

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting Local Public Contracting Rules, Creating a Local Contract Review Board, Exempting Certain Classes of Contracts, and Adopting Rules of Procedure for Public Contracting	)	
	)	
	)	<b>ORDINANCE NO. 2015-2</b>
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SECTION 1.            TITLE.

This Ordinance shall be known as Ordinance No. 2015-2, the Columbia County Public Contracting Ordinance.

SECTION 2.            APPLICABILITY.

This Ordinance applies to all public contracting agencies for which the Board of County Commissioners is the Local Contract Review Board (LCRB). Such public contracting agencies are hereinafter referred to as "County Agencies".

This Ordinance does not apply to Personal Services contracts as defined in Ordinance No. 38-2006, as amended.

SECTION 3.            PURPOSE.

A. Pursuant to ORS 203.035, the Board of County Commissioners may, by ordinance, exercise authority within the County over matters of county concern, which includes the authority to adopt rules governing the letting of public contracts by County Agencies.

B. Pursuant to ORS 279A.065(4), a contracting agency that has not adopted its own rules of procedure in accordance with ORS 279B.065(5) is subject to the model rules adopted by the Attorney General at OAR Chapter, 125, Divisions 46, 47, 48 and 49 (the "model rules"). The County desires to have the model rules apply to public contracting by County Agencies, except for Personal Services Contracts, which are regulated under the Columbia County Personal Service Contracting Rules, including contracts for architectural, engineering and land surveying services. Therefore, the County adopts OAR Chapter 125, Division 48 with limited applicability.

C. Pursuant to ORS 279A.070, in addition to adopting model rules, a contracting agency may, in the exercise of authority granted under ORS 279A.050, adopt

rules necessary to carry out the provisions of the Public Contracting Code, including but not limited to rules for the procurement, management, disposal and control of goods, services, personal services and public improvements under the Public Contracting Code.

D. Pursuant to ORS 279B.085, the County may exempt certain classes of contracts from the low bid requirements of ORS Chapter 279B.

E. The purpose of this Ordinance is to adopt the model rules, as they may be amended, to adopt additional local rules necessary to carry out the provisions of the Public Contracting Code, including but not limited to rules for the procurement, management, disposal and control of goods, services, and public improvements under the Public Contracting Code; and to exempt certain classes of contracts from the low bid requirements of ORS 279B. This Ordinance does not apply to Personal Services Contracts, including contracts for architectural, engineering and land surveying services.

#### SECTION 4. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, ORS 279A.060, ORS 279A.065, ORS 279A.070, 279A.075, 279B.080, and ORS 279B.085.

#### SECTION 5. HISTORY.

The Board of County Commissioners adopted Ordinance No. 88-3, effective March 2, 1988. The Ordinance adopted rules of procedure for public contracting, created a local contract review board, and exempted certain classes of public contracts, products and services from brand name restrictions and competitive bidding, bid security and/or performance bond requirements. The Ordinance incorporated and adopted several divisions of OAR Chapter 125 (February, 1985). Since the adoption of Ordinance No. 88-3, the Board of County Commissioners has adopted local rules governing procedures for solicitations, which have been amended from time to time. In 2013, the Board of County Commissioners adopted Order No. 39-2013, adopting Local Rule No. 6, related to the disposal of surplus property.

In 2003, the Oregon Public Contracting Code was substantially amended. New model rules have been adopted to reflect the changes to the Oregon Public Contracting Code. Ordinance No. 88-3 and local rules adopted pursuant thereto are no longer consistent with the Oregon Public Contracting Code and the model rules in several respects.

#### SECTION 6. ADOPTION.

The Board of County Commissioners hereby adopts the Columbia County Public Contracting Rules which are attached hereto as Attachment 1, and are incorporated herein by this reference.

SECTION 7. AMENDMENTS.

The Board of County Commissioners may, by order, amend the Columbia County Public Contracting Rules, attached hereto as Attachment 1, as may be necessary to comply with changes to Federal or Oregon law, or to correct scrivener's errors.

SECTION 8. REPEALER.

Ordinance No. 88-3 and all orders amending Ordinance No. 88-3, or adopting local rules, are repealed.

SECTION 9. SEVERABILITY.

If any provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 10. EMERGENCY CLAUSE.

This Ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this Ordinance shall take effect fourteen (14) days after its adoption.

Adopted this 22<sup>nd</sup> day of July, 2015.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: [Signature]  
Henry Heimuller, Chair

By: [Signature]  
Anthony Hyde, Commissioner

By: [Signature]  
Earl Fisher, Commissioner

Attest:

By: [Signature]  
Jan Greenhalgh, Recording Secretary

Approved as to form

First Reading: 7-22-15  
Second Reading: 7-22-15  
Effective Date: 8-5-15

By: [Signature]  
Office of County Counsel

COLUMBIA COUNTY PUBLIC CONTRACTING RULES  
(Ordinance No. 2015-2)

A. DEFINITIONS.

1. Contracting Agency. County "Contracting Agency" or "County Agencies" include, but are not necessarily limited to, the Board of County Commissioners, all County Officers, offices, elected officials, departments, department heads and employees, the Columbia County Fair Board, the 4-H Extension Service District, and all other commissions, committees, advisory boards, volunteers and volunteer programs governed by, directly or indirectly, the Board of County Commissioners, whose costs are paid wholly or in part from funds held by the Columbia County Treasurer.
2. Department Head. "Department Head" means a County Department director, or elected official, but does not include the Board of County Commissioners.
3. Emergency. "Emergency" means circumstances that: (a) could not have been reasonably foreseen, (b) create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety, and (c) require prompt execution of a contract to remedy the condition.
4. Local Contract Review Board (LCRB). The Board of County Commissioners is the local contract review board for all County Agencies.
5. Model Rules. OAR Chapter 125, Divisions 46, 47 and 49, as amended, and Division 48 when the County is required to comply with ORS 279C.100 to 279C.125 pursuant to ORS 279C.110(2).
6. On-going Services. "On-going services" means the same or substantially similar services purchased from the same vendor.
7. Personal Services. The term "Personal Services" has the meaning given in ORS 279C.100, and as defined in the Columbia County Personal Services Contracting Rule, as amended.
8. Public Contract. Pursuant to ORS 279A.010, "public contract" means a sale or other disposal, or a purchase, lease, rental or other acquisition, by a contracting agency of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary

repair or maintenance necessary to preserve a public improvement. "Public contract" does not include grants.

9. Public Contracting Code. Pursuant to ORS 279A.010 "Public Contracting Code" means ORS Chapters 279A, 279B, and 279C.
10. Public Improvement. Pursuant to ORS 279A.010, "public improvement" means a project for construction, reconstruction or major renovation on real property by or for Columbia County, but does not include:
  - a. Emergency work, minor alterations, ordinary repair or maintenance necessary to preserve a public improvement.
  - b. Projects for which no County funds are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection.
  - c. For purposes of road maintenance and repair, "public improvement" does not mean resurfacing of highways, roads or streets at a depth of less than two inches if the estimated cost does not exceed \$125,000, or as otherwise provided by ORS 279C.309, as amended.
11. Procurement. Pursuant to ORS 279A.010, "procurement" means the act of purchasing, leasing, renting or otherwise acquiring goods or services. "Procurement" includes each function and procedure undertaken or required to be undertaken by a the County to enter into a public contract, administer a public contract and obtain the performance of a public contract under the Public Contracting Code and this Ordinance.

B. APPLICABLE STATUTES.

In the letting of public contracts in general, and in exercising the powers of the Local Contracting Review Board, all applicable sections of the Oregon Revised Statutes shall apply including, but not limited to the applicable provisions of the Public Contracting Code, as amended, as provided in ORS 279A.025, as amended, and any and all statutory requirements set forth in grant documents, or as otherwise required by law.

C. LOCAL PUBLIC CONTRACTING REVIEW BOARD.

Pursuant to ORS 279A.060, the Board of County Commissioners is the Local Contract Review Board (LCRB) for all contracting agencies. No special procedure shall be necessary before the Board of County Commissioners, otherwise meeting properly for the transaction of County business and making any necessary findings, may exercise the powers of the Local Contract Review Board.

D. MODEL RULES ADOPTED. The Board of County Commissioners adopts the Attorney General's Model Public Contracting Rules, OAR Chapter 125, Divisions 46, 47, and 49. OAR Chapter 125, Division 48 is adopted for procurement of Architectural, Engineering, Land Surveying and Related Services if ORS 279C.110 applies to the procurement. The Board of Commissioners may decide, by order, not to apply one or more Model Rules if to do so would be in the best interest of the County. Any such order shall comply with ORS 279A.065(6), as amended, by stating which Model Rules do not apply, and prescribing the rules of procedure that the County will use for public contracts, which may include portions of the Model Rules. If the County does not adopt the Model Rules, the County shall review its local rules each time the Attorney General modifies the Model Rules to determine whether the County should modify its rules to ensure compliance with statutory changes.

E. PUBLIC CONTRACTING RULES FOR COUNTY AGENCIES

1. Agency Compliance. In the letting of public contracts in general, and in exercising the powers of the LCRB, County Agencies shall comply with the following:
  - a. All applicable sections of ORS 279A, 279B, and 279C, as amended.
  - b. All applicable sections of the Model Rules adopted in Section D, above.
  - c. All applicable sections of this Ordinance, and any amendments hereto, and any directive of the Board of County Commissioners.
  - d. All applicable procurement rules required as a condition of a grant or funding agreement, or other applicable law, rule or regulation. A Department Head procuring goods or services funded in part or in full by a grant is required to track compliance with all grant terms and conditions. The Department Head shall submit a grant compliance analysis, including the Grant Agreement, to the Finance Department.
2. Interpretation. The Board of County Commissioners shall have the authority to construe or interpret confusing, ambiguous or otherwise unclear terms or phrases within the rules adopted above as required to comply with the spirit of the statutes, model rules, and this Ordinance.
3. Exemptions. The Board of County Commissioners shall have the authority to grant exemptions to the public contracting rules as provided in ORS Chapter 279B and Chapter 279C.
4. Delegation. Pursuant to ORS 279A.075, unless otherwise provided in the

Public Contracting Code, the Board of County Commissioners may delegate and subdelegate its authority as the LCRB in whole or in part.

F. LOCAL RULES FOR ADMINISTRATION OF PUBLIC CONTRACTING.

1. DELEGATION.

- a. Signing of Purchase Orders and Contracts. The Board of County Commissioners delegates to the County Finance Director its authorization to sign Purchase Orders and to enter into Contracts in amounts not to exceed \$50,000, providing the requirements of the Public Contracting Code, the model rules and this Ordinance are met, and there are funds budgeted for such purchases and contracts. All other purchase orders and contracts shall be authorized by the Board of County Commissioners. The Board of County Commissioners delegates to the County Finance Director authorization to adopt rules for use of County Credit Cards, which may include exemptions from the requirement to use a purchase order or contract in certain cases.
- b. Emergency Procurements. Notwithstanding Section F.1.a, the Board of County Commissioners delegates to the County Finance Director its authorization to make or authorize others to make emergency procurements of goods or services in an emergency pursuant to ORS 279B.080. The Finance Director shall document the nature of the emergency and describe the method used for the selection of the particular contractor.
- c. Sub-delegation Authorized. The Finance Director may sub-delegate his or her authority to sign Purchase Orders, as follows:
  - i. Department Heads. The Finance Director may give written authority to Department Heads and/or their assistants to purchase goods or services up to \$20,000 in value if the purchase is budgeted and revenue is sufficient. Department Heads may sign purchase orders up to the value of their authority.
  - ii. County Employees. Upon the request of a Department Head the Finance Director may give written authority to other County employees to purchase goods or services up to \$5,000 in value if the purchase is budgeted and revenue is sufficient.
  - iii. Public Works. The Finance Director may give written

authority to the Public Works Director to purchase goods and services up to \$20,000 in value for trade related projects, (e.g. construction, maintenance, repair or similar labor and materials purchases); up to \$20,000 in value for goods, materials, supplies and services; and up to \$40,000 in value for maintenance and repair of roads, highways, or parking lots, including the purchase of rock and asphalt.

iv. Procurement Process. The procurement of goods and services shall be done in accordance with this Ordinance.

d. Procurement Files. The Department soliciting goods or services is required to keep a procurement file for each solicitation. The file shall contain requests for quotes, invitations to bid, requests for proposals, any amendments to the solicitation documents, all quotes, bids and proposals received, scoring sheets, and all other documentation related to the solicitation. Procurement files shall be maintained in the Department for a minimum retention period set forth in the Secretary of State's retention schedule or other applicable retention schedule. Procurement files shall be made available upon request to the Board of County Commissioners, Finance Director, auditors, grantors, and counsel.

## 2. USE OF PURCHASE ORDERS.

a. Goods. Purchase Orders may be used to purchase goods up to \$50,000 in value.

b. Services. Purchase Orders may be used to purchase services up to \$50,000 in value, except for on-going services which shall be approved by Contract.

c. County Form. County Agencies shall use the same County approved purchase order form which shall be in a form approved by the County Counsel's Office and shall include all public contract language required by ORS 279A, 279B, and 279C, and any grant required language.

3. USE OF CONTRACTS. Contracts shall be signed for all purchases of goods and services over \$50,000 in value and for on-going services. A Contract shall be in the form approved by the County Counsel's office. All invoices or other requests for payment shall refer to the Contract. Signed contracts shall be submitted to the Finance Department as soon as possible after signature.



4. INSURANCE. All contracts for goods and services shall include a requirement that the contractor maintain a \$2,000,000 commercial general liability policy to protect the County, its officers, agents and employees. A certificate of insurance and additional insured endorsement shall be required before work commences under the contract. Additional insurance policies may be required on a case by case basis. The Board of County Commissioners may exempt a single contract or class of contracts from this insurance requirement.
5. COMPETITIVE PROCUREMENT PROCEDURES FOR PUBLIC IMPROVEMENTS (279C). Except as provided in ORS 279C.335, procurement of a public improvement shall be based on competitive bidding. The Board of County Commissioners may exempt a public improvement contract or class of public improvement contracts from the competitive bidding requirements of ORS Chapter 279C. To seek approval of an exemption the Department Head in cooperation with County Counsel, shall request that the Board adopt an order approving the exemption. The request and order shall comply with ORS 279C.335, as amended, and shall demonstrate to the Board of County Commissioners that the findings required by 279C.335 can be made.
6. COMPETITIVE PROCUREMENT PROCEDURES FOR GOODS AND SERVICES (279B). Except as provided below, a procurement of goods or services shall be awarded by competitive sealed bidding under ORS 279B.055 or competitive sealed proposals under ORS 279B.060.
  - a. Procurement valued at \$10,000 or less (Small Procurement). Any procurement of goods or services not exceeding \$10,000 may be awarded without formal competitive bidding in accordance with ORS 279B.065, as amended, and the Model Rules. A contract or purchase order awarded under this rule may be amended due to unforeseeable costs, provided that cumulative amendments shall not increase the total Contract Price to greater than \$12,500. A procurement may not be artificially fragmented so as to constitute a small procurement.
  - b. Procurement valued between \$10,000 and \$150,000 (Intermediate Procurement).
    - i. Any procurement of goods or services with a value exceeding \$10,000 but not exceeding \$150,000 may be awarded in accordance with ORS 279B.070 as amended, and the Model Rules, as amended. When conducting an intermediate procurement, the County shall seek at least three informally solicited competitive price quotes or competitive proposals

from prospective contractors. Quotes shall be in writing. The County shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the County shall make a written record of the effort made to obtain the quotes or proposals.

- ii. If a contract is awarded, the County shall award the contract to the offeror whose quote or proposal will best serve the interests of the County, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose, familiarity with the work site, and contractor responsibility under ORS 279B.110, as amended.
  - iii. A contract awarded under this section may be amended due to unforeseeable costs. However, the cumulative amendments shall not increase the total contract price to a sum that is greater than 125% of the original contract price, or \$150,000, whichever is higher. The Department Head shall document the reason why costs were unforeseeable and shall maintain the record in the procurement file.
  - iv. A procurement may not be artificially divided or fragmented so as to constitute an intermediate procurement.
- c. Sole-Source Procurements. The County may award a contract for goods and services without competition when the Board of County Commissioners determines by order that the goods or services, or class of goods or services are available from only one source. To seek approval of a sole-source order, the Department Head, in cooperation with the County Counsel, shall request that the Board adopt an order approving the sole-source procurement. The request and order shall comply with ORS 279B.075, as amended, and shall provide to the Board of County Commissioners the following findings:
- i. That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
  - ii. That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
  - iii. That the goods or services are for use in a pilot or experimental project; or

- iv. Other findings that support the conclusion that the goods or services are available from only one source; and
- v. That all required notices have been published, and whether protests have been received.

The Department Head shall negotiate with a sole-source provider to obtain contract terms reasonably advantageous to the County. Findings establishing the sole-source shall be maintained in the procurement file.

- d. Emergency Procurements ORS 279B.080. The Board of County Commissioners or Finance Director may make or authorize the procurement of goods and services in an emergency in accordance with ORS 279B.080. The County Department that makes the purchase shall document the nature of the emergency and describe the method used for the selection of the contractor. For an emergency procurement of construction services that is not a public improvement, the County Department shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the circumstances. In conducting the procurement, the County Department shall set a solicitation time period that the Department determines to be reasonable under the circumstances and may issue written or verbal requests for offers or make direct appointments without competition in cases of extreme necessity. A procurement file shall be maintained in the Department procuring the goods or services, documenting the emergency, procurement process used and all contracting documents.
- e. Special Procurements For Goods and Services (279B). The Board of County Commissioners may approve a contract specific special procurement in accordance with ORS 279B.085. To seek approval of a contract specific special procurement a Department Head, in cooperation with the County Counsel, shall request that the Board adopt an order approving the special procurement. The request and order shall comply with ORS 279B.085, as amended, and shall demonstrate to the Board of County Commissioners how the use of the special procurement:
  - i. Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and
  - ii. Is reasonably expected to result in substantial cost savings to the County or to the public; or

- iii. Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055 (competitive sealed bidding), 279B.060 (competitive sealed proposals), 279B.065 (small procurement), 279B.070 (intermediate procurement), and rules adopted thereunder.
  
- f. Cooperative Procurement. The County may procure goods and services with competition through Cooperative Procurement in accordance with ORS 279A.200-279A.225.
  - i. State of Oregon Cooperative Purchasing Program (ORCPP)  
The County finds that the State of Oregon Cooperative Purchasing Program's (ORCPP) solicitation and award process is an open and impartial competitive process and uses source selection methods substantially equivalent to those specified in ORS 279B.055 or 279B.060. The County may procure goods or services off of the ORCPP contract if:
    - a. The contractor agrees to extend the terms, conditions and prices of the original contract to the County; and
    - b. No material change is made in the terms, conditions or prices of the contract or price agreement between the contractor and the County from the terms, conditions and prices of the original contract.

In addition to the ORCPP forms and paperwork normally used for purchasing or contracting through the ORCPP, a Purchase Order in the form approved by County Counsel may be used for purchases of goods, materials, supplies and services up to \$50,000. If a Purchase Order is not used a contract shall be used.

- ii. Purchasing through Other Jurisdictions' Competitive Procurement. The County may procure goods and services through another entity's permissive cooperative procurement in accordance with ORS 279A.200-279A.225. Notice is required to be given of any purchase over \$250,000. Department Heads shall coordinate with County Counsel regarding cooperative procurements exceeding \$250,000. The Department Head shall provide a written determination that the administering agency's solicitation and award process is substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085, and that all cooperative

procurement requirements have been met. The County Department responsible for the procurement shall include the written determination in its procurement file.

7. Issuance of Invitation for Bids or Requests for Proposals. Department Heads and/or their designees may issue requests for bids or requests for proposal, subject to the Public Contracting Code, in accordance with all applicable federal laws, state laws, the Model Rules, grant requirements, and this Ordinance. Department Heads shall copy all requests for proposals and invitations to bid to the County Finance Director. Bids and proposals may be received and opened by the Department Head, his/her designee, or the Board of County Commissioners, according to the requirements stated in the Invitation to Bid or the Request for Proposals. Notwithstanding the foregoing, no Department Head shall issue bid or proposal documents without assuring compliance with the public contracting rules and regulations, and grant requirements, as applicable. Department Heads are encouraged to submit formal procurement documents to County Counsel for review prior to issuance.
8. Issuance of Competitive Quotes. When a bid process calls for the County to seek competitive quotes, the Department Head responsible for the procurement shall keep a written record of the source and amount of competitive quotes received. If the quote is given orally to the County that information should be written down and retained as part of the written record; original or faxed copies of quotes shall be retained as part of the written record. The written record shall be retained with the procurement file.

G. CLASS/CONTRACT SPECIAL PROCUREMENTS. The following class/contract special procurements are hereby exempted from the competitive procurement requirements pursuant to ORS 279B.085:

1. Purchases of Rock and Asphalt from Various Quarries and Suppliers in connection with the Repair and Maintenance of County Roads.
  - a. Findings.
    - i. The Columbia County Public Works Director routinely solicits quotes for the purchase of rock/asphalt from various quarries and suppliers in connection with the repair and maintenance of County roads.
    - ii. The quotes vary slightly depending on the quarry/supplier and the quality of rock/asphalt, but the variances are insignificant when compared with the cost to the County of transporting the

rock/asphalt to the various road projects.

- iii. Because the cost to the County of transporting the rock/asphalt to the site of a road project is generally the most important component in determining the overall cost of rock/asphalt to the County, in nearly every case the quarry/supplier that is closest to the site of the road project will be the overall cheapest source of rock/asphalt for County road projects.
- iv. Although the amount of rock/asphalt purchased for any particular road project is not likely to exceed the level above which competitive bidding is generally required, the total amount of rock/asphalt purchased from a particular quarry or supplier may, in some cases, exceed that level when all of the projects are added together.
- v. It is unlikely that exempting contracts for the purchase of rock/asphalt from various rock quarries and asphalt suppliers from competitive bidding will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts as long as competitive quotes are solicited at least once a year and the contracts are let based on the overall cost to the County of purchasing and transporting the rock/asphalt to the site of a particular County road project.
- vi. The awarding of contracts for the purchase of rock/asphalt pursuant to this class special procurement is reasonably expected to result in substantial cost savings to the County because the overall cost to the County, including the major component, transportation, will be the determinative factor in such contracts, rather than the generally insignificant differences in price quotations from the various quarries.

b. Procurement process.

- i. The Public Works Director shall solicit competitive price quotations at least once a year from various rock/asphalt quarries and asphalt suppliers. Contracts for rock/asphalt purchases shall be based on the overall lowest cost to the County considering both the cost of the rock/asphalt and the cost of transporting the rock/asphalt to the site of the particular road project.

- ii. The Public Works Director shall keep a written record of the source and amount of the competitive quotes received. If the quote is given orally to the Public Works Director, that information shall be written down and retained as part of the written record. Original or faxed copies of quotes shall be retained as part of the written record.
  - iii. Contracts for the purchase of rock/asphalt under this class special procurement may be awarded without making a subsequent request for a special procurement.
  - iv. The Public Works Director is authorized to sign Purchase Orders within his or her authorized purchasing authority, provided there is sufficient revenue in the Road Fund for such purchases and said purchases otherwise comply with the requirements of this Ordinance.
- 2. Concession Contracts. Contracts entered into by the County which grant a franchise or concession to a non-profit organization to promote or sell, for its own purposes, specified types of goods or services from all or a portion of the Fairgrounds and under which the concessionaire or promoter makes payments to the County based, at least in part, on the concessionaire's revenues from sales.
  - a. Findings.
    - i. The Columbia County Fair Board has traditionally offered concession agreements to local non-profit agencies during the Columbia County Fair and Rodeo.
    - ii. The agreements provide the non-profit organizations with fundraising opportunities, and provide income to the Fair.
    - iii. This class special procurement substantially promotes the public interest in a manner that could not practically be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060 or 279B.070, or under any rules adopted thereunder because of the public benefit to having service organizations earn income which is then used to serve the public.
  - b. Procurement Process. The Columbia County Fair Board will annually solicit interest for its annual concession opportunities from non-profit organizations through an intermediate procurement process.

3. Manufacturer Direct Supplies. Contracts for goods if a large volume is required and the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s).
  - a. Findings.
    - i. This class special procurement is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because distributors of the supplies will be provided an opportunity to provide quotes for the supplies.
    - ii. It is reasonably expected that the County will experience a substantial cost savings by purchasing large volume goods directly from the manufacturer because distributor costs will be avoided.
  - b. Procurement Process. The Department procuring such goods shall obtain at least three written quotes from distributors of the desired goods from which to compare the manufacturer's cost. If the manufacturer's cost is the same as or less than the distributor's costs the Department may purchase directly from the manufacturer.
4. Technical Support/IT. Purchase of specialized IT Technical Support services.
  - a. Findings.
    - i. This class special procurement for specialized IT technical support is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because quotes will be obtained from contractors who have the expertise in the support area sought and will be able to compete for the contract.
    - ii. An expedited procurement process substantially promotes the public interest in a manner that would not practicably be realized under ORS 279B.055, 279B.060 or 279B.070, or under any rules adopted thereunder because technical support is often needed quickly to address issues that interfere with County business.
  - b. Procurement Process. The Department procuring such services shall obtain three written quotes from consultants having experience with the required technology. If three consultants having experience



with the applicable technology are not reasonably available, fewer will suffice. The Department Head shall document why less than three quotes were obtained in the procurement file. The Department Head shall coordinate procurements under this section with the IT Department.

5. Copyrighted Materials. Contracts for the purchase of copyrighted material, including non-mass marketed software, where there is only one supplier for such goods.

a. Findings.

i. This class special procurement for copyrighted materials is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts if there is only one supplier for such goods.

ii. Direct contracts with the sole suppliers of copyrighted material are reasonably expected to result in substantial cost savings to the County because the County will avoid using resources and funds to issue procurement documents.

b. Procurement Process. The Department procuring copyrighted material shall, after determining that there is only one supplier for such goods, enter into a direct contract for the copyrighted material. The Department shall document that there is only one supplier in the procurement file.

6. Equipment Repair and Overhaul.

a. Findings.

i. It is often impossible to determine the cost of equipment repair or overhaul without testing the equipment. It is not cost effective to have one contractor test the equipment and another perform the repairs.

ii. Equipment repair is often needed to be performed without delay and in less time than a competitive process would take.

iii. The only way to have a competitive process for equipment repair or overhaul, other than by creating price agreements, would be to have a separate entity test the equipment to determine what is wrong with the equipment.

- iv. Without knowing the extent of repairs needed, competition is not possible because different entities could quote only their hourly rates, with no prediction as to the amount of time the repairs would take.
  - v. This class special procurement is unlikely to encourage favoritism because it is to be used only on rare occasions when the County does not have established price agreements, reached by a competitive process without favoritism.
  - vi. This exemption serves the public interest by providing a simple process for obtaining equipment repair when needed.
  - vii. The exemption for maintenance does not apply to routine or scheduled maintenance, unless there is only one entity capable of providing the service.
- b. Procurement Process. The Department procuring such services shall attempt to obtain three quotes for the needed repair or overhaul and may enter into a direct contract for the services.

7. Hazmat/Environmental Cleanup.

- a. Findings.
- i. This class special procurement is limited to situations in which the County must comply with a DEQ order. The exemption is needed to ensure compliance with environmental laws and protection of the environment in a timely manner and applies only if a competitive process cannot be completed in time to comply with a DEQ order.
  - ii. This class special procurement promotes competition by requiring the County to use an intermediate competitive process by obtaining informal solicitations or quotes from potential contractors.
  - iii. This exemption is in the public interest because the public interest in environmental clean-up would not be served if this exemption were not adopted.
- b. Procurement Process. The Department procuring such services shall use the intermediate procurement process.

8. Petroleum Products (Gasoline, Diesel Fuel, Heating Oil, Lubricants).
- a. Findings.
- i. This class special exemption encourages competition and discourages favoritism by requiring an informal competitive process and requiring the County to use the least expensive source of those providing quotes.
  - ii. The purchases under this exemption are likely to be at levels that qualify as small or intermediate contracts and the process is similar to the process required for intermediate contracts. The exemption is provided because over a period of time the total dollar amount of goods purchased from a single source may exceed the dollar maximum for intermediate contracts. The exemption is justified because each individual contract will be entered into on a competitive basis.
  - iii. This exemption is in the public interest because it allows the County to reduce costs while maintaining competition. The same result could not be achieved within existing rules because a costly formal process might otherwise be required.
- b. Procurement Process. The Department procuring these goods shall follow the intermediate procurement process. Written justification for the purchase shall be retained in the procurement file.
9. Used Equipment.
- a. Findings.
- i. This class special procurement for used equipment is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because used equipment is generally not available from more than one source.
  - ii. Departments are required to seek quotes if it is known that the used equipment is available from more than one source.
  - iii. The direct procurement process is reasonably expected to result in substantial cost savings to the County because the County will avoid expending resources and funds to issue procurement documents and will result in the acquisition of lower cost used equipment.

- b. Procurement Process. The Department procuring these goods shall follow the Direct Procurement process. However, if it is reasonably known that there are more than one supplier with similar equipment available, the Department shall obtain written quotes which shall be retained in the procurement file.

10. Sale of Timber from County Lands.

a. Findings.

- i. This class special procurement for the sale of County timber is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because a competitive process will be followed designed to result in the greatest net return to the County.
- ii. The modified procurement process is reasonably expected to result in substantial cost savings to the County and to the public by reducing costs to issue the procurement documents and by allowing the procurement to be designed to result in the greatest net return to the County.
- iii. Timber prices fluctuate frequently such that it is important to act quickly in order to benefit from high market prices.

b. Procurement Process.

- i. The sale of County timber from County lands does not require a declaration of surplus property and the provisions of Section H.3, below, do not apply.
- ii. The sale of timber from County lands must be authorized by the Board of County Commissioners.
- iii. Sales of \$5000 or less. For timber sales with an anticipated gross value of \$5000 or less, the Department selling the product shall obtain at least three competitive written quotes, if available. If County staff cuts and decks the timber or retains ownership of the timber after cutting, then at least two competitive quotes should be obtained from available mills prior to sale.
- iv. Sales over \$5000. Sales of timber with an anticipated gross value in excess of \$5000 require an intermediate competitive process applying the applicable provisions of ORS 275.290

and ORS 275.340. Sales may be conducted by two alternative means. The County may sell the product to be cut by the contractor, or the County may sell cut timber to a processor. The County shall advertise the sale in at least one newspaper of general circulation in the county for two successive weeks. Sale shall be to the highest bidder who meets County requirements, taking into account price as well as considerations including, but not limited to, experience, contractor responsibility, and bonding ability, resulting in the greatest net return to the County.

11. Sale of Minerals and Gas From County Lands. The sale of valuable minerals, including aggregate, and oil and gas (“minerals”).

a. Findings.

- i. This class special procurement for the sale of County minerals is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because a competitive process will be followed designed to result in the greatest net return to the County.
- ii. The modified procurement process is reasonably expected to result in substantial cost savings to the County and to the public by reducing costs to issue the procurement documents and by allowing the procurement to be designed to result in the greatest net return to the County.
- iii. Mineral prices fluctuate frequently such that it is important to act quickly in order to benefit from high market prices.

b. Procurement Process.

- i. The sale of minerals, including aggregate, and oil and gas from County lands does not require a declaration of surplus property and the provisions of Section H.3, below, do not apply.
- ii. The sale of minerals from County lands must be authorized by the Board of County Commissioners.
- iii. The Department selling the minerals shall follow an intermediate competitive process applying the applicable provisions of ORS 275.294 and ORS 275.340. The County

shall advertise the sale in at least one newspaper of general circulation in the county for two successive weeks. Sale shall be to the highest bidder who meets County requirements, taking into account price as well as considerations including, but not limited to, experience, contractor responsibility, and bonding ability, resulting in the greatest net return to the County.

12. Purchase of UASI Funded Goods.

a. Findings.

i. The City of Portland provides federal UASI pass-through funds to the County through grant agreements. In some cases the agreements require the County to procure goods and services funded by UASI following the City's procurement rules.

ii. This class special procurement for UASI funded goods and services is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because the County will follow the City of Portland's procurement rules which are compliant with the Public Contracting Code and model rules. Following the City's procurement rules when required by a grant agreement is reasonably expected to result in substantial cost savings to the County because the County will be able to use the UASI funds to purchase emergency preparedness equipment in lieu of other County funds.

b. Procurement process. When required by the terms of an agreement with the City of Portland for UASI funds, the County will follow the City of Portland's procurement rules for the purpose of procuring UASI funded goods and services.

13. Veterans Services through Community Action Team.

a. Findings.

i. Columbia County receives State funding to provide veterans services to veterans living in the County.

ii. The County initially contracted with Washington County to provide these services. When that

agreement was terminated the County entered into an agreement with Community Action Team, a local non-profit corporation, to perform the services for the County.

- iii. Community Action team provides the services on a non-profit basis, keeping the costs to a minimum and increasing the services the County can provide to veterans.
- iii. This contract-specific special procurement is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because there are no other providers for these services which are usually provided directly by Counties.
- iv. A direct contract with Community Action Team is reasonably expected to result in a significant cost savings to the County and the public because as a non-profit the Contractor is able to provide the services at a reduced cost.

b. Procurement process. The County will enter into an annual direct contract with Community Action Team.

14. Assessment and Taxation Software.

a. Findings.

- i. Columbia County has entered into an Intergovernmental Agreement with Polk County to use assessment and tax software developed and maintained by Polk County, with the financial support of several counties.
- ii. Polk County will no longer be supporting the software and has contracted with Helion to support and upgrade the software for the benefit of participating counties.
- iii. A direct contract with Helion for on-going software support is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because the of the special circumstances in which the County has already

paid for development of the software through an Intergovernmental Agreement.

- iv. This contract-specific special procurement is reasonably expected to result in a significant cost savings to the County and to the public because the software product is already developed and maintenance costs are small, whereas, the costs to issue a procurement and develop new software would be significant.
  - b. Procurement process. Columbia County may enter into a direct contract with Helion for assessment and taxation software and support.
15. Bus/Transit Vehicle Purchases. The purchase of transit vehicles funded through the Federal Transportation Administration.
- a. Findings.
    - i. All transit vehicles are funded by Federal Transportation Administration (FTA) grant funds through the Oregon Department of Transportation ("ODOT").
    - ii. The FTA requires the County to comply with FTA's procurement rules for all FTA funded purchases. The procurement rules require competitive procurement procedures that are more stringent than Oregon law provides.
    - iii. The Oregon Department of Transportation, through ORPIN, has established price agreements with transit vehicle distributors, which have extended pricing to the County. The State's procurement is compliant with FTA's procurement rules.
    - iv. This class special procurement is unlikely to encourage favoritism in the awarding of public contracts because ODOT conducted a competitive solicitation consistent with FTA requirements.
    - v. This class special procurement is reasonably expected to result in substantial cost savings to the County and to the public because the County will avoid expending



resources to procure vehicles that are already under competitive price agreements consistent with FTA regulations.

b. Procurement Process.

- i. Transit vehicles may be purchased through the ODOT cooperative procurement for transit vehicles without further competitive process.
- ii. The County shall use the ODOT approved purchase order to acquire transit vehicles purchased under the ODOT cooperative procurement for transit vehicles. The County's purchase order shall be attached to the ODOT approved purchase order. No contract will be required for purchases over \$50,000 consistent with this rule and consistent with all grant requirements.

16. Advertising Contracts.

a. Findings.

- i. Most entities that provide a forum for advertisers have set prices that cannot be negotiated.
- ii. The County has legal requirements for advertising public notices that can only be met by a small number of sources and all possible sources can be contracted without the need for an invitation to bid or request for proposals.
- iii. The correct advertising medium is important for the success of any advertising, so the specific medium needs to be selected based on considerations that are difficult to quantify. Therefore, selecting advertising media by bid is inappropriate and selecting by proposals may also result in a proliferation of proposals that do not meet the County's needs.
- iv. Advertising often must be placed on a short time schedule that does not permit the use of a formal competitive process.
- v. The costs of a formal competitive process would likely be greater than the savings resulting from using that

type of process to place advertising.

- vi. This class special procurement will not encourage favoritism because the County is still able to use informal processes to compare media and choose the best outcome for the County.
- vii. This exemption is in the public interest because it will result in cost savings to the County without encouraging favoritism and those purposes could not be met with existing rules.

b. Procurement Process. The County Department procuring advertising services will contract directly for advertising that best suits the needs of the Department for the particular advertisement.

17. Price- Regulated items.

a. Findings.

- i. If prices are regulated, a competitive process would not result in a lower-cost contract and the costs of the process would increase the County's overall costs.
- ii. Price-regulated items are typically available only from a single source or limited number of sources. Therefore, this class special procurement is unlikely to encourage favoritism.
- iii. The exemption for price-regulated items is in the public interest because it results in cost savings for the County that could not be achieved without the exemption.

b. Procurement Process. The Department procuring price-regulated items will solicit a sufficient number of quotes to determine that the selected contract results in the least cost to the County. If fewer than three quotes are obtained, the Department shall note the reason in the procurement file.

H. SUPPLEMENTAL PROCUREMENT RULES (279A.070).

- 1. Posting. All County Invitations to Bid and Requests for Proposals shall be posted on the County website and to ORPIN when practicable.

2. Contract Extensions. A contract may be amended to extend the time of completion of performance for up to one year if otherwise authorized by these rules, except as otherwise provided in the Invitation to Bid or Request for Proposals.
  
3. DISPOSAL OF SURPLUS PROPERTY.
  - a. \$2,500 or Less. The County Finance Director or designee may declare surplus and dispose of any County personal property deemed to have a current net to County value of \$2,500 or less, per item. The IT Director may declare surplus and dispose of any IT related personal property deemed to have a current net to value of \$2,500 or less, per item. The Columbia County Sheriff may declare surplus and dispose of any Sheriff's Office personal property deemed to have a current net to County value of \$2,500 or less, per item.
  
  - b. Over \$2,500. Any items with a current net value exceeding \$2,500 per item may be declared surplus by the Board of County Commissioners.
  
  - c. Methods of Disposal. Surplus property may be disposed of by any of the following methods upon a finding that the method of disposal is in the best interest of the County. Factors that may be considered by the Board or Finance Director include, but are not limited to, costs of sale, administrative costs, and public benefits to the County. The County shall maintain a record of the reason for the disposal, including the name of the person to whom the surplus property was transferred. Approved methods of disposal:
    - i. Public entities. Without competition by transfer or sale to another County department or public agency.
  
    - ii. Auction. By publicly advertised auction to the highest bidder
  
    - iii. Bids. By publicly advertised invitation to bid, including bids solicited using an on-line marketing company or auction house, if the marketing company/auction house is approved for County use in advance by the Board of County Commissioners.
  
    - iv. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance the procurement rules.

- v. Fixed Price Sale. The County may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
  - vi. Trade-in. By trade in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offeror to state the total value assigned to the surplus property to be traded.
  - vii. Donation. By donation to any organization operating within or providing a service to residents of the County which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
  - viii. Garbage/Recycling. Surplus property which has a value of less than \$500, or for which the costs of sale or transportation are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.
  - ix. Transit Personal Property including Rolling Stock must be disposed of in compliance with FTA rules and regulations, as applicable.
  - x. These rules do not apply to the disposal of surplus real property or to the extent that federal, or state laws, rules or regulations or grant requirements specify alternative methods of disposal.
  - xi. No surplus property shall be transferred with any warranty, or guarantee of any kind.
  - xii. Employees not eligible. County officers, agents, and employees, and their immediate family members and members of household, are ineligible to purchase or otherwise acquire surplus property.
- d. The County may negotiate and enter into a direct contract for the use, operation, maintenance or ultimate lawful disposition of personal property owned by or under the control of the County. Before approving such a contract the Board of County Commissioners will

make a finding that the contract, agreement or arrangement will promote the economic development of the County, of the geographical area of the County, or of other public bodies that perform similar functions.

4. Feasibility Determination. ORS 279B.030 requires that except as provided in ORS 279B.036, before conducting a procurement for services within an estimated contract price that exceeds \$250,000, the County must demonstrate by means of a written cost analysis in accordance with ORS 279B.033, that the County would incur less cost in conducting the procurement than in performing the services with the County's own personnel and resources; or demonstrate, in accordance with ORS 279B.036, that performing the services with the County's own personnel and resources is not feasible. Prior to issuing a procurement for services with an estimated contract price exceeding \$250,000, the Department conducting the procurement shall coordinate with County Counsel to draft the appropriate findings of feasibility.
  
5. Contract Preferences.
  - a. Preference for recycled materials. Subject to ORS 279A.125(2), in any procurement for goods, the County shall give preference to the procurement of goods manufactured from recycled materials. The County's preference for recycled materials shall be included in all invitations to bid and requests for proposals. The County shall comply with ORS 279A.125 and the Model Rules in applying the preference.
  
  - b. Preference for goods fabricated or processed within the State or services performed within the State. Pursuant to ORS 279A.128, the County may give preference to procuring goods that are fabricated or processed, or services that are performed, entirely within Oregon if the goods or services cost not more than 10% more than goods that are not fabricated or processed, or services that are not performed, entirely within Oregon. The determination to give preference under this paragraph will be made on a case by case basis. If the County determines it will give preference under this paragraph, the preference will be specified in the applicable invitation to bid or request for proposal, and the County shall comply with ORS 279A.128 and the Model Rules in applying the preference.
  
  - c. Preference for emerging small businesses or businesses owned or controlled by disabled veterans. Pursuant to ORS 279A.105, the County may give preference on a case by case basis to contractors that subcontract some part of a contract to, or obtain materials to be

used in performing the contract from an emerging small business certified under ORS 200.055 and known to the County to draw its workforce from economically distressed areas, as designated by the Oregon Business Development Department, or a business enterprise that is owned or controlled by a disabled veteran, as defined in ORS 408.225. The County may determine on a case by case basis that "responsible bidder" or "responsible proposer" includes a responsible bidder as defined in ORS 200.005 that has made good faith efforts as prescribed in ORS 200.045(3). If the County determines it will give preference under this paragraph, the preference will be specified in the applicable invitation to bid or request for proposal, and the County shall comply with ORS 279A.105 and the Model Rules in applying the preference.

6. Facsimile Offers. The County does not authorize facsimile offers.
7. Electronic Procurement. Electronic Procurement Authorized.
  - a. Electronic Procurement Authorized. The County may, in its discretion conduct some or all phases of a procurement, including without limitation the posting of electronic advertisements and the receipt of electronic offers, by electronic methods if and to the extent the County specifies in a solicitation document or any other written instructions how to participate in the procurement.
  - b. Opening. The County shall open an electronic offer in accordance with electronic security measures in effect at the County at the time of its receipt of the electronic offer. The person submitting the electronic offer assumes the risk of premature disclosure due to submission in unsealed form.
  - c. Bid Security. If the County determines that bid or proposal security is or will be required, the County will not authorize electronic offers.
  - d. Failure of the E-Procurement System. In the event of a failure of the County's electronic procurement system that interferes with the ability of persons to submit electronic offers, protest or to otherwise participate in the procurement, the County may cancel the procurement in accordance with OAR 137-047-0660, or may extend the date and time for receipt of electronic offers by providing notice of the extension immediately after the electronic procurement system becomes available.
  - e. Registration. As a condition of participation in an electronic procurement the County may require potential Contractors to register

with the County before the date and time on which the County will first accept offers, to agree to the terms, conditions, or other requirements of a solicitation document, or to agree to terms and conditions governing the procurement, such as procedures that the County may use to attribute, authenticate or verify the accuracy of an electronic offer, or the actions that constitute an electronic signature.