

**PORT OF HOOD RIVER
RESOLUTION 2024-25-4**

A RESOLUTION CREATING PUBLIC CONTRACTING REGULATIONS

Whereas, the Port of Hood River Board of Commissioners (“Commission”) adopted Public Contracting Rules via Resolution No. 2005-06-1 on July 19, 2005; AND

Whereas, the Commission amended the Contracting Rules via Resolution No. 2015-16-7 on May 10, 2016; AND

Whereas, the Commission wishes to update its Public Contracting Rules to accommodate changes made by the State Legislature; and

Whereas, the Commission has provided certain related business matter updates in Resolution No. 2024-25-5 that shall supplement or further support this resolution.

NOW THEREFORE, THE PORT OF HOOD RIVER BOARD OF COMMISSIONERS RESOLVES AS FOLLOWS:

Section 1. Public Contracts – Port of Hood River

- A. Short Title.** This resolution may be cited as the Public Contracting Regulations for the Port of Hood River, Port Contracting Rules, or Port Procurement Rules
- B. Purpose of Public Contracting Regulations.** It is the policy of the Port of Hood River (“Port”) in adopting the Public Contracting Regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
 - (1) Promoting impartial and open competition;
 - (2) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
 - (3) Taking full advantage of evolving procurement methods that suit the contracting needs of the Port as they emerge within various contracting activities.
- C. Interpretation of Public Contracting Rules.** Except as provided within these Public Contracting Regulations, Port public contracting is governed by ORS Chapters 279A, 279B and 279C (the “Public Contracting Code”) and the Model Rules of the Attorney General set forth in OAR 137-046, 047, 048, and 049 (the “Model Rules”).

Section 2. Public Contracts – Regulation by Port; Authority of Purchase Manager; Delegation.

- A. General Port Commission Authority:** Except as expressly delegated under these regulations, the powers and duties of the Local Contract Review Board under the Public Contracting Code must be exercised and performed by the Port Commission.
- B. General Executive Director Authority.** The Executive Director shall be the Purchasing Manager for the Port and is hereby authorized to issue all solicitations, award all Port contracts, and execute all contracts, amendments, and change orders for which the contract price does is equal to or greater than the values set forth in the Resolution Appointing and Authorizing Business Matters. For clarity’s sake, all Port contracts and solicitations for which the contract price exceeds the values set forth in the Resolution Appointing and Authorizing Business Matters must be approved by the Port Commission. Said contracts shall be within budgetary restraints. Subject to the provisions of these Public Contracting Regulations, the Purchasing Manager may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the Port’s contracting needs. The Purchasing Manager shall hear all solicitation and award protests.
- C. Change Orders and Amendments.** The Purchasing Manager may execute any amendment or change order extending the contract period or changing terms other than compensation, provided that such amendment or change order is within the general scope of the original procurement and received Port Commission approval (if required by the Resolution Appointing and Authorizing Business Matters).
- D. Delegation of Purchasing Manager’s Authority.** Any of the responsibilities or authorities of the Purchasing Manager under this Resolution may be delegated and sub-delegated by written directive or email.
- E. Mandatory Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its Model Rules, the Purchasing Manager and Port Counsel shall review these Public Contracting Regulations and recommend to the Port Commission any modifications required to ensure compliance with statutory changes.

Section 3. Public Contracts – Definitions.

The following terms used in these Public Contracting Regulations shall have the meaning set forth below.

Award means the selection of a person to provide goods, services, personal services, construction-related personal services, or public improvements under a public contract. The award of a contract is not binding on the Port until the contract is executed and delivered by Port.

Bid means a binding, sealed, written offer to provide goods, services, personal services, construction-related personal services, or public improvements for a specified price or prices. A Bid may be made in response to an Invitation to Bid or under an informal solicitation.

Construction-related personal service contract means a contract with an independent contractor predominantly for architecture, engineering, photogrammetric mapping, or land surveying services, as each is defined in ORS 279C.100, and (in very narrow instances) transportation planning services.

Contract price means the total amount paid or to be paid under a contract, including any approved alternates, any fully executed change orders or amendments.

Cooperative procurement means procurement conducted by or on behalf of one or more contracting agencies.

Debarment means a declaration by the Purchasing Manager under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the Port's public contracts for a prescribed period of time.

Disposal means any arrangement for the transfer of property by the Port under which the Port relinquishes ownership.

Emergency means circumstances that: create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

Goods means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible, and intellectual property and rights and licenses in relation thereto.

Invitation to bid means a publicly advertised request for competitive sealed bids.

Model Rules has the meaning set forth in Section 1.C.

Offeror means a person who submits a bid, quote or proposal to enter into a public contract with the Port.

Oregon Public Contracting Code has the meaning set forth in Section 1.C.

Person means a natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

Proposal means a binding offer to provide goods, services, personal services, construction-related personal services, or public improvements with the

understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A Proposal may be made in response to a Request for Proposals or under an informal solicitation.

Personal services contract means a contract with an independent contractor predominantly for services that require: special training or skill; certification; 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 attorneys, auditors and other licensed professionals, landscaping designers, artists, computer programmers, performers, consultants and property managers. The Purchasing Manager shall have authority and discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

Public contract means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the Port of personal property, services (including personal services and construction-related personal services), public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement.

Public improvement means a project for construction, reconstruction or major renovation on real property by or for the Port. "Public improvement" does not include:

- (1) Projects for which no funds of the Port are directly or indirectly used, including projects for which participation is incidental or related primarily to project design or inspection; or
- (2) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

Purchasing Manager means the Executive Director, or designee appointed by the Executive Director, to exercise the authority of the Purchasing Manager under these public contracting regulations.

Qualified pool means a pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of goods, services, personal services, construction-related personal services, or public improvements. The pool may be created by the Port, the State of Oregon, or any Oregon local government entity.

Quote means a price offer made in response to an informal or qualified pool solicitation to provide goods, services, personal services, construction-related personal services, or public improvements.

Related services means personal services, other than architectural, engineering, photogrammetric, mapping, transportation planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land-use planning services. In other words, personal services that are *not required by law* to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor.

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

Request for qualifications means a procedure utilized to evaluate potential construction-related personal service consultants and establish a short-list of qualified consultants to whom the Port may issue a request for proposals for some or all of the services described in the request for qualifications. The request for qualifications process is not described in these Rules, but may be found at OAR 137-048-0220(3).

Services means and includes all types of services (including construction labor) other than personal services and construction-related personal services.

Solicitation means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the Port with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which the Port requests, receives and evaluates potential contractors and awards public contracts.

Solicitation Agent means, with respect to a particular solicitation or contract, the Port employee charged with responsibility for conducting the solicitation and making an award or making a recommendation on award to the Purchasing Manager or Port Commission.

Solicitation documents means all informational materials issued by the Port for a solicitation, including, but not limited to advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.

Standards of responsibility means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

(1) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to establish the capability of the offeror to meet all contractual responsibilities;

(2) A satisfactory record of performance; the Solicitation Agent shall document the record of performance of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;

(3) A satisfactory record of integrity; the Solicitation Agent shall document the record of integrity of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;

(4) Qualified legally to contract with the Port;

(5) Supplied all necessary information in connection with the inquiry concerning responsibility; if an offeror fails to promptly supply information requested by the Solicitation Agent concerning responsibility, the Solicitation Agent shall base the determination of responsibility upon any available information or may find the offeror non-responsible;

(6) Not been debarred by the Port and, in the case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract;

(7) Holds current licenses that businesses or service professionals operating in this state must hold to undertake or perform the work specified in the contract; and

(8) Meets any other requirements that, in the opinion of the Port Commission or Purchasing Manager, are necessary and reasonable to determine the responsibility of an offeror.

Surplus property means personal property owned by the Port which is no longer needed for use by the department to which such property has been assigned or by any other Port department.

Transportation planning services only includes project-specific transportation planning required for compliance with the National Environmental Policy Act, 42 USC 4321 et seq. and no other types of transportation planning services. By way of example only, transportation planning services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans, and other transportation plans not associated with an individual project required to comply with the National Environmental Policy Act, 42 USC 4321 et. seq.

Section 4. Personal Service Contracts Solicitation.

- A. Small Procurements.** Contracts for personal services for which the estimated contract price does not exceed \$25,000 in total may be awarded in any manner, including direct selection.
- B. Intermediate Procurements.** The following informal selection procedure may be used when the estimated contract price is equal to or less than \$250,000. The Purchasing Manager or designee will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The Purchasing Manager will request an estimated fee and make the selection consistent with the Port's best interests. Where practical, the Purchasing Manager shall give a preference to companies headquartered or otherwise located in Hood River County. If three (3) quotes are not received, the Purchasing Manager, or designee, will make a written record of efforts to obtain three quotes.
- C. Large Procurements.** Contracts for personal services for which (1) the estimated contract price exceeds \$250,000 in total, or (2) the Port anticipates executing as an on-call, master, or other form with an indefinite value, shall be awarded under a publicly advertised and Commission-approved (if required by the Resolution Appointing and Authorizing Business Matters) request for proposals or invitation to bid. The Port may adopt further guidelines to support this process.
- D. Qualified Pool.** Contracts for personal services for which the estimated contract price does not exceed \$250,000 in total may be awarded by direct appointment without competition from a qualified pool.
- E. Continuation of Work.** Contracts of not more than \$250,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition, and by direct appointment, if the prior contract was awarded under a competitive process and the Purchasing Manager determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.
- F. Local Contracting.** The Port will make reasonable efforts to spread personal service contracting among local, qualified persons.
- G. Direct Selection.** The following classes of personal service contracts may be selected in any manner which the Executive Director deems appropriate to the Port's needs:

 - 1) Attorneys, Mediators and Hearings Officers.** Contracts for legal advice, mediation or to act as a hearings officer.

- 2) **Advertising.** Contracts for the placing of notices or advertisements in any medium.
- 3) **Information Technologies Support.** Contracts for maintenance, repair and technical support for computer hardware, software and networking systems.
- 4) **Auditing Services.** Contracts for auditing services.
- 5) **Tow Services.** Contracts for towing and related storage services.
- 6) **Real Estate Services.** Contracts for realtors or other real estate services, including but not limited to the sale, rental, or other disposition of real property.

Section 5. Contracts for Construction-Related Personal Services.

- A. **Purpose.** This section implements ORS 279C.100 to 279C.125. The Port will rely on these rules, not the Model Rules, for contracts for construction-related personal services.
- B. **Applicability.** This section applies only to a construction-related personal service contract that meets the following criteria:
 - 1) The estimated payment to the contractor exceeds \$100,000; and
 - 2) The contract is for a personal service that is *legally required* to be provided or performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor. For example: hiring an architect to design a building or hiring an engineer to design a wastewater system. Because the law requires licensed professionals to design buildings and infrastructure, the Port may rely on this subsection to hire someone to perform those services. However, if the Port is hiring an architect or engineer to perform project management services (for example), it may solicit and award such services under Section 4 of these Public Contracting Regulations. *See* definition of “Related Services.”
 - 3) If either (a) or (b) above is not satisfied (i.e. the contract is for a personal service that is legally required to be provided by a licensed architect, etc. *but* is estimated to not exceed \$100,000; *or* the contract will require an engineer, etc. to perform a related service) then the Port may rely on Section 4 of these Public Contracting Regulations to solicit and award the contract.
- C. **Mixed contracts.** Some contracts will contain a mixture of services covered by this Section (i.e. services that only the particular consultant may legally perform) and related services. Whether the Port uses this Section or Section 4 to solicit and award a mixed contract will depend upon the predominate purpose of the contract. The Port will determine the predominate purpose based upon either the amount of money it

estimates it will spend for covered services versus related services or the amount of time it estimates that the consultant will spend working on covered services versus related services. If covered services predominate, the Port will solicit the contract under this Section. If related services predominate, the Port will solicit the contract under Section 4.

- D. **Small Procurements.** For clarity's sake, the Purchasing Manager may enter into construction-related personal service contracts when the estimated payment is less than \$100,000 in any manner the Purchasing Manager finds practical or convenient, including direct selection or award. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

- E. **Intermediate Procurements.** The following informal selection procedure may be used when the estimated payment to the consultant for construction-related personal services is above \$100,000 and equal to or less than \$250,000. The Purchasing Manager or designee will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The Purchasing Manager will request an estimated fee and make the selection consistent with the Port's best interests, to the most qualified consultant. Where practical, the Purchasing Manager shall give a preference to companies headquartered or otherwise located in Hood River County. If three (3) quotes are not received, the Purchasing Manager, or designee, will make a written record of efforts to obtain three quotes.

- H. **Qualified Pool.** Contracts for construction-related personal services for which the estimated contract price does not exceed \$250,000 in total may be awarded by direct appointment without competition from a qualified pool.

- F. **Large Procurements.**
 - 1) When the estimated cost of the contract for construction-related personal services is greater than \$250,000, or when the Port anticipates executing as an on-call, master, or other form of contract with an indefinite value, the contract shall be awarded following a Commission-approved (if required by the Resolution Appointing and Authorizing Business Matters) qualifications based selection procedure focusing on the consultant's qualifications for the type of professional service required, taking into account the candidate's specialized experience, capabilities and technical competence; resources; record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration; ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability to the project locale; familiarity with the project locale; and proposed project management techniques. The Port may adopt further guidelines to support this process.

- 2) Unless the Port follows the process set forth in subsection 3) of this Section, the Port may not solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation until after the Port has selected a qualified professional for award.
- 3) Notwithstanding subsection 2) of this Section, the Port may request pricing policies or pricing proposals from prospective consultants, including an estimate of the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates, if the Port:
 - (i) States in the following in its solicitation document:
 - a. That the Port will screen and select prospective consultants as provided in ORS 279C.110(5);
 - b. How the Port will rank proposals from prospective consultants, with a specific focus on:
 1. Which factors the Port will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the Port will use pricing policies, proposals or other pricing information in the evaluation; and
 2. The relative weight the Port will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the Port intends to use;
 - c. An estimate of the cost of professional services the Port requires for the procurement; and
 - d. A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.
 - (ii) Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the Port requires for the procurement.
 - (iii) Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (ii) of this subsection. The Port may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the Port requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (i)(d) of this subsection from each of the top-ranked consultants. The pricing proposal must consist of:
 - a. A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the Port requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

- b. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the Port requires for the procurement.
 - (iv) Permits a prospective consultant identified as qualified under paragraph (iii) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.
 - (v) Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph (iv) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal
- 4) If the Port and the professional are unable to negotiate a reasonable and fair amount of compensation, as determined solely by the Port, the Port shall, either orally or in writing, formally terminate negotiations with the selected candidate and may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the contracting agency terminates the consultant contracting process.

Section 6. Small Procurements (Under \$25,000) for Goods and Services, and Public Improvements.

- A. Public contracts for goods, services, or public improvements under \$25,000 are not subject to competitive bidding requirements. The Purchasing Manager or designee shall make a reasonable effort to obtain competitive quotes to ensure the best value for the Port.
- B. The Port may amend a public contract awarded as a small procurement beyond the \$25,000 limit in accordance with OAR 137-047-0800 or OAR 137-049-0910, as applicable, provided the cumulative amendments do not increase the total contract price to a sum that is greater than \$31,250.
- C. A procurement may not be artificially divided or fragmented to avoid this Section.

Section 7. Intermediate Procurements for Goods and Services, and Public Improvements.

- A. If a contract for procurement of goods and services estimated to cost between \$25,000 and \$250,000, or a contract for a public improvement that is estimated to cost between \$25,000 and \$100,000, the Purchasing Manager or designee will contact a minimum of three (3) prospective contractors qualified to offer the goods or services or public improvement sought. The Purchasing Manager will request an estimated fee and make the selection consistent with the Port's best interests. Where practical, the Purchasing Manager shall give a preference to companies headquartered or otherwise located in Hood River County. If three (3) quotes are not received, the

Purchasing Manager, or designee, will make a written record of efforts to obtain three quotes.

- B. Contracts for a public improvement for which the estimated contract price does not exceed \$100,000 may be awarded by direct appointment without competition from a qualified pool.
- C. The Port may amend a public contract awarded as an intermediate procurement beyond the stated limitations in accordance with OAR 137-047-0800 or OAR 137-049-0910, as applicable, provided the cumulative amendments shall not increase the total contract price to a sum that is greater than \$312,500.
- D. A procurement may not be artificially divided or fragmented to qualify for this Section.

Section 8. Large Procurements for Goods and Services, and Public Improvements.

- A. When the estimated payment to the contractor for goods or services is above \$250,000, or when the Port anticipates executing as an on-call, master, or other form of contract with an indefinite value, the Port shall either solicit an invitation to bid in accordance with OAR 137-047-0255 or a request for proposals in accordance with OAR 137-047-0260, each as approved by the Commission (if required by the Resolution Appointing and Authorizing Business Matters). The Port may adopt further guidelines to support this process within the procurement documents approved by the Commission.
- B. When estimated payment to the contractor for a public improvement is above \$100,000, the Port shall follow the solicitation procedures set forth in OAR 137-049-0200, as approved by the Commission (if required by the Resolution Appointing and Authorizing Business Matters).
- C. A procurement may not be artificially divided or fragmented to avoid this Section.

Section 9. Special Procurements, Sole Source, and Exemptions.

- A. **Special Procurements.** The Port Commission may exempt from competitive bidding certain contracts or classes of contracts for procurement of goods, services, and personal services according to the procedures described in ORS 279B.085. The Port Commission shall document the authorization of a special procurement via written resolution.
- B. **Sole Source.** The Port Commission may award a contract for goods, services, or personal services from a single source if the goods, services, or personal services are available from only one company, or the prospective company has special skills uniquely required for the provision of the goods or the performance of the services. The Port must make written findings to demonstrate why the proposed company is

the only company who can provide the goods or perform the services desired, in general compliance with ORS 279B.075, and shall document the authorization of a sole source procurement via written resolution.

- C. Exemption.** The Port Commission may exempt certain contracts or classes of contracts for public improvements or construction-related personal services from the request for proposal or invitation to bid process according to the procedures described in ORS 279C.335. When exempting a public improvement from the invitation to bid process, the Port Commission may authorize the contract to be awarded using a request for proposal process for public improvements, according to the processes described in OAR 137-049-0640 through 137-049-0690. In all instances, the Port Commission shall document the authorization of an exemption via written resolution.
- D. Hybrid Contracts.** After seeking and receiving an exemption pursuant to Section 9.C, the following classes of contracts which include elements of public improvement services as well as construction-related personal services may be awarded under a request for proposals, unless otherwise exempt from competitive solicitation.

 - 1) **Design/Build and CM/GC Contracts.** Contracts for public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals.
 - 2) **Energy Savings Performance Contracts.** Unless the contract qualifies for award under another classification in these Public Contracting Rules, contractors for energy savings performance contracts shall be selected under a request for proposals.

Section 10. Emergency Contracts.

- A.** Emergency contracts for procurement of goods, services, and personal services may be awarded pursuant to ORS 279B.080.
- B.** Pursuant to ORS 279C.110(11), the Port may directly appoint a construction-related personal service contract in an emergency.
- C.** The Port hereby adopts OAR 137-049-0150 as its contracting rules for awarding a public improvement contract under emergency conditions.
- D.** An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances: (1) document in written findings the nature of the emergency, the method used for selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the Port and the public; and (2) notify the Port Commission of the facts and circumstances surrounding the emergency execution of the contract.

Section 11. Contracts Subject to Award at Solicitation Agent's Discretion. The following classes of contracts may be awarded in any manner which the Executive Director deems appropriate to the Port's needs, including by direct appointment or purchase. Except where otherwise provided, the Executive Director is not required to make a record of the method of award.

- A. Government Regulated Items.** Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
- B. Hazmat/Environmental Cleanup.** For cleaning up or restoring a contaminated site where the Oregon Department of Environmental Quality has issued an order that the site be cleaned up within a time limitation or an environmental site where a state or federal environmental regulator has required immediate remediation.
- C. Insurance.** Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.
- D. Sponsor Agreements.** Sponsorship agreements, under which the Port receives a gift or donation in exchange for recognition of the donor.
- E. Temporary Extensions or Renewals.** Contracts (other than contracts for public improvements) for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, provided that such extension or renewal is undertaken for the purpose of bringing the Port into compliance with these Port Contracting Rules and state law.
- F. Utilities.** Contracts for the purchase of gas, electricity, heat, water, telecommunications services, and other utilities.
- G. Federal and State Purchasing Programs.** Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the state or federal government.
- H. Cooperative Procurement Contracts.** Cooperative procurements may be made without competitive solicitation as provided in ORS 279A.200-279A.225.
- I. Excepted Contracts.** All public contracting types set forth in ORS 279A.025(1).

Section 12. Surplus Property.

- A. Authority.** Pursuant to Section 12, the Solicitation Agent is hereby authorized to dispose of all surplus property with an estimated value equal to or less than the values set forth in the Resolution Appointing and Authorizing Business Matters pursuant to this Section 12 without further Commission approval. Surplus property with an

estimated value of greater than the values set forth in the Resolution Appointing and Authorizing Business Matters requires Commission approval prior to disposal.

B. General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the Solicitation Agent that the method of disposal is in the best interest of the Port. Factors that may be considered by the Solicitation Agent include costs of sale, administrative costs, and public benefits to the Port. The Solicitation Agent shall maintain a record of the reason for the disposal method selected and the manner of disposal, including the name of the person to whom the surplus property was transferred.

- 1) **Governments.** Without competition, by transfer or sale to another Port department or public agency.
- 2) **Auction.** By publicly advertised auction to the highest bidder.
- 3) **Bids.** By publicly advertised invitation to bid.
- 4) **Liquidation Sale.** By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
- 5) **Fixed Price Sale.** The Solicitation Agent may: establish a selling price based upon an independent appraisal or a generally accepted, published schedule of values; schedule and advertise a sale date; and sell to the first buyer meeting the sales terms.
- 6) **Trade-In.** By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
- 7) **Donation.** By donation to:
 - i. Any organization operating within or providing a service to residents of the Port which is recognized by the Internal Revenue Code Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended; or
 - ii. Any sheltered workshop, work activity center or group care home which operates under contract or agreement with, or grant from, any State agency and which is certified to receive federal surplus property.

C. Disposal of Property with Minimum Value. Surplus property which has a value of less than \$1,000, or for which costs of sale 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.

- D. **Personal-Use Items.** An item (or indivisible set of items) of specialized and personal use, with a current value of less than \$100 may be sold to a retired or voluntarily terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the Purchasing Manager.
- E. **Restriction on Sale to Port Employees.** Port employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property. For clarity's sake, employees shall not receive preferential or other special treatment in connection with the sale of surplus property due to their employment status.
- F. **Conveyance to Purchaser.** Upon the consummation of a sale of surplus personal property, the Port shall, at the written request of purchaser, make, execute and deliver, a bill of sale signed on behalf of the Port, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

Section 13. Qualified Pools.

- A. **General.** To create a qualified pool, the Purchasing Manager may invite prospective contactors to submit their qualifications to the Port for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects including personal services, and public improvements.
- B. **Advertisement.** The invitation to participate in a qualified pool shall be advertised in the manner provided for advertisements of invitations to bid and requests for proposals by publication in at least one newspaper of general circulation in the Port. If qualification will be for a term that exceeds one year or follows open entry on a continuous basis, the invitation to participate in the pool must be re-published at least once per year and shall be posted at the Port's appropriate department office and on the Port's website.
- C. **Contents of Solicitation.** Requests for participation in a qualified pool shall describe the scope of goods or services or projects for which the pool will be maintained, and the minimum qualifications for participation in the pool, which may include, without limitation, qualifications related to financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the Port.

- D. Contract.** The operation of each qualified pool may be governed by the provisions of a pool contract to which the Port and all pool participants are parties. The Contract shall contain all terms required by the Port, including, without limitation, terms related to price, performance, business registration or licensure, continuing education, insurance, and requirements for the submission, on an annual or other periodic basis, of evidence of continuing qualification. The qualified pool contract shall describe the selection procedures that the Port may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle a participant to the award of any Port contract.
- E. Use of Qualified Pools.** Subject to the provisions of these regulations concerning methods of solicitation for classes of contracts, the Purchasing Manager shall award all contracts for goods or services of the type for which a qualified pool is created from among the pool's participants, unless the Purchasing Manager determines that best interests of the Port require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.
- F. Amendment and Termination.** The Purchasing Manager may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.
- G. Protest of Failure to Qualify.** The Purchasing Manager shall notify any applicant who fails to qualify for participation in a pool that it may appeal a qualified pool decision to the Port Commission in the manner described in Section 16.

Section 15. Public Contracts – Electronic Advertisement.

- A.** Pursuant to ORS 279C.260 and ORS 279B.055, electronic advertisement of public contracts in lieu of newspaper publication is authorized when it is cost effective to do so. The Purchasing Manager shall have the authority to determine when electronic publication is appropriate, and consistent with the Port's contracting policies.
- B.** Notwithstanding the foregoing, any advertisement for a public improvement contract with an estimated cost over \$125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

Section 16. Appeal of Debarment or Prequalification Decision.

- A. Right to Hearing.** Any person who has been debarred from competing for Port contracts or for whom prequalification has been denied, revoked or revised may appeal the Port's decision to the Executive Director as provided in these rules, ORS 279B.130, and ORS 279B.425.

- B. Filing of Appeal.** The person must file a written notice of appeal with the Port's Purchasing Manager within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.
- 1) The written notice of appeal must be filed with the Executive Director.
 - 2) The written appeal shall explain the basis for the appeal and include the name, address and telephone number of the party appealing.
- C. Notification of Port Commission.** Immediately upon receipt of such notice of appeal, the Purchasing Manager shall notify the Port Commission of the appeal.
- D. Hearing.** The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
- 1) Promptly upon receipt of notice of appeal, the Port shall notify the appellant of the time and place of a hearing before the Executive Director;
 - 2) On the basis of the hearing, The Executive Director may determine to grant the appeal and reverse the debarment or prequalification denial. If The Executive Director decides to recommend denial of the appeal, The Executive Director shall make written findings and recommendations on the appeal to the Port Commission. All persons appearing at the hearing shall be provided copies of the findings and recommendations.
 - 3) Upon receipt of the Executive Director 's findings and recommendation, the Port Commission shall conduct the hearing and shall within 30 days after receiving notice of the appeal from the Purchasing Manager grant or deny the appeal or may remand the matter back to The Executive Director for further hearing; and
 - 4) At the hearing, the Port Commission shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment. Port Commission's consideration of the appeal shall be on the hearing record established before the Executive Director, but, at Port Commission's discretion, the parties may address the Commission.
- E. Decision.** The Port Commission shall set forth in writing the reasons for the decision. This decision shall be final.
- F. Costs.** The Port Commission may allocate the Port's costs for the hearing between the appellant and the Port. The allocation shall be based upon facts found by the Port Commission and stated in the Port Commission's decision that, in the Port Commission's opinion, warrant such allocation of costs. If the Port Commission

does not allocate costs, the costs shall be paid by the appellant, if the denial decision is upheld, or by the Port, if the denial decision is overturned.

- G. Judicial Review.** The decision of the Port Commission may be reviewed only upon a petition in the Circuit Court of Hood River filed within 15 days after the date of the Port Commission's decision.

Section 17. Miscellaneous Provisions.

- A. Request for Change to Procurement Documents and Procurement Documents Protest Deadline.** The Port Commission hereby determines that the deadline for requests for change to a procurement document, and the deadline for protesting the contents of a procurement document, shall be not less than five (5) days prior to opening.
- B. Notice of Intent to Award Protest Deadline.** The Port Commission hereby determines that the provisions of ORS 279B.135 and 279C.410(7), relating to the requirement to send a notice of intent to award a contract at least seven days before the award, may be impractical with respect to some solicitations on invitations to bid and requests for proposals; therefore, upon a determination by the Solicitation Agent that it is in the best interests of the Port to do so, a time shorter than seven days may be permitted if provided in the Solicitation Document.
- C. Concession Agreements.**
- 1) A "concession agreement" is a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon land owned by the Port, and under which the concessionaire makes payments to the Port based, in whole or in part, on the concessionaire's sales revenues. The term "concession agreement" does not include an agreement which is merely a flat-fee or per-foot rental, lease, license, permit, or other arrangement for the use of public property.
 - 2) Concession agreements are not required to be competitively bid. However, when it is in the Port's best interests to do so, the Port may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.
- D. State and Federal Involvement.** If an anticipated project will (1) occur in whole or in part on state or federally owned real property, (2) receive or otherwise be financed by state or federal funds, including grant or loan funds, and/or (3) otherwise contemplate significant state or federal involvement, then all applicable state or federal rules and regulations regarding procurement and public contracting shall preempt these Port Contracting Rules. If an anticipated project includes significant state or federal involvement, staff is encouraged to contact the Port's legal counsel and the appropriate state or federal agency for review and approval of the appropriate procurement process and contract terms.

Section 18. Severability. If any provision, section, phrase, or word of this resolution or its application to any circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Section 19. Codify. Staff is directed to organize these rules and potential future amendments to these rules into a generally accepted professional format for public use and viewing.

Section 20. Recitals. The recitals of this resolution are incorporated herein by reference and adopted as findings in support of this resolution.

Section 21. Scrivener's Errors. A scrivener's error in any portion of this resolution may be corrected by the Executive Director during codification.

Section 22. Repeal. Resolution No. 2015-16-17 is hereby repealed.

Section 23. Effective Date. All rights and privileges hereby granted shall be effective upon adoption.

Adopted by the Board of Commissioners of the Port of Hood River on the 17th day of September 2024.

SIGNED

Signed by:

00DEADE439F8421...

Kristi Chapman, President

ATTEST

DocuSigned by:

1D968775DD2542A...

Michael Fox, Secretary

EXHIBIT A

Procurement Flowchart

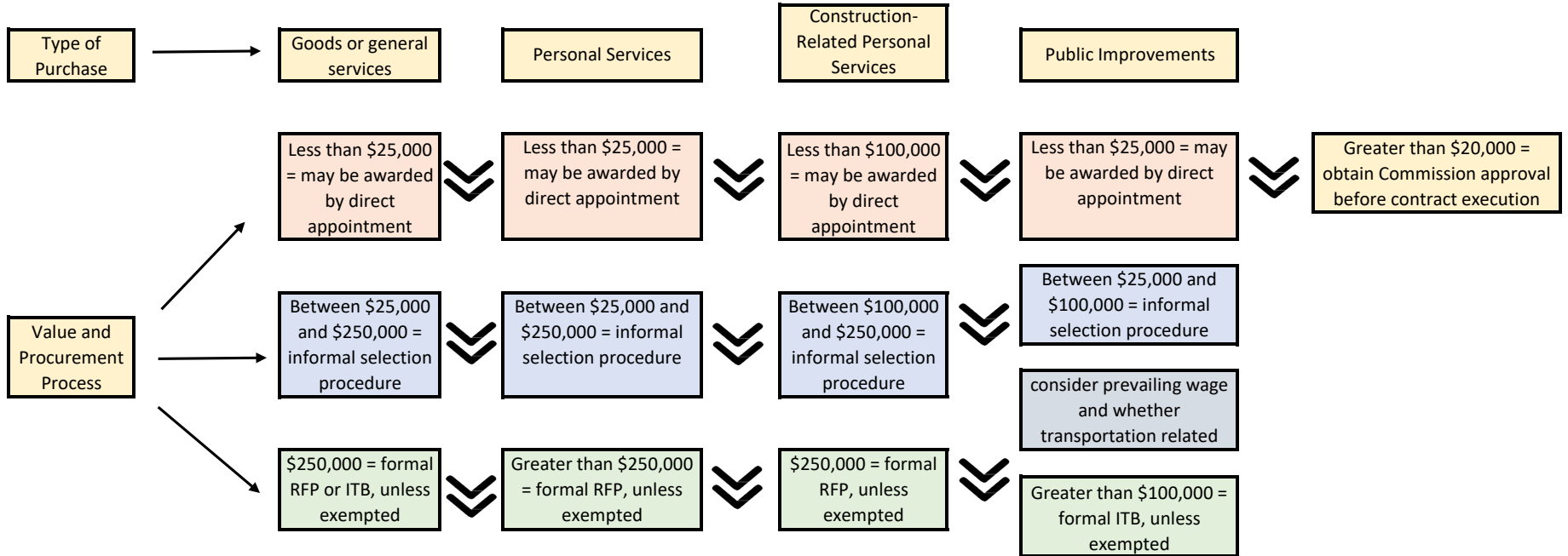


EXHIBIT B

Contract Value Determination

1	Define the scope of the contract.
2	Consider the Port's estimated value for the scope, including future renewals or amendments.
3	Do not artificially divide or fragment a project or contract in order to avoid a procurement process.
4	Proceed with corresponding form of procurement.

EXHIBIT C

Direct Award

If a contract qualifies for direct award, simply make sure to keep a record of its estimated value and ensure a proper contract is executed with the contractor.

EXHIBIT D

Informal Solicitation

- | | |
|---|---|
| 1 | Seek three (3) informal quotes or proposals for the anticipated scope. Keep a written record of the informal request for quotes or proposals. |
| 2 | Keep a written record of all responses. |
| 3 | If all responses include cost estimates that exceed the applicable informal solicitation threshold, proceed with a formal RFP or ITB as applicable. |
| 4 | Otherwise, award the solicitation to the prospective contractor that would best serve the Port's interests. |
| 5 | If above the approval threshold, seek Board approval to award the solicitation and execute the contract. |
| 6 | Execute the appropriate contract with the prospective contractor. |

EXHIBIT E

Invitation to Bid (ITB) or Request for Proposal (RFP) - Goods, Service, or Personal Service

Advertisement Checklist

Goods, Service, or Personal Service - FORMAL ITB or RFP (Over \$250k)	Days	NOTE
Receive Cost Estimate, Scope and Bid or Proposal Package		
Prepare Draft ITB or RFP		Whether to use an RFP or ITB is in your discretion, depending on the circumstances. Generally comply with OAR 137-047-0260 or -0255, as applicable.
Port Staff/Legal Review		
Commission ITB/RFP approval		
Issue Date of ITB/RFP		
Advertise ITB/RFP	14 days for an ITB; 30 days for an RFP	Publish Digitally
Pre-offer Meeting		
Close Question Period		
Addendum Issuance deadline	At least 72 hours before bids are opened (unless you state otherwise in your rules).	
Request for change or protest deadline	The next business day after the addendum deadline. Should be not less than 5 days prior to bid/proposal opening.	
Bids/Proposals Due/Opened		Opened publicly If ITB: shall read aloud the names of each bidder and whatever other information you deem appropriate. If RFP: shall not read aloud. May always withhold self-identified trade secrets and confidential information.
Process to review and score, if relevant		
Commission Selection of Intended Contractor, authorization to negotiate contract		public meeting. If ITB: award to lowest responsible bidder. If RFP: award to most qualified proposer.
Notice of Intent to Award		
Negotiate contract		
Protest Deadline	unless you decide otherwise, 7 days after NITA	
Commission authorization of contract with selected contractor, express dollar amount		You only need to go back to Commission for a second authorization if cost was not included in the original RFP/ITB. Otherwise, you may seek authorization to negotiate a contract with your preferred contractor, for the amount set forth in the procurement documents, at the first Commissioner meeting.
Award Contract and execute contract	unless you decide otherwise, 7 days after NITA	

1. Where, when, how, and for how long the Solicitation Document may be obtained;
2. A general description of the Goods or Services to be acquired;
3. The interval between the first date of notice of the Solicitation Document given and Closing;
4. The office where Contract terms, conditions and Specifications may be reviewed;
5. The name, title and address of the individual authorized by the Port to receive Offers;
6. The scheduled Opening; and
7. Any other information the Port deems appropriate.

EXHIBIT F

Request for Proposal (RFP) - Construction-Related Personal Services

Advertisement Checklist

CONSTRUCTION-RELATED PERSONAL SERVICE - FORMAL RFP (Over \$250k) - NO COST	Days	NOTE
Receive Cost Estimate, Scope and Bid Package		
Prepare Draft RFP		Comply with Port Contracting Rules
Port Staff/Legal Review		
Commission RFP Approval		
Issue Date of RFP		
Advertise RFP	14 days	publish digitally
Pre-qualification Meeting		
Close Question Period		
Addendum Issuance deadline		NOTE: there is no timeline set out in the OARs, but I recommend following the timeline of other procurement types here (i.e., 72 hours) for consistency
Request for change or protest deadline		NOTE: there is no timeline set out in the OARs, but I recommend following the timeline of other procurement types here (i.e., next business day; not less than 10 days prior to RFP opening) for consistency
Proposals Due/Opened		
Assess qualifications ranking via established process in RFP		
Commission Selection of Intended Contractor		Public meeting. Award to most qualified proposer. MAY NOT consider cost in your RFP assessment.
Notice of Intent to Award		
Review cost		
Negotiate contract and cost		
Protest Deadline	unless you decide otherwise, 7 days after NITA	
Commission authorization of contract with selected contractor, with express dollar amount		public meeting.
Award Contract	unless you decide otherwise, 7 days after NITA	

CONSTRUCTION-RELATED PERSONAL SERVICE - FORMAL RFP (Over \$250k) - COST	Days	NOTE
Receive Cost Estimate, Scope and Bid Package		
Prepare Draft RFP		Comply with Port Contracting Rules
Port Staff/Legal Review		
Commission RFP Approval		
Issue Date of RFP		
Advertise ITB/RFP	14 days	publish digitally
Pre-qualification Meeting		
Close Question Period		
Addendum Issuance deadline		NOTE: there is no timeline set out in the OARs, but I recommend following the timeline of other procurement types here (i.e., 72 hours) for consistency
Request for change or protest deadline		NOTE: there is no timeline set out in the OARs, but I recommend following the timeline of other procurement types here (i.e., next business day; not less than 10 days prior to RFP opening) for consistency
Proposals Due/Opened		
Assess qualifications ranking via established process in RFP		
Commission Selection of Intended Contractor and authorized contract price/NTE		Public meeting. Award to most qualified proposer. MAY consider cost in your RFP assessment, in accordance with Port Contracting Rules
Notice of Intent to Award		
negotiate contract		
Protest Deadline	unless you decide otherwise, 7 days after NITA	
award contract	unless you decide otherwise, 7 days after NITA	

1. Project description;
2. A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the City seeks;
3. How and where Consultants may obtain a copy of the RFQ or RFP; and

EXHIBIT G

Invitation to Bid (ITB) - Public Improvement

Advertisement Checklist

PUBLIC IMPROVEMENT - FORMAL ITB	Days	NOTE
Receive Engineering Cost Estimate, Scope and Bid Package		
Prepare Draft ITB		Generally comply with OAR 137-049-0200; include responsibility determination form as attachment, bid security requirement, and subcontractor disclosure form.
Port Staff/Legal Review		
Commission ITB Approval		
Issue Date of ITB		
Advertise ITB	5-14 days	publish digitally; also publish in 1 newspaper of general statewide circulation if value is over \$125,000
Pre-bid Meeting		
Close Question Period		
Addendum Issuance deadline	At least 72 hours before bids are opened (unless you state otherwise in your rules).	
Request for change or protest deadline	The next business day after the addendum deadline. Should be not less than 5 days prior to bid opening	
Bids Due/Opened	Must occur on a Tuesday, Wednesday, or Thursday, between 2pm and 5pm	Publicly open and read aloud, to the extent practical. Read aloud the name of each bidder, the bid price, and other information you feel is appropriate.
Subcontractor disclosure form due	2 hours after bids due	
Commission Selection of Intended Contractor		Public meeting Must select lowest responsive bidder
Notice of Intent to Award		NOTE: NO CONTRACT NEGOTIATION IS PERMITTED. FORM IN ITB IS WHAT CONTRACTOR EXECUTES
Protest Deadline	unless you decide otherwise, 7 days after NITA	
Award Contract and execute contract	unless you decide otherwise, 7 days after NITA	

1. The project name and description;
2. The office where the specifications for the project may be reviewed;
3. The date that prequalification applications must be filed and the class or classes of work for which bidders must be prequalified, if prequalification is a requirement;
4. The date and time after which bids will not be received, which must be at least five days after the date of the last publication of the advertisement;
5. The name and title of the person designated for receipt of bids;
6. The date, time and place that the Port will publicly open the bids; and If the contract is for a public works subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C.

EXHIBIT H

Responsibility Determination Form*

Project Name: _____

Bid Number: _____

Business Entity Name: _____

CCB License Number: _____

Form Submitted By (Contractor's name and Contractor's Representative's Name): _____

Title: _____

Date: _____

Contractor hereby certifies that it (check all of the following):

- Is not disqualified by the Construction Contractors Board under ORS 701.227 to hold a public improvement contract.
- Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.
- Holds current licenses that businesses or service professionals operating in this state must hold in order to undertake or perform the work specified in the contract.
- Is covered by liability insurance and other insurance in amounts required in the solicitation documents.
- Qualifies as a carrier-insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.
- Has disclosed the bidder's first-tier subcontractors in accordance with ORS 279C.370.
- Has a satisfactory record of performance (as defined in the Port's sole discretion).
- Has a satisfactory record of integrity (as defined in the Port's sole discretion).
- Is legally qualified to contract with the contracting agency.
- Possesses a certificate that the Oregon Department of Administrative Services issued under ORS 279A.167.
- Agrees to be bound by the terms and conditions of a community benefit contract if the public contract is a community benefit contract.
- Has supplied all necessary information in connection with the inquiry concerning responsibility.

*In order to determine a satisfactory record of performance and integrity, please add further requirements to these two categories

EXHIBIT I

First Tier Subcontractor Disclosure Form

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

PROJECT NAME: _____

BID #: _____

BID CLOSING: Date: _____ Time: _____

This form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date and within two working hours after the advertised bid closing time. Bidder is required to disclose all first-tier subcontractors that: (A) will be furnishing labor or will be furnishing labor and materials in connection with the public improvement contract; and (B) will have a contract value that is equal to or greater than five percent of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.

List below the name of each subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter "NONE" if there are no subcontractors that need to be disclosed. (ATTACH ADDITIONAL SHEETS IF NEEDED.)

NAME	DOLLAR VALUE	CATEGORY OF WORK
1) _____ _____	\$ _____ _____	_____ _____
2) _____ _____	\$ _____ _____	_____ _____
3) _____ _____	\$ _____ _____	_____ _____
4) _____ _____	\$ _____ _____	_____ _____

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award.

Form submitted by (bidder name):

Contact name: _____

Phone no.: _____