shall be initiated and implemented by the Animal Control Officer.

26B.5 Dog licenses may be obtained from the Sheriff's Department. Arrangements may also be made for sale of dog licenses at other convenient places throughout the County.

26B.6 Fees collected for dog licenses shall be submitted to the Budget & Finance Department.

26B.7 The Sheriff's Office shall keep a computerized record of the sale of dog licenses.

**SECTION 26-C**  
**LAW ENFORCEMENT**  
**EMERGENCY SERVICES DIVISION**

(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

- 26C.0 County Emergency Services shall be under the direction of the County Sheriff.
- C26.1 Emergency Services shall have offices in the Courthouse or other location as deemed appropriate.
- 26C.2 The County Sheriff shall appoint an Emergency Services Coordinator. In case of an emergency, other staff may be appointed, as deemed necessary by the Sheriff, with approval by the Board of Commissioners.

B. RESPONSIBILITIES:

- 26C.3 Emergency Services shall fulfill the requirements for emergency management and services as stipulated in Oregon Revised Statutes. 401.015
- 26C.4 The purpose of Emergency Services is to reduce the vulnerability of the County to loss of life, injury to persons or property and human suffering and financial loss resulting from emergencies, and to provide for recovery and relief assistance of the victims of such occurrences.
- 26C.5 Emergency Services shall perform emergency program management functions within the County.
- 26C.6 Emergency Services shall provide essential services for the public's benefit prior to, during, or following an emergency.
- 26C.7 Emergency Services is responsible for preparing emergency plans and to carry out any activity to prevent, minimize, respond to or recover for an emergency.
- 26C.8 The Emergency Services Coordinator, under direction of the County Sheriff, shall establish policies that provide direction and identify and define the purpose and roles of the individual emergency management programs, specify the responsibility of the emergency program managers and staff, and establish lines of communication, succession and authority of

elected officials for an effective and sufficient response to emergency conditions.

- 26C.9 The Board of Commissioners may enter into Emergency Cooperative Assistance Agreements with other public and private agencies for reciprocal emergency aid and resources.
- 26C.10 Emergency Services shall develop and maintain an Emergency Operations Plan for the County and the incorporated areas that provides for multi-jurisdictional cooperation on a Regional basis.
- 26C.11 Emergency Services shall prepare and periodically update an organizational chart that indicates all participating organizations/agencies and the contact person(s).
- 26C.12 Emergency Services shall coordinate training activities and periodically conduct a mock disaster drill. A written critique shall be submitted to the Board of Commissioners.
- 26C.13 If an emergency occurs, the Emergency Services Coordinator, under direction of the County Sheriff, must determine whether resources in the region are capable of handling the emergency and whether outside assistance is needed. If the determination is that the region cannot adequately respond, immediate notification shall be given to the County Administrator for referral to the Board of Commissioners. The Board of Commissioners must declare an emergency and the Governor of the State of Oregon immediately notified of the declaration of an emergency.
- 26C.14 If an emergency occurs, the Emergency Services Coordinator, under direction of the County Sheriff, shall be responsible for obtaining State and Federal funds for reimbursement.
- 26C.15 Emergency Services shall maintain an inventory of emergency equipment and supplies.
- 26C.16 The Emergency Services Coordinator shall provide staff assistance to The Emergency Services Advisory Committee.

**SECTION 26-D  
LAW ENFORCEMENT  
911 COMMUNICATION SERVICE DISTRICT**

A. PURPOSE:

26D.1 Provide quality emergency call reporting to the appropriate agency: Sheriff, Police, Fire or EMS to protect the citizens of Hood River County.

B. ORGANIZATION AND STRUCTURE:

26D.2 The 911 Communication Service District (DISTRICT) shall be under the supervision and direction of a 911 Commander who shall be appointed and supervised by the County Sheriff.

26D.3 The DISTRICT shall have offices and facilities as determined to be appropriate by the Board of Commissioners.

26D.4 In addition to the 911 Commander, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to ensure the effective and efficient operation of the DISTRICT.

26D.5 A 911 Advisory Board (BOARD) is hereby created. The BOARD may make recommendations to the Board of Commissioners regarding any of the DISTRICT'S rules, policies, or practices, as it considers necessary or desirable.

C. RESPONSIBILITIES:

26D.6 The primary responsibility of the DISTRICT shall be the dispatching of emergency service calls for the citizens of Hood River County. The management goals shall be to provide an efficient and safe environment for all who work and access the 911 Center.

26D.7 The DISTRICT shall be operated within the following policy guidelines:

- a. The DISTRICT shall follow all applicable Oregon Revised Statutes in Chapter 451 and other pertinent ORS's, as well as the County Administrative Code, Personnel Code and applicable Union Contract for employees.

D, EMPLOYEES:

26D.8 911 Commander

- a. The 911 Commander (COMMANDER) shall be an employee of the County.
- b. The COMMANDER shall be the administrator of the DISTRICT and shall be responsible for the necessary administration of the DISTRICT. The COMMANDER is responsible for the budget of the DISTRICT as well as the supervision, training, hiring, and firing, of all employees as well as call answering, dispatching, records communications security and other communication center functions, within the guidelines of adopted County rules, policies, and procedures.
- c. The COMMANDER shall attend all BOARD meetings and joint BOARD/Board of Commissioners meetings. The COMMANDER, when appearing before the BOARD or Board of Commissioners, shall answer questions and provide information necessary for the conduct of DISTRICT business as well as provide a proposed budget for the BOARD to review and recommend to the Board of Commissioners.

E. FUNDING

26D.9 Funding shall be derived as follows:

- a. Excise taxes collected on telephone exchange access services and distributed to participating local jurisdictions by the state pursuant to ORS 401.710 to 401.790;
- b. Ad valorem property taxes received by the DISTRICT and;
- c. The BOARD may propose additional funding methods such as service fees and cost sharing formulas subject to approval by the Board of Commissioners.

F. 911 ADVISORY BOARD

26D.10 Membership on the BOARD shall be made of one representative from the following participating agencies, per ORS 401.710 and 451.610:

County Sheriff  
City of Hood River  
City of Cascade Locks  
Odell-Pine Grove Fire District  
Parkdale Fire District  
Westside Fire District  
Oregon Department of Forestry

Members are appointed to two-year terms by the Board of Commissioners, with the exception of the County Sheriff. Initial appointments shall be staggered allowing for half of the membership to serve initial one-year terms. This is done so not all members' terms expire at the same time.

26D.11 Any equipment owned by a member agency located at the 911 Center is the responsibility of the member agency. This shall include purchasing such equipment, maintenance, repair and the need for any direct landlines from the 911 Center to each members individual stations, remote radios, office etc.

26D.12 Member agencies are not responsible for DISTRICT landlines to DISTRICT dispatch radios.

26D.13 Upon termination by a member agency and withdrawal from use of the public safety answering point, all agency equipment shall be removed and returned to the agency at their expense.

26D.14 The BOARD'S Rules of Procedure are:

- a. To work with the COMMANDER to advise and assist the Board Board of Commissioners in establishing, maintaining, and operating the 9-1-1 emergency reporting system of the DISTRICT.
- b. To adopt rules for the conduct of its proceedings.
- c. To adopt 911 Advisory Board Rules of Procedures, subject to approval by the Board of Commissioners.

- d. Elect a Chair, Vice-Chair and Secretary at the first meeting in January each year.
- e. To meet, at least, annually with the Board of Commissioners at times and places determined by the Board and Governing Body.
- f. The Advisory Board may propose changes to any of the DISTRICT'S rules, policies, or practices, as it considers necessary or desirable. Final review and consideration of any proposed changes shall be made by the COMMANDER and Sheriff. If the decision is not satisfactory to the BOARD they may appeal the decision to the Board of Commissioners. In addition to its other functions and duties, the advisory Board shall review the annual budget of the DISTRICT and any assessments levied under ORS 451.410 to 451.610. The advisory Board may meet with the Board of Commissioners, along with the COMMANDER and Sheriff, and may make such recommendations relating to the budget and assessments as it considers necessary or prudent.
- g. The Advisory Board may appoint Ad-hoc Committees, subject to the approval of the Board of Commissioners, in order to facilitate the operation functions of the District. The Ad-hoc Committee will bring their findings and/or recommendations to the Advisory Board for consideration and recommendation to the Board of Commissioners for final approval.

**SECTION 27-A**  
**DEPARTMENT OF PUBLIC WORKS**  
(Revised 12/6/04)

A. ORGANIZATION AND STRUCTURE:

- 27A.0 The Department of Public Works shall be under the direction and supervision of a Director of Public Works who shall be appointed and supervised by the County Administrator.
- 27A.1 The Director of Public Works shall also be the department head for the Parks & Buildings Division, Weed & Pest Division, and the History Museum.
- 27A.2 The staff of the Department of Public Works shall include a surveyor licensed by the State of Oregon and additional staff as deemed necessary by the County Administrator, Budget Committee and the Board of Commissioners to assure the efficient and effective operation of Public Works.
- 27A.3 A table of organization shall be maintained to indicate departmental operation.

B. RESPONSIBILITIES:

- 27A.4 The primary responsibility of the Department of Public Works shall be the management, construction, improvement and maintenance of accepted County roads and bridges as defined in Oregon Revised Statutes. The Department of Public Works shall also be responsible for the maintenance and improvement of County owned equipment and vehicles, fruit dump, rock quarries which are located upon land owned by the County and maintenance of the closed County landfill.
- 27A.5 The Department of Public Works shall fulfill the duties and functions of the County Surveyor as defined in the Oregon Revised Statutes and shall also be responsible for surveys of road improvement projects and surveys of land upon which County forest timber sales may occur.
- 27A.6 The Department of Public Works shall fulfill the duties and functions of the County Road master as defined in the Oregon Revised Statutes.
- 27A.7 In addition to the functions required by the Oregon Revised Statutes, the Department of Public Works shall operate within the following policy guidelines:
- a. All vehicles in County ownership and County equipment used for road maintenance and improvement projects shall be maintained.

- b. Sufficient facilities shall be maintained for the maintenance of buildings, vehicles, and equipment under the jurisdiction of the Department of Public Works, and any others that may be directed by the Board of Commissioners.
- c. All proposals for new construction projects shall be submitted to the County Administrator for referral to the Board of Commissioners.
- d. A record shall be maintained of all formal and informal complaints received which have reference to conditions of a County road, bridge, culvert, or other project under the control and supervision of the Department of Public Works. Each complaint or notice shall be investigated and the date and time of such investigation and the disposition recorded.
- e. The Director of Public Works may cause any road or bridge to be closed for a short duration during construction or general maintenance if closure is in the best interest of the general public or to the benefit of Hood River County. The Director of Public Works shall provide the County Administrator and the news media with timely notification of any temporary road closures.
- f. The Department of Public Works shall implement and maintain a cost accounting system as required by Oregon Revised Statutes.
- g. Any requests for rental or loan of County equipment shall be referred to the County Administrator for approval.
- h. Any requests for purchase of County owned materials shall be submitted to the County Administrator for referral to the Board of Commissioners.
- i. Recommendations may be submitted to the Board of Commissioners pertaining to cooperative agreements for road maintenance for other public jurisdictions.
- j. The Board of Commissioners shall adopt Road Standards for new County roads. The Department of Public Works shall be responsible for maintaining the adopted Road Standards.
- k. Due to the January 2011 Board of Commissioners Resolution Number 1775, acceptance of new County Roads are suspended until the Forest Safety-Net or similar funding, have in the judgment of the Board, been adequately restored. If this suspension is lifted prior to acceptance of a road into the County Road System, it shall be the responsibility of the property owner(s) to bring the road to acceptable County standards.

- l. Any requests for speed limits shall be referred to the Director who shall review the request and, if required, submit the request to the State Speed Control Committee.
- m. A County Department or public jurisdiction may obtain services from the Department of Public Works, and the Department of Public Works shall be reimbursed for such service by the County Department or public jurisdiction.
- n. The Department of Public Works shall review proposals for road easements, private roads, and public roads and submit an appropriate recommendation to the Board of Commissioners through the County Administrator.
- o. A list of all fixed assets shall be furnished to the Budget & Finance Department and the list shall be kept current.

**SECTION 27-B**  
**DEPARTMENT OF PUBLIC WORKS**  
**PARKS & BUILDINGS DIVISION**

(Revised 12/6/04)

A.

ORGANIZATION AND STRUCTURE:

- 27B.0 The Parks & Buildings Division shall be under the supervision and direction of the County Director of Public Works.
- 27B.1 The Parks & Buildings Division shall have offices at the Hood River County Forestry Division Building, or other location as deemed appropriate by the Board of Commissioners.
- 27B.2 In addition to the County Director of Public Works, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to assure the efficient and effective operation of the Division.
- 27B.3 The Parks & Buildings Division shall collaborate with all county Divisions when given the opportunity.

B. RESPONSIBILITIES:

- 27B.4 The Parks & Buildings Division shall comply with provisions of Oregon Revised Statutes, the Hood River County Charter, the Hood River County Administrative Code, the Hood River County Personnel Code, policies adopted by the Board of Commissioners and administrative policies, procedures and directives and the Oregon Administrative Rules.
- 27B.5 The responsibility of the Parks & Buildings Division shall be to maintain County Parks and facilities. Maintain and oversee the Weed & Pest program, support the administrative functions of the County Museum, oversee all county and contracted construction (new and remodel) and, and maintain all County owned facilities.
- 27B.6 County Parks are as designated and described by the Ordinance adopted by the Board of Commissioners.
- 27B.7 The Parks & Buildings Division shall be operated within the following policy guidelines:
  - a. Rules regulating County Parks shall be in accordance with the Ordinance adopted by the Board of Commissioners.

- b. Capital improvement projects shall require approval and appropriation of funds from the Board of Commissioners.
- c. Available grant funds for park purposes may be pursued.
- d. A general Division and park plan shall be developed for each County Park. A Park Plan may be developed by the Parks & Buildings Division staff or by another method as approved by the Board of Commissioners.
- e. Additions or alterations to a County Park shall be in accordance with the Park Plan as adopted by the Board of Commissioners.
- f. Plans for County Parks may be revised and updated, subject to approval by the Board of Commissioners.
- g. Volunteer programs may be initiated and implemented for improvement or maintenance of a County Park. Any volunteer program shall be submitted to the County Administrator for review and approval.
- h. The director of the Division may provide on-site park residence renters/helpers/ and volunteer hosts for County Parks.
- i. A group or individual may make reservations for use of a camping, trailer, or picnic area in Toll Bridge County Park County Park. Tucker Park will only accept reservations for the picnic shelter. Preference shall be given to Hood River County residents. A reservation for the park shelters must be for at least 25 people. Reservations may be made through the Parks & Buildings Division or through the Parks caretaker.
- j. Fee schedules for use of County Parks and facilities shall generally be the same as the fee schedule for State Parks.
- k. The Parks & Buildings Division shall be responsible for yard maintenance at the County Courthouse, CBAB, County Health Division, County Library, County Museum, and County Cemetery.
- l. Concession stands for special occasions not to exceed three days may be approved by the director. An approval of a concession stand shall be limited to nonprofit civic organizations.
- m. Park facilities may be closed to the general public from November 1 to April 1, subject to approval by the Board of Commissioners.

C. CONSTRUCTION PROJECTS

27B.8 The Director of Public Works shall oversee all County and contracted remodel and new construction projects that have been approved by the Board of Commissioners. The Director shall develop and administer the Capital Construction budget and develop a County long-range plan for County facilities.

27B.9 The Director will identify and track all actual costs to the satisfaction of the Budget & Finance Director and the County Administrator.

D. FACILITIES MAINTENANCE

27B.10 The Director of Public Works shall provide staff support as well as oversee all County and contracted facilities maintenance.

**SECTION 27-C**  
**DEPARTMENT OF PUBLIC WORKS**  
**WEED AND PEST DIVISION**

(Revised 12/6/04)

A. ORGANIZATION AND STRUCTURE

- 27C.0 The Weed and Pest Division shall be under the supervision of the County Director of Public Works.
- 27C.1 The Weed and Pest Division shall have offices at the Hood River County Forestry Division building or other location as deemed appropriate by the Board of Commissioners.
- 27C.2 In addition to the County Director of Public Works additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners.

B. RESPONSIBILITIES:

- 27C.3 The Weed and Pest Division shall comply with provisions of Oregon Revised Statutes, the Hood River County Charter, the Hood River County Administrative Code, the Hood River County Personnel Code, policies adopted by the Board of Commissioners and administrative policies, procedures and directives, and the Oregon Administrative Rules Compilation adopted by the Oregon State Division of Agriculture.
- 27C.4 The primary responsibility of the Weed and Pest Division is the control and eradication of weeds, orchard insect pests, and diseases that are a threat or danger to agricultural lands or the agricultural industry.
- 27C.5 The Weed and Pest Division shall be operated within the following policy guidelines:
- b. The Weed and Pest Division shall receive advice from the Oregon State Extension on methods and procedures to be used for the control and eradication of apple maggot, pear psylla, tansy ragwort and other weeds, pests or diseases that are found to be a threat or danger to the agricultural lands or to the agricultural industry.
  - c. Under the supervision of the County Director of Public Works, contracts and agreements with other agencies for weed and pest control shall be administered. Funds received from other agencies shall be expended in accordance with provisions of the contract or agreement.

**SECTION 28-A**  
**RECORDS AND ASSESSMENT**

(Amended 9/16/96)  
(Revised 4/16/01)

A. ORGANIZATION AND STRUCTURE:

- 28A.0 The Department of Records and Assessment shall be under the supervision of the Director of Records and Assessment, who shall be appointed and supervised by the County Administrator.
- 28A.1 The Department of Records and Assessment shall be located in the Hood River County Courthouse or other location deemed appropriate by the Board of Commissioners.
- 28A.2 In addition to the Director of Records and Assessment, additional staff shall be provided as deemed necessary by the County Administrator, Budget Committee, and the Board of Commissioners to assure the efficient and effective operation of the Department of Records and Assessment.

B. RESPONSIBILITIES:

- 28A.3 The Department of Records and Assessment shall be responsible for performing the duties of County Assessor and County Clerk as specified by Oregon Revised Statutes unless County Clerk duties have been specifically assigned to another Department.

The primary responsibilities of the Department of Records and Assessment include:

- a. The appraisal of all real, business personal property, and manufactured structures in the county at 100% of real market value and the defense of these values during appeals.
- b. Administration of special assessment and exemption programs.
- c. The processing of transactions for the Department of Consumer and Business Services relating to ownership, transporting, titling, and de-titling of manufactured structures.
- d. Calculation and preparation of the tax roll.
- e. Issuing marriage licenses.

- f. Processing passport applications.
- g. Recording documents.
- h. Registering voters.
- i. Conducting elections.
- j. Collection of fees as determined by County Ordinance and Oregon Revised Statute.

The Department of Records and Assessment shall operate within the following guidelines.:

- a. All appraisals of real property shall be made by a registered appraiser.
- b. The Director shall have the authority to establish and publicly post rules and regulations regarding the use of the office, records, and files by the general public.
- c. The records under the control and care of this department shall be all-inclusive as regards to County records and shall include the compilation of all Ordinances and Resolutions; except those records specifically assigned or designated to the Budget & Finance Department or to Trial Court operations.
- d. The Department shall establish appropriate controls and systems pertaining to the filing and storage of all records of county importance.
- e. All elections shall be conducted in accordance with provisions of ORS. Chapter 254.
- f. Fee schedules shall be established by the Board of Commissioners and the Oregon Revised Statutes.

C. PROCEDURES FOR DOCUMENTS, AGREEMENTS, ORDINANCES, ORDERS AND RESOLUTIONS:

28A.4 DEFINITIONS:

- a. For purposes of this section, the term “document” means any conveyance of an interest in real or personal property to which Hood River County is a party, either as transferor, transferee or secured party, and shall include but not be limited to a deed, mortgage, deed of trust, land sale, contract, easement, right of way, license or option.
- b. The term agreement includes any contract which is not a document defined above, or other agreement to which Hood River County is a party, and includes but is not limited to vendor and service agreements, intergovernmental agreements and equipment rental or maintenance agreements. (Timber sale contracts are separately filed).

28A.5 INITIATION:

- a. Any person, department or entity requesting the passage or approval of any document, agreement, ordinance resolution or order shall, except in the case of orders naturally resulting from the completion of an existing contested case, initiate the request with the Administration office.
- b. All documents, agreements, ordinances, resolutions or orders shall be drafted or approved by and shall be signed by Hood River County General Counsel, Land Use Counsel or Labor Relations Counsel prior to presentation to the Board of Commissioners for acceptance or final passage.

28A.6 PROCESSING AND STORAGE:

- a. After completion, approval and signature by the parties, all documents, agreements, ordinances, resolution and orders, shall be delivered to the Department of Records and Assessment for recording according to O.R.S. in the case of real estate documents, and for filing in all other cases.
- b. Real estate documents, after recording, shall be maintained at Department of Records and Assessment for permanent storage in a separate file maintained for original real estate documents only.
- c. Items not recorded shall be assigned a filing number, which identifies the item as an ordinance, resolution, order or miscellaneous agreement, and the year of filing. They shall then be properly indexed, and

maintained in the Department of Records and Assessment in a file, which is available to the public, in accordance with the County Charter.

- d. All unrecorded original items filed according to this section shall be maintained in a fireproof file, or shall be copied to an electronic or photographic record, which is stored in a fireproof location.

**SECTION 40-A**  
**PROJECTS/PROGRAMS/SERVICES**

- 40A.0 Projects, programs, and services may be provided and funded by the Board of Commissioners. A project, program, or service may be ongoing or may be for a specific purpose for a short duration. A project, program, or service may be administered by a County Department Head in conjunction with a County Department. Unless a project, program, or service is administered by a County Department Head, it will be supervised and administered by the County Administrator.
- 40A.1 A program, project or service funded with grant funds or funds from outside sources shall be terminated upon expiration of the grant funds or funds from outside sources. To continue a program, project or service beyond the funding period shall require compliance with budget proceedings and inclusion of a budget appropriation in the annual County Budget.
- 40A.2 A program, project or service funded partially with grant funds or funds from outside sources and partially from County funds shall be re-evaluated upon expiration of the grant funds or funds from outside sources. The funding level for continuing the project, program, or service shall be as determined by the Budget Committee and the Board of Commissioners.
- 40A.3 A Department Head who is responsible for a project, program or service shall submit communications, correspondence, requests, etc., to the County Administrator's Office. The County Administrator shall make the determination as to whether the matter can be handled administratively or referral to the Board of Commissioners is required.
- 40A.4 The County Administrator shall provide any assistance needed or required for a project, program, or service.

**SECTION 41-A**  
**PROGRAM**  
**CENTER FOR LIVING**

A. ORGANIZATION OR STRUCTURE:

- 41A.0 The Center for Living shall be under the supervision of a Director who shall be appointed by the Tri-County Mental Health Board representing Hood River, Sherman, Gilliam and Wasco Counties.
- 41A.1 The Center for Living office shall have an office in Hood River, Oregon.
- 41A.2 In addition to the Center for Living Director, additional staff shall include a licensed psychiatrist and other staff as deemed necessary to assure the effective and efficient operation of the Center for Living.
- 41A.3 The Center for Living shall be the designated mental health representative of Hood River County and shall be responsible for carrying out any assigned mental health contractual agreements entered into between Hood River County and other governmental or private bodies.

B. RESPONSIBILITIES:

- 41A.4 The primary responsibility of the Center for Living shall be to provide a community mental health program.
- 41A.5 The Center for Living shall be operated within the following policy guidelines:
- a. The Center for Living may be either an independent Hood River County function or a joint effort with other counties. In the event there is a multi-County program, the Center for Living shall be administered in accordance with provisions of the agreement approved by the participating counties.
  - b. The Center for Living shall offer, but not be limited to, the following programs and services:
    - 1. Services for persons who have a mental illness.
    - 2. Services for alcohol and drug abuse.
    - 3. Services for the developmentally disabled.
    - 4. Marital, family and child guidance counseling.

5. Psychological counseling for adults.
  6. Consultation and education to community service agencies.
  7. A twenty-four hour emergency service.
  8. Contractual social and psychological services to agencies and other community bodies.
  9. Liaison with State Hospital and a follow-up program.
- c. The Center for Living shall annually submit a program plan to the County for approval. This program shall be as comprehensive as is feasible in meeting the designated mental health needs of the community.
  - d. A multi-County program may subcontract for providing of programs and services subject to the approval of the Tri-County Mental Health Board.
  - e. Dispensing of any medication shall be under the direction and supervision of the psychiatrist.
  - f. Programs shall be coordinated with other social service agencies, local schools, hospitals and other care facilities to avoid a duplication of programs and services.
  - g. A fee schedule based on ability to pay for services received shall be established for those programs requiring such a policy by the Mental Health Division of Oregon. Fee schedules for all other services shall be determined by the Tri-County Mental Health Board.

C. BUDGET PROCEDURES:

41A.6 There shall be compliance with the adopted budget procedures.