



Council Business Meeting

May 2, 2023

Agenda Item	Class Special Procurement Sourcing Method Approval for “C” Mix Asphalt	
From	Scott Fleury PE	Public Works Director
Contact	Scott.fleury@ashland.or.us	
Item Type	Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input checked="" type="checkbox"/> Presentation <input type="checkbox"/>	

SUMMARY

Before the Council is a request to approve a “Class Special Procurement” (sourcing method) to use the Informal Intermediate Procurement process for purchasing C Mix Asphalt. C Mix Asphalt is purchased by the Street Division by the ton, hauled, and utilized by the Street Department for road maintenance and overlay projects.

POLICIES, PLANS & GOALS SUPPORTED

City Council Goals:

Essential Services

- Streets

Department Goals:

- Maintain existing infrastructure to meet regulatory requirements and minimize life-cycle costs
- Deliver timely life cycle capital improvement projects
- Maintain and improve infrastructure that enhances the economic vitality of the community
- Evaluate all city infrastructure regarding planning management and financial resources

BACKGROUND AND ADDITIONAL INFORMATION

A Special Procurement is used for the purpose of seeking an exemption from the formal competitive bid process required under Ashland Municipal Code (AMC), when a good or service price exceeds \$100,000. The special procurement process defines a custom contracting or alternative contracting approach and can be approved by the City Council per the AMC. The Special Procurement Approval Request Form (written findings), is attached for Council consideration and review.

The cost of “C” mix asphalt will exceed \$100,000 annually: therefore, a formal Competitive Sealed Bid (invitation to Bid) is required per AMC 2.50.090. The special procurement structure is requested to use an informal intermediate procurement process per AMC 2.050.090 (B) and AMC 2.50.100 (C) to procure “C” mix asphalt. An Intermediate Procurement (sourcing method) requires a written solicitation and at least three written quotes. This process was previously approved by the City Council at the June 6, 2017 Business Meeting ([Minutes](#), [Staff Report](#))

Special Procurement Process:

1. Follow Informal Procurement Process and develop appropriate solicitation documents for bidding
2. Obtain quotes from three (3) local C mix asphalt suppliers every 3-4 months
3. Award to lowest responsive bidder on each quote cycle.





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FISCAL IMPACTS

The proposed annual procurement for C Mix Asphalt is \$240,000 and part of the infrastructure line appropriated within the Street fund. The actual amount of "C" Mix asphalt purchased will be subject to available funding, project need, and weather limitations.

DISCUSSION QUESTIONS

Does the Council have any questions about the special procurement process?

SUGGESTED NEXT STEPS

Next steps include issuing obtaining quotes for "C" Mix Asphalt for street maintenance operations.

REFERENCES & ATTACHMENTS

Attachment #1: Form #9, Special Procurement – Request for Approval Form

Attachment #2: Ashland Municipal Code 2.50

**SPECIAL PROCUREMENT
REQUEST FOR APPROVAL**

To: *City Council, Local Contract Review Board*
From: *Chuck Schweizer, Street Supervisor*
Date: *4/13/2023*
Subject: REQUEST FOR APPROVAL OF A SPECIAL PROCUREMENT

In accordance with ORS279B.085, this request for approval of a Special Procurement is being presented to the City Council for approval. This written request for approval describes the proposed contracting procedure and the goods or services or the class of goods or services to be acquired through the special procurement and the circumstances that justify the use of a special procurement under the standards set forth ORS 279B.085(4).

- 1. **Requesting Department Name:** Street Division
- 2. **Department Contact Name:** Chuck Schweizer
- 3. **Type of Request:** X Class Special Procurement _____ Contract-specific Special Procurement
- 4. **Time Period Requested:** From July 1, 2023, To: July 30, 2029
- 5. **Total Estimated Cost:** \$240,000 per fiscal year (subject to available funding and weather)
- 6. **Short title of the Procurement:** “C” Mix Asphalt

Supplies and/or Services or class of Supplies and/or Services to be acquired:

“C” Mix asphalt is purchased by the ton and hauled and utilized by the Street Department for road maintenance and storm drain repairs. The actual amount of “C” Mix asphalt purchased will be subject to available funding, necessity, and weather.

7. Background and Proposed Contracting Procedure: Provide a description of what has been done in the past and the proposed procedure. The Agency may, but is not required to, also include the following types of documents: Notice/Advertising, Solicitation(s), Bid/Proposal Forms(s), Contract Form(s), and any other documents or forms to be used in the proposed contracting procedure. Attach additional sheets as needed.

Background: For the previous five years, under the special procurement Council granted in 2017, written quotes have been requested from three known suppliers of “C” mic asphalt. Johnny Cat Inc., Knife River Materials and Mountain View Paving

Proposed procedure:

The cost of “C” mix asphalt exceeds \$100,000: therefore, a formal Competitive Sealed Bid (invitation to Bid) is required per AMC 2.50.090. This Class-special procurement is requested to use an informal intermediate Procurement (alternative solicitation process) per AMC 2.050.0 90 (B) and AMC 2.50.100 (C) to procure “C” mix asphalt. An Intermediate Procurement (sourcing method) requires a written solicitation and at least three written quotes.

The Three known local suppliers are in agreement and willing to offer firm pricing for terms of 3-4 months. Firm pricing for a longer term would require an “escalation clause” for oil prices, etc, and/or bidders would need to increase their bid pricing to cover any potential escalation in oil prices etc.

8. Justification for use of Special Procurement: Describe the circumstances that justify the use of a Special Procurement. Attach relevant documentation.

Obtaining written price quotes every 3-4 months will encourage competition, provide “firm” pricing and allow price comparisons to ensure the City is procuring “C” mix asphalt at a fair price.

9. Findings to Satisfy the Required Standards: This proposed special procurement:

X (a) will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because:

The proposed process will “encourage” competition because quotes will be requested from each of the suppliers able to provide “C” mic asphalt as specified by the Street Division. If and/or when additional suppliers become known to the City, they too will be given an equal opportunity to provide price quotes for “C” mix asphalt.
(Please provide specific information that demonstrates how the proposed Special Procurement meets this requirement.); **and**

X (b)(i) will result in substantial cost savings to the contracting agency or to the public because:

The City will have the flexibility to obtain competitive quotes and to procure “C” mix asphalt from the lowest bidder.
(Please provide the total estimate cost savings to be gained and the rationale for determining the cost savings); **or**

X (b)(ii) will otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the requirements of ORS 279B.055, 279B.060, 279B.065, or 279B.070, or any rules adopted thereunder because:

It is in the City’s best interest to facilitate a fair an impartial solicitation process to obtain firm competitive price quotes to ensure the City is paying a fair price for “C” mic asphalt.

(Please provide specific information that demonstrates how the proposed Special Procurement meets this requirement.)

Public Notice:

Pursuant to ORS 279B.085(5) and OAR 137-047-0285(2), a Contracting Agency shall give public notice of the Contract Review Authority's approval of a Special Procurement in the same manner as a public notice of competitive sealed Bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement and shall give such public notice of the approval of a Special Procurement at least seven (7) Days before Award of the Contract.

After the Special Procurement has been approved by the City Council, the following public notice will be posted on the City’s website to allow for the seven (7) day protest period.

Date Public Notice first appeared on www.ashland.or.us - *[Enter date]*

PUBLIC NOTICE
Approval of a Special Procurement

First date of publication: *[Enter date]*

A request for approval of a Special Procurement was presented to and approved by the City Council, acting as the Local Contract Review Board, on *[Enter date]*.

[Describe the goods and services –or- class of goods and services – include whether or not it’s “Contract-specific special procurement” or a “class special procurement”, cost, terms, etc. – brief explanation of procurement]

[Describe the alternative contracting procedure – include the time period requested]

It has been determined based on written findings that the Special Procurement will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts, and result in substantial cost savings or substantially promote the public interest in a manner that could not be realized by complying with the requirements that are applicable in ORS 279B.055, 279B.060, 279B.065, or 279B.070.

An affected person may protest the request for approval of a Special Procurement in accordance with ORS 279B.400 and OAR 137-047-0300. A written protest shall be delivered to the following address: City of Ashland, *[Enter department name, Contact name, and complete address]*. The seven (7) protest period will expire at 5:00pm on *[Enter date-seven calendar days from first date of publication]*

This public notice is being published on the City’s Internet World Wide Web site at least seven days prior to the award of a public contract resulting from this request for approval of a Special Procurement.

Chapter 2.50

RULES OF PROCEDURE FOR PUBLIC CONTRACTING

Sections:

- 2.50.010 Short Title**
- 2.50.020 Purpose**
- 2.50.030 Adoption of State Law**
- 2.50.040 Definitions**
- 2.50.050 Applicability**
- 2.50.060 Local Contract Review Board Authority**
- 2.50.070 Public Contracting Officer Authority**
- 2.50.080 Formal Processes - Competitive Sealed Bidding and Proposals**
- 2.50.090 Exemptions from Formal Competitive Selection Procedures**
- 2.50.095 Additional Requirements for Exemptions Pursuant to 2.20.090(I)**
- 2.50.100 Informal Process - Process for Exempt Procurements**
- 2.50.110 Electronic Advertisement of Public Contracts**
- 2.50.120 Personal Services Contracts**
- 2.50.125 Cost and Feasibility Determinations**
- 2.50.130 Record Keeping**
- 2.50.140 Protests of Procurement Process and Solicitation Award**

2.50.010 Short Title

The provisions of this chapter and all rules adopted hereunder may be cited as the Ashland Public Contracting Code. (Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006; Ord. 2917, amended, 03/01/2005; Ord. 2857, amended, 06/20/2000)

2.50.020 Purpose

The purpose of the Ashland Public Contracting Code is to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

- A. Promoting open and impartial competition;
- B. Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements;

- C. Taking full advantage of evolving procurement methods that suit the contracting needs of the City; and
- D. Providing direction to city staff regarding purchasing practices and purchasing authority those results in a systematic and uniform administration of public contracts.

The City shall endeavor to utilize local suppliers of materials and services whenever practical and feasible while seeking to obtain the lowest and best responsible bid, quotation or proposal. (Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006; Ord. 2917, amended, 03/01/2005; Ord. 2857, amended, 06/20/2000)

2.50.030 Adoption of State Law

Except as specifically provided herein, or by subsequent ordinance or resolution, the Model Rules, Oregon Administrative Rules (OAR) Chapter [137](#), Divisions [46](#), [47](#), and [49](#), adopted by the Attorney General under ORS Chapters [279A](#), [279B](#), and [279C](#), as they now exist, are hereby adopted as the City of Ashland's Public Contracting Code. A copy of the Oregon Public Contracting Code and Model Rules shall be maintained in the City Records Office. Words and phrases used in these rules that are defined in Oregon Revised Statutes (ORS) Chapters [279A](#), [279B](#), [279C](#), and in the Model Rules shall have the same meaning as in those statutes and rules, except as may be provided for herein. In the event that the rules adopted by the local contract review board do not address a particular situation, the Model Rules apply. (Ord. 3013, added, 05/18/2010)

2.50.040 Definitions

Words and phrases that are used and defined in the Model Rules and the Oregon Public Contracting Code shall have the same meaning as in those statutes and rules, except for the following:

- A. "City Attorney" shall mean the Ashland City Attorney or his/her designee as specified by written order.
- B. "Department" shall mean City of Ashland instead of Oregon Department of Administrative Services.
- C. "Director" shall mean Public Contracting Officer as defined in this section instead of the Director of Administrative Services.
- D. "Findings" are the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations; value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability; performance; and funding sources.
- E. "Finance Director" shall mean the Director of the City's Finance Department or his/her designee as specified by written order.
- F. "Local Contract Review Board" shall mean the Ashland City Council.
- G. "Public Contracting Officer" means the City Manager or his/her designee as specified by written order.

H. “Model Rules” means the public contracting rules adopted by the Attorney General pursuant to ORS [279A.065](#).

I. “Oregon Public Contracting Code” means ORS Chapters [279A](#), [279B](#) and [279C](#).

J. “Personal services contract” means a contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The Public Contracting Officer shall have discretion to determine whether additional types of services not specifically mentioned in this definition fit within the definition of personal services. (Ord. 3192 § 35, amended, 11/17/2020; Ord. 3013, added, 05/18/2010)

2.50.050 Applicability

The Ashland Public Contracting Code shall apply to procurements by all City departments and divisions, including Ashland Parks and Recreation. (Ord. 3013, added, 05/18/2010)

2.50.060 Local Contract Review Board Authority

The Local Contract Review Board shall have all the duties and authority of a contracting agency that are granted under state and local law. The Local Contract Review Board may delegate its powers and responsibilities by ordinance, resolution, or board order consistent with the Model Rules and the Oregon Public Contracting Code. (Ord. 3013, added, 05/18/2010)

2.50.070 Public Contracting Officer Authority

- A. Except as otherwise provided by this code, the Public Contracting Officer shall have authority to:
1. Purchase and contract for all materials, supplies, equipment, services and public improvements for which funds have been appropriated by the City Council and the contract price does not exceed \$100,000;
 2. Contract for all personal services as long as the contract price does not exceed \$75,000; and
 3. Sell or dispose of all personal property of the City in accordance with AMC [2.54](#).
 4. Enter into any intergovernmental agreement as long as the annual cost to the City does not exceed \$25,000 and the agreement does not create a new intergovernmental entity.

Contracts approved under this section require no further approvals by the Local Contract Review Board.

- B. Except when this Chapter, or the Oregon Public Contracting Code and Model Rules, specifically requires the Local Contract Review Board to take action or exercise its discretion and delegation is not allowed, any act required or permitted to be performed by an “agency,” “head of a contracting agency,” “local contract review board” or the “director” under the Model Rules or Oregon Public Contracting Code shall be performed by the Public Contracting Officer.
- C. The Public Contracting Officer may develop such forms that are convenient to the administration of the City's contracts and may promulgate procedures reasonably necessary to accomplish the purposes of this Chapter, the Model Rules, and the Oregon Public Contracting Code. The City Attorney may promulgate standard forms for use by the Public Contracting Officer. (Ord. 3136, amended, 2017; Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006; Ord. 2917, amended, 03/01/2005; Ord. 2857, amended, 06/20/2000)

2.50.080 Formal Processes - Competitive Sealed Bidding and Proposals

Except as otherwise expressly provided herein, in addition to the requirements of the Model Rules and the Oregon Public Contracting Code:

- A. The Finance Director must sign off that there are appropriate funds for the project before the project is put out for bids.
- B. The City Attorney must determine that the contract is appropriate as to form before the project is put out for bids. In addition, the City Attorney shall review all formal competitive solicitations or formal competitive bids to ensure that the appropriate process is being followed.
- C. The Local Contract Review Board shall approve the award of all contracts for which the Ashland Municipal Code or the Oregon Public Contracting Code require formal competitive solicitations or formal competitive bids.
- D. *Electronic Solicitation.* Competitive sealed bids and competitive sealed proposals may be available online, but applicants will NOT be able to submit their proposals and/or responses online. Bids and proposals must be delivered in hard copy form to the City in accordance with the requirements for the competitive solicitation. Individuals that obtain the solicitation materials electronically are responsible for regularly checking for instructions, addenda, and related materials. (Ord. 3039, amended, 11/07/2010; Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006; Ord. 2917, amended, 03/01/2005)

2.50.090 Exemptions from Formal Competitive Selection Procedures

All Public Contracts shall be based upon Competitive Sealed Bidding (Invitation to Bid) or Competitive Sealed Proposals (Request for Proposal) pursuant to ORS [279A](#) – [279C](#) and the Model Rules except for the following:

- A. Contracts listed in ORS [279A.025\(2\)](#).

- B. Purchases through federal programs as set forth in ORS [279A.180](#).
- C. Public Improvement Contracts that qualify for exemption as set forth in 279C.335.
- D. Small Procurements – a public contract not exceeding \$5,000.
1. Small Procurements shall be awarded in accordance with ORS [279B.065](#), OAR [137-047-0800](#), OAR [137-047-0265](#) and all other applicable provisions of law.
- E. Intermediate Procurements – a public contract for goods and services greater than \$5,000 and less than \$100,000.
1. Intermediate Procurements shall be awarded in accordance with ORS [279B.070](#), OAR [137-047-0800](#), OAR [137-047-0270](#) and other applicable provisions of law.
- F. Sole Source Procurements – a public contract in which the Department Head finds in writing that there is only one provider of a product or service of the quality and type required available.
1. Sole-source procurements shall be awarded in accordance with ORS [279B.075](#) and all other applicable provisions of law.
- G. Special Procurements – a public contract for a class special procurement, a contract specific procurement or both, based upon a contracting procedure that differs from procedures described in ORS [279B.055](#), [279B.060](#), [279B.065](#), [279B.070](#). The contracting approach may be custom designed to meet the procurement needs.
1. Special procurements shall be awarded in accordance with ORS [279B.085](#) and all other applicable provisions of law.
- H. Emergency Procurements – a public contract that is necessary because an emergency exists meaning there are circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health, safety, welfare, or property that could not have been reasonably foreseen and requires prompt execution of a public contract to remedy the condition.
1. Emergency procurements shall be awarded in accordance with ORS [279B.080](#) and all other applicable provisions of law.
- I. The following classes of contracts are hereby specifically exempted from the Oregon Public Contracting Code and Model Rules pursuant to ORS [279A.025\(t\)](#):
1. Contracts for the purchase of materials where competitive bids for the same materials have been obtained by other public agencies or the federal government whose processes for bid and award are substantially equivalent to those set forth herein, and the contract is to be awarded to the party to whom the original contract was awarded as long as no material change is made to the terms, conditions, or prices of the original contract.
2. Contracts for licenses and maintenance of computer hardware, computer software, and telecommunications products (including cable, video and television products).

3. Purchase of items or services of an artistic nature, including, but not limited to public art.
4. *Contracts for removal, cleanup or transport of hazardous materials.* As used in this Subsection, “hazardous materials” include any material or substance which may pose a present or future threat to human health or the environment, including Hazardous Waste as that term is used in the Resources Conservation and Recovery Act ([42 USC 6901](#) et seq.).
5. Contracts for purchase of used motor vehicles, defined as any motor vehicle that is at least one year old.
6. Contracts for the purchase of used heavy construction equipment.
7. Contracts for the purchase of copyrighted materials where there is only one supplier available within a reasonable purchase area for such goods.
8. Contracts for the purchase of advertising, including legal advertising intended for the purpose of giving public notice.
9. Contracts for the purchase or sale of all utilities including, but not limited to, electric power, gas, water, sewage, internet, cemetery lots, cable and telecommunication services, and the sale of telecommunication materials or products or other services, materials or products traditionally provided by the City.
10. Contracts for the purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state or local regulating authority. (Ord. 3039, amended, 11/07/2010; Ord. 3013, added, 05/18/2010)

2.50.095 Additional Requirements for Exemptions Pursuant to 2.20.090(I)

Any contract exempted under 2.20.090.I shall additionally satisfy these criteria:

- A. The performance bond requirements of ORS [279C.375](#) and [279C.380](#), unless an emergency exemption exists in accordance with the Oregon Public Contracting Code and Model Rules.
- B. The construction and landscape contractor registration and requirements of ORS Chapter [671.630](#) et seq. and Chapter 701;
- C. Any other law applicable to such a contract; and,
- D. To the extent that BOLI applies, the City and the contractor shall comply with the prevailing wage provisions of ORS [279C.800](#) - [279C.870](#). (Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006)

2.50.100 Informal Process - Process for Exempt Procurements

The following process shall apply to all contracts that are exempt from formal competitive selection procedures in AMC [2.50.090](#).

- A. The Public Contracting Officer is responsible for determining whether a project is subject to an exemption pursuant to AMC [2.50.090](#) that will allow a process other than a formal solicitation. Except for small procurements and emergency procurements, it is the responsibility of the Public Contracting Officer to evaluate whether an exemption exists and write findings consistent with Oregon law to document the exemption. A copy of the written findings shall be given to the City Attorney. If an exemption is approved all applicable provisions of the Oregon Public Contracting Code and the Model Rules must be followed. Notwithstanding the exemptions, the City Attorney, the Public Contracting Officer, or Local Contract Review Board may require a formal competitive solicitation to ensure the purposes of this Chapter.
- B. Except for small procurements equal to or less than \$5,000, and emergency procurements, any informal procurement process, listed in AMC [2.50.090](#) shall require the Public Contracting Officer to obtain written authorization from the Finance Director to ensure that adequate funds are available for the project.
- C. For intermediate procurements of any amount the contracting agency shall use a written solicitation to obtain quotes, bids, or proposals.
- D. For all contracts over \$5,000 the City Attorney must determine that the contract is appropriate as to form before the contract is awarded. Use of a City standard form contract negates the need for legal sign off on all informal contracting processes.
- E. After the procurement process is complete, the Public Contracting Officer must execute the procurement contract, and the Finance Director must endorse the amount of the contract if the value of the contract exceeds the amount originally approved by the Finance Director on the requisition documents.
- F. The Public Contracting Officer must execute any change orders or amendments to the contract that are authorized under the Oregon Public Contracting Code or the Model Rules. (Ord. 3039, amended, 11/07/2010; Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006)

2.50.110 Electronic Advertisement of Public Contracts

The City may publish the advertisement for Offers by posting it on the website of the City, or if applicable, another governmental entity as long as the content required by the Model Rules and Oregon Public Contracting Code is available. Individuals that obtain the solicitation materials electronically are responsible for regularly checking for instructions, addenda, and related materials. (Ord. 3013, added, 05/18/2010)

2.50.120 Personal Services Contracts

A. A personal service contract that does not exceed \$35,000 may be awarded by direct appointment. Personal Services Contracts that are for contract amounts greater than \$35,000, but less than \$75,000 shall follow the process for Intermediate Procurements as outlined above. In addition, for personal services contracts greater than \$5,000, but less than \$75,000, the Public Contracting Officer shall make findings that City personnel are not available to perform the services, and that the City does not have the personnel or resources to perform the services required under the proposed contract. However, the City Attorney, the Public Contracting Officer, or Local Contract Review Board, can require a formal solicitation for bids to ensure that the purposes of this chapter are upheld.

1. *Class Exemption – Attorney Services.* Personal service contracts for legal counsel, legal services, expert witnesses, court-appointed attorneys, stenographers and other legal services are exempt from the competitive procurement requirements of this section and may be entered into based upon the judgment of the City Attorney. The City Attorney shall obtain City Council approval of any expenditure for legal services paid to a single legal services provider that is expected to exceed \$50,000 prior to entering into the contract. In addition, except for legal counsel hired by the City to provide legal services to indigent criminal defendants prosecuted by the City, the City Attorney shall select and retain all outside legal counsel hired by the City subject to the approval of the City Council.

2. *Pre-qualified Pool Exemption.* The City may directly award a personal services contract that does not exceed \$100,000 to a provider that has been selected to be on a list of:

- a. The City's current list of qualified providers through a formal process; or
- b. From another public contracting agency's current list of qualified providers as long as the public contracting agency uses a process substantially similar to the City's to derive the list.

3. *Continuation of Work Exemption.* Personal service contracts of not more than \$100,000 for the continuation of work by a contractor who preformed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the Public Contracting Officer determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

B. The Local Contract Review Board is hereby opting out of OAR [137-048](#) regarding architectural, engineering, and land surveying services.

C. The standard procurement rules adopted above shall apply to such contracts, as well as the following personal services selection criteria:

1. Specialized experience in the type of work to be performed;
2. Capacity and capability to perform the work, including any specialized services within the time limitations for the work;

3. Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration where applicable;
4. Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of designing or techniques peculiar to it, where applicable;
5. Cost of the services; and
6. Any other factors relevant to the particular contract. (Ord. 3039, amended, 11/07/2010; Ord. 3013, added, 05/18/2010; Ord. 2934, replaced, 11/21/2006)

2.50.125 Cost and Feasibility Determinations

The Public Contracting Officer shall make written cost or feasibility findings pursuant to ORS [279B.030](#). If the Public Contracting Officer is performing a cost analysis pursuant to ORS [279B.033](#), the Public Contracting Officer shall add a profit margin of ten percent (10%) of the cost of the project when estimating the total cost of hiring a contractor. (Ord. 3013, added, 05/18/2010)

2.50.130 Record Keeping

All records shall be retained in accordance with OAR [137-047-0620](#). To facilitate contract file record keeping and reduce accounting and auditing difficulties in having dispersed contract files, each city department will maintain a complete file on all contracts executed on behalf of that department. Information to be included in the file shall include, at a minimum:

- A. Any and all invitation for bids, requests for proposals, and any advertisements;
- B. Council consent authorizing contract execution when applicable;
- C. Copies of the signed contract, any required insurance certificates, bonds, or other bid security;
- D. Any approved Local Contract Review Board waivers; and
- E. List of who the solicitation documents were sent out to or the list of plan holders.

The City Recorder's Office shall retain the original executed contract as well as original copies of any required insurance certificates, performance bonds, and payment bonds or other bid security. The department which is responsible for the procurement shall continually monitor insurance certificates to ensure the City remains an additional insured and that the other party has sufficient coverage. (Ord. 3013, added, 05/18/2010)

2.50.140 Protests of Procurement Process and Solicitation Award

- A. The Uniform Administrative Appeals Process outlined in AMC [2.30](#) shall apply to all protests of the procurement process and award of public contracts except that the timelines of this section shall govern when determining whether an appeal is filed timely.
- B. *Timelines for Submitting Protests.*
1. Protests regarding the process or specification shall be received no later than ten (10) calendar days prior to bid closing.
 2. Protests regarding the award of the contract shall be received within seven (7) calendar days from the notice of intent to award the public contract.
- C. Failure to strictly comply with the applicable protest requirements, including but not limited to the required elements for the written protest required by the Model Rules and the Oregon Public Contracting Code, payment of the applicable appeal fee pursuant to AMC [2.30](#), and time for filing as specified in this section, shall constitute jurisdictional defects resulting in the summary dismissal of the appeal. (Ord. 3013, added, 05/18/2010)

The Ashland Municipal Code is current through Ordinance 3215, passed December 22, 2022.

Disclaimer: The City Recorder's office has the official version of the Ashland Municipal Code. Users should contact the City Recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.ashland.or.us](http://www.ashland.or.us)

[City Telephone: \(541\) 488-5307](tel:(541)488-5307)

[Code Publishing Company, A General Code Company](#)