



## ORDINANCE NO. 6034

AN ORDINANCE AMENDING ORDINANCE 5612 AND AMC CHAPTER 2.66 TO MODIFY THE PRICE THRESHOLDS FOR SMALL AND INTERMEDIATE GOODS AND SERVICES, PERSONAL SERVICES, AND FOR SMALL PUBLIC IMPROVEMENTS; REVISE THE VALUE OF PROCUREMENTS THAT REQUIRE CITY COUNCIL APPROVAL; ADOPT ALTERNATE METHODS TO ADVERTISE PROCUREMENT SOLICITATIONS AND RECEIVE BIDS AND PROPOSALS BY ELECTRONIC MEANS

WHEREAS, AMC Chapter 2.66, Procurement, was established February 23, 2005, resulting from the State of Oregon's update to the Public Contracting Code; and

WHEREAS, the City adopted the Attorney General's Model Rules, Division 46, 47, 48 and 49, and defined under ORS 279A, 279B and 279C, as the City's Public Contracting Rules; and

WHEREAS, in addition to the Model Rules, AMC 2.66.020 provides for the inclusion of supplemental rules, as well as modifications to public purchasing procedures; and

WHEREAS, Senate Bill 1047 was introduced to improve equity in public improvement, allow increased opportunities for disadvantaged communities to work, increase outreach to minority-owned businesses, and reduce barriers to contracting offerings; and

WHEREAS, SB 1047 modifies the contracting price thresholds for small and intermediate goods and services, personal services, and for small public improvement contracts and the application of solicitation and procurement methods for public contracts, effective January 1, 2024; and

WHEREAS, it is timely to review the value of goods and services and public improvement contracts awarded by the city council since the cost of living has increased significantly since 2005; and

WHEREAS, the expense for advertising procurement opportunities in the local paper and trade newspaper have risen and ORS allows for electronic posting and public notice of bids and proposals if found cost-effective; and

WHEREAS, ORS allows contracting agencies to receive bids and proposals by electronic means and permits a bidder or proposer to submit their response to a solicitation by electronic means; and

WHEREAS, it is in the City's best interest to modify the price thresholds for small and intermediate goods and services, and personal services and small public improvement contracts, increase the value of contracts awarded by the city council, utilize alternate advertising methods in compliance with ORS, and receive bids and proposals from responders and conduct public openings by electronic means.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Albany Municipal Code Chapter 2.66, Procurement, is hereby modified and amended to include the following:

2.66.020    Authority

- (1) Except as provided herein, or by subsequent Ordinance or Resolution, the Model Rules, Division 46, 47, 48 and 49, adopted by the Attorney General under ORS 279A, 279B and 279C as they now exist,

and as they may be amended in the future, and in the Albany Municipal Code, are hereby adopted as the City's Public Contracting Rules. Words and phrases used by these rules that are defined in ORS subchapters 279A, 279B and 279C and in the Model Rules have the same meaning as defined in ORS subchapters 279A, 279B and 279C and the Model Rules. In the event that rules adopted by the Local Contract Review Board do not address a particular situation, the Model Rules apply. The terms of this chapter shall **revise or** supplement the Model Rules. In the event of a conflict between this chapter and the Model Rules, this chapter shall control.

- a. **Except as otherwise expressly provided in ORS 279B, the procedures used to solicit and award contracts for small and intermediate goods and services, and personal services; and ORS 279C public improvement contracts, specifically small contracts, will incorporate the following modifications:**
  - i. **Small procurement: (1) A contracting agency may award a public contract for goods or services and personal services that does not exceed \$25,000 in any manner the contracting agency deems practical or convenient, including by direct selection or award.**
  - ii. **Intermediate procurement: (1) A contracting agency may award a procurement of goods or services and personal services that exceeds \$25,000 but does not exceed \$150,000 in accordance with intermediate procurement procedures. When conducting intermediate procurement, a contracting agency shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors.**
  - iii. **Public improvement contracts: (1) A contracting agency may award a public improvement contract without competitive bids if the public improvement contract has a value of less than \$25,000.**
- (2) Except as provided herein the Model Rules adopted by the Attorney General under ORS 279A, 279B and 279C (the "model rules") do not apply.
- (3) AMC 2.66.~~030~~ **010** through 2.66.~~080~~-**100** are adopted as the City's public contracting rules.

#### 2.66.030    Local Contract Review Board/Contracting Agency

The City Council of the City of Albany is designated and shall continue as the local contract review board under the State of Oregon Public Contracting Code. The Contract Review Board may, from time to time, delegate its powers and responsibilities consistent with the Oregon Public Contracting Code, the Model Rules, or the Albany Municipal Code. Except as may be specified in Albany Municipal Code Sections 2.66.~~030~~ **010** through 2.66.~~080~~ **100** the City Manager is designated as the City's "Contracting Agency" as that term is defined in ORS 279A.010(1b). With the authorization of the City Manager, ~~the Deputy City Manager, the Chief Financial Officer/Assistant City Manager~~ **the Finance Director**, or any other department director may be delegated the power and authority of the "Contracting Agency" for purposes of contracting powers and duties assigned to the City of Albany as a "Contracting Agency" under the State of Oregon Public Contracting Code or the Model Rules. Except as otherwise provided in these rules, the powers and duties of the local Contract Review Board, under the Public Contracting Code, shall be exercised and performed by the City Council of the City of Albany and all powers and duties given or assigned to Contracting Agencies by the Public Contracting Code shall be exercised or performed by the City Manager. ~~or his/her designee~~ **The City Manager, acting as Contracting Agency, may award a contract requiring City Council approval should conditions exist that require an immediate purchase and the City Council is unable to approve the contract award. A report shall be submitted by the department to the City Council to confirm the contract award at the next regularly scheduled meeting.**



#### 2.66.040 Contracts that Require City Council Approval

Notwithstanding any other provision of this ordinance, ~~large procurements, as defined herein,~~ **that** require City Council approval prior to execution ~~Large procurements mean~~ **shall include** procurements of goods, services, **personal services**, or public improvements with a value in excess of ~~\$150,000~~ **\$250,000** and change orders or amendments to such contracts which in the aggregate exceed 10% of the original amount except for the personal services contract with the City Attorney, which shall be executed by the City Manager. The City Council will also approve the contract with the Municipal Judge. **Department directors have authority to sign all contracts, agreements, proposals, intergovernmental agreements, and memorandum of understanding within the scope of their supervisory duties between the City and other parties.**

#### 2.66.060 Exempt Contracts

Except as may be modified by AMC 2.66.030 ~~010~~ through 2.66.080 ~~100~~, the following classes of public contracts are hereby exempted from competitive procurement and may be awarded in any manner **that is fiscally responsible** which the City Manager deems appropriate including direct appointment or purchase:

(1) Any contract exempted by the State of Oregon Public Contracting Code or model rules including the following classes of contracts specifically exempted by the State of Oregon Public Contracting Code or model rules: ORS 279A.025, "Application of Public Contracting Code"; ORS 279A.180, "Purchases Through Federal Programs"; ORS 279A.190, OAR 137-046-0130, "Transfers of Fire Protection Equipment Between Fire Departments"; ORS 279A.200 et seq., "Cooperative Procurement"; and ORS 279A.220, "Interstate Cooperative Procurements."

(2) Any agreement or condition of approval entered into with or required by the City of Albany for carrying out conditions of approval of a land use decision of the City of Albany. The term "land use decision" has the meaning provided by ORS 197.015.

(3) In the event of an emergency involving an immediate hazard to the public health, safety, or welfare, the City Manager, the **Deputy City Manager, the Finance Director, Chief Finance Officer**, or Public Works Director may secure necessary goods and/or services without a formal competitive selection process. For any emergency contract in excess of ~~\$150,000~~ **\$250,000** the local contract review board at a regularly scheduled meeting, within 30 days of the procurement, will be furnished with a full report of the circumstances and costs of the materials and/or services secured, and the method used for the selection of the particular contractor.

(4) Contracts for the purchase of copyrighted materials where there is only one supplier available within a reasonable purchase area for such goods.

(5) Contracts for the purchase of advertising, including that intended for the purpose of giving public or legal notice.

(6) Contracts for the purchase of services, equipment or supplies for maintenance, repair or conversion of existing equipment if required for efficient utilization of such equipment.

(7) Contracts for the purpose of investment of public funds or the borrowing of funds.

(8) Purchases of goods or services pursuant to a requirements contract which was established by a formal competitive selection process. Purchases may also be made at prices established by a requirements contract or other agreement between another public body and a contractor if the requirements contract was established by a formal competitive selection process **and allowed for other public entity use.**

~~(9) Contracts for purchase or sale of services, materials or products traditionally provided by the City.~~

**(9)** Contracts for the purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state or local regulating authority.

(10) Any other contract (including brand name specification contracts) where the public interest would be promoted by exempting the contract from the competitive bidding process; provided, that the Contract Review Board adheres to the Public Contracting Code and the model rules in making the exemption.

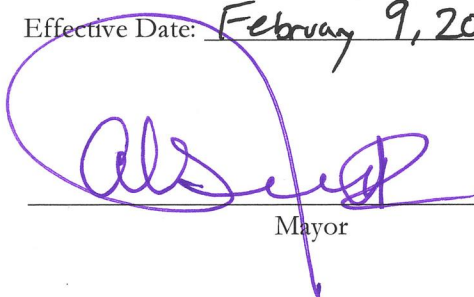
**2.66.100 Use of Electronic Means for Solicitation, Notices, and Submittal Response**

Notices, solicitations and advertisements of procurement opportunities or awards shall use electronic means of communication with interested bidders and parties in compliance with ORS allowable advertising and public notice options, such as posting on the City's website, the State of Oregon procurement site, and other electronic bulletin boards. If the public contract requires additional publications in a trade journal of statewide publication, notices shall be posted with the Daily Journal of Commerce for compliance with effective distribution of opportunities to suppliers and outreach to disadvantaged business enterprises. Electronic delivery will be made available for bidders and proposers to submit their response to procurement opportunities and electronic means may be used for receipt of bids and proposals and for conducting public procurement bid/proposal openings.

Passed by the Council: January 10, 2024

Approved by the Mayor: January 10, 2024

Effective Date: February 9, 2024

  
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Mayor

ATTEST:

  
Allison Harris  
City Clerk