



CLATSOP COUNTY

BOARD OF COMMISSIONERS AGENDA

WORK SESSION

VIRTUAL MEETING

Wednesday, February 07, 2024

BOARD OF COMMISSIONERS:

Mark Kujala, Dist. 1 – Chair
Courtney Bangs, Dist. 4 – Vice Chair
John Toyooka, Dist. 2
Pamela Wev, Dist. 3
Lianne Thompson, Dist. 5

commissioners@co.clatsop.or.us

CONTACT:

800 Exchange, Suite 410
Astoria, OR 97103
Phone (503) 325-1000
Fax (503) 325-8325

www.co.clatsop.or.us

JOIN THE BOARD OF COMMISSIONERS VIRTUAL MEETINGS

To access the meeting by phone – Please dial 1-253-215-8782.

Webinar ID: 868 7342 3441

Passcode: 236512

[\(Zoom link\)](#)

WORK SESSION: 10:15 AM

Work Sessions are an opportunity for Board members to discuss issues informally with staff and invited guests. The Board encourages members of the public to attend Work Sessions and listen to the discussion, but there is generally no opportunity for public comment. Members of the public wishing to address the Board are welcome to do so during the Board's regularly scheduled meetings held twice monthly.

TOPICS:

1. County Manager Update {5 min}
- [2.](#) FY 2022 – 2023 Annual Audit Presentation {10 min} {Page 3}
- [3.](#) Libraries Reading Outreach in Clatsop County (ROCC) {10 min} {Page 5}
- [4.](#) DLCD/OCMP Sea Level Rise Workshop Results {30 min} {Page 7}
- [5.](#) Appointments to Recreational Lands Planning and Advisory Committee {5 min} {Page 12}
- [6.](#) Update Public Clatsop County Code § 1.04.060 – Public Contracting Rules {10 min} {Page 24}

ADJOURNMENT

As necessary Executive Session will be held in accordance with but not limited to: ORS 192.660

(2)(d) Labor Negotiations; ORS 192.660 (2)(e) Property Transactions: ORS 192.660 (2)(f) Records exempt from public inspection; ORS 192.660 (2)(h) Legal Counsel

Agenda packets also available online at www.co.clatsop.or.us

This meeting is accessible to persons with disabilities or wish to attend but do not have computer access or cell phone access. Please call 325-1000 if you require special accommodations at least 48 hours prior to the meeting in order to participate.

Board of Commissioners Clatsop County

WORK SESSION AGENDA ITEM SUMMARY

February 7, 2024

Topic: FY 2022 – 2023 Annual Audit Presentation
Presented By: Andrew Sullivan, Finance Director

Informational Summary: The county auditing firm of Koontz & Blasquez will be presenting the audited financial statements for the fiscal year July 1, 2022 to June 30, 2023.

A complete set of audited financials for both the County-Wide statements as well as the four (4) county component units will be provided to the Board of Commissioners. The statements can also be found on the county website at:

<https://www.clatsopcounty.gov/finance/page/annual-audit>

Attachment List

- A. <https://www.clatsopcounty.gov/finance/page/annual-audit>

Board of Commissioners Clatsop County

WORK SESSION AGENDA ITEM SUMMARY

February 7, 2024

Topic: Libraries Reading Outreach in Clatsop County (ROCC)
Presented By: Suzanne Harold, Library Director
Jessica Jacobsen, Libraries ROCC Coordinator

Informational Summary: Update on the Reading Outreach in Clatsop County program.



2023-2024 Update for Clatsop County Commissioners, February 2024

3 goals: Our goals are to place a library card in the hands of every child who wants one, to remove library services access barriers, and to support the annual countywide summer reading program.

There are currently 2,900 Libraries ROCC card holders in Clatsop County! ROCC card holders are children ages 0-19 who live in Clatsop County but outside the city limits of Astoria, Seaside, and Warrenton.

Through the Northwest Library Cooperative, the Libraries ROCC cards have full access to the collections at all three city libraries as well as an extensive digital ebook and audiobook collection.

Highlights from 2023

Outreach in Rural and Underserved Populations in the Community:

- Installed and launched a self serve book kiosk at Hilda Lahti School in Knappa with a collection of 265 books for youth to borrow with their ROCC cards
- ROCC card drive sign-ups at rural schools during literacy nights and parent-teacher conferences resulting in over 100 new ROCC Card sign-ups
- Worked in conjunction with the school librarians, to get approximately 30 additional students signed up for ROCC cards in 2023
- Continued work with school librarians to ensure students can access digital books and audiobooks using their library cards and the Libby App.
- Brought Summer Reading out to the community to remove access barriers. We hosted satellite summer reading programs at both Jewell School and Hilda Lahti K-8 school libraries
- Provided about \$500 in books for giveaways and for their school library collections
- Provided both schools with an assembly and performer to kick off the Summer Reading Program

Countywide Summer Reading Program: (in conjunction with Astoria, Seaside, and Warrenton Libraries)

- We had over 550 children countywide participate in Summer Reading, reading more than 5,500 hours in total! More than 1,500 children attended our in-person events and we gave away 2,000 free books! Research shows that by reading during the summer, students return to school in September with their skills intact, ready to keep learning.

Thank you for supporting library services for ALL CHILDREN IN CLATSOP COUNTY!



Agenda Item #3.



ROCC Website



Page 6

Board of Commissioners Clatsop County

WORK SESSION AGENDA ITEM SUMMARY

February 7, 2024

Topic: DLCD/OCMP Sea Level Rise Workshop Results
Presented By: Carl Hendrickson, DLCD Sea Level Rise Adaptation Fellow |
Ocean/Coastal Services Division

**Informational
Summary:**

In 2021, the Oregon Department of Land Conservation and Development (DLCD) was selected to host a NOAA Coastal Management Fellowship, dedicated to DLCD's project on sea level rise adaption planning in Clatsop County, Cannon Beach and Fort Stevens.

The applicant chosen for the fellowship position, Carl Hendrickson, began work in August 2022. During March 2023, Mr. Hendrickson and other state and local staff members, conducted a series of workshops around Clatsop County, including Arch Cape, Brownsmead and the Lewis and Clark area. The purpose of the workshops was to identify critical assets and assess vulnerability to sea level rise and to obtain stakeholder input on sea level rise impacts and solutions for resilience.

Following the workshops, participant's responses were categorized and analyzed using an impact assessment/prioritization tool. The output was then used to identify adaptation pathways to address community input. During your work session on February 7, Mr. Hendrickson will be providing information to your Board regarding the public responses received and the next steps that are being taken, including grant applications and collaboration with Oregon State University researchers. Flyers summarizing the results of the March 2023 community meetings are attached as **Exhibit A**.

Attachment List

- A. Sea Level Rise Workshop Results Flyers

EXHIBIT A

Sea Level Rise Workshop Results Flyers

Sea Level Rise Workshop

Results: Arch Cape

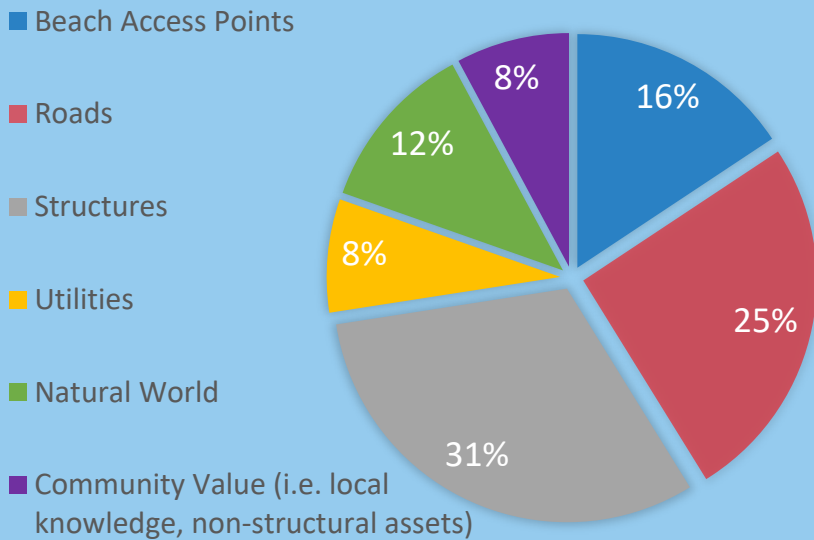


WORKSHOP RECAP:

On March 14th, 2023, the Oregon Coastal Management Program held a workshop at the Arch Cape Fire Station to discuss sea level rise impacts on the community. As part of this workshop series, attendees provided insight into the places that make their communities valuable to them and discussed how vulnerable these places are to sea level rise. From these workshops, project ideas and funding opportunities for mitigation efforts have been identified, and project partners are being contacted. At least one project is currently moving through a grant application process. Below are some of the highlights from the workshop!



ASSET TYPE IDENTIFIED AS VULNERABLE TO SEA LEVEL RISE



KEY COMMUNITY ISSUES:

- Shoreline structure protection
- Highway 101 flooding and erosion
- Beach access points
- Utilities (water, sanitation)

NEXT STEPS:

Using the information learned in the workshop, the OCMP has been working with Clatsop County and other partners to identify projects and funding sources that can help mitigate the effects of sea level rise on your community.

Sea Level Rise Workshop

Results: Lewis & Clark

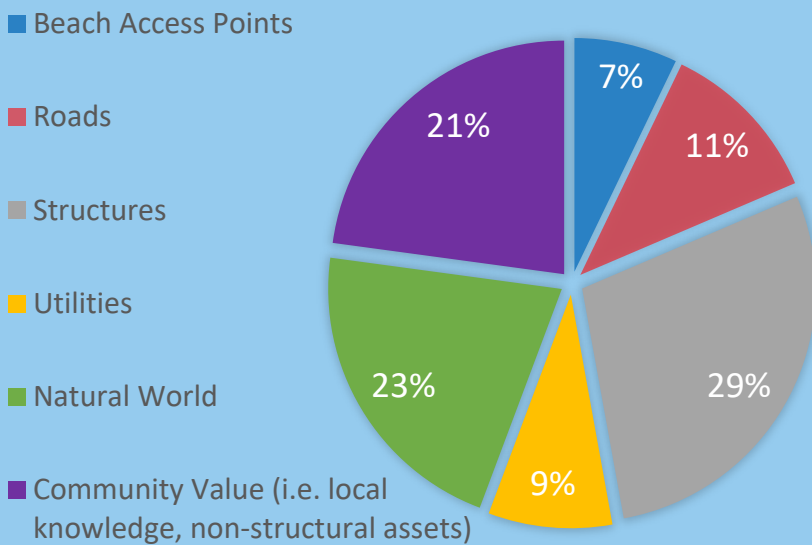


WORKSHOP RECAP:

On March 21st, 2023, the Oregon Coastal Management Program held a workshop at the Lewis & Clark Fire Station to discuss sea level rise impacts on the community. As part of this workshop series, attendees provided insight into the places that make their communities valuable to them and discussed how vulnerable these places are to sea level rise. From these workshops, project ideas and funding opportunities for mitigation efforts have been identified, and project partners are being contacted. At least one project is currently moving through a grant application process. Below are some of the highlights from the workshop!



ASSET TYPE IDENTIFIED AS VULNERABLE TO SEA LEVEL RISE



KEY COMMUNITY ISSUES:

Community preparedness

Transportation flooding and erosion

Utilities (water, sanitation)

Natural environment

NEXT STEPS:

Using the information learned in the workshop, the OCMP has been working with Clatsop County and other partners to identify projects and funding sources that can help mitigate the effects of sea level rise on your community.

Sea Level Rise Workshop

Results: Brownsmead

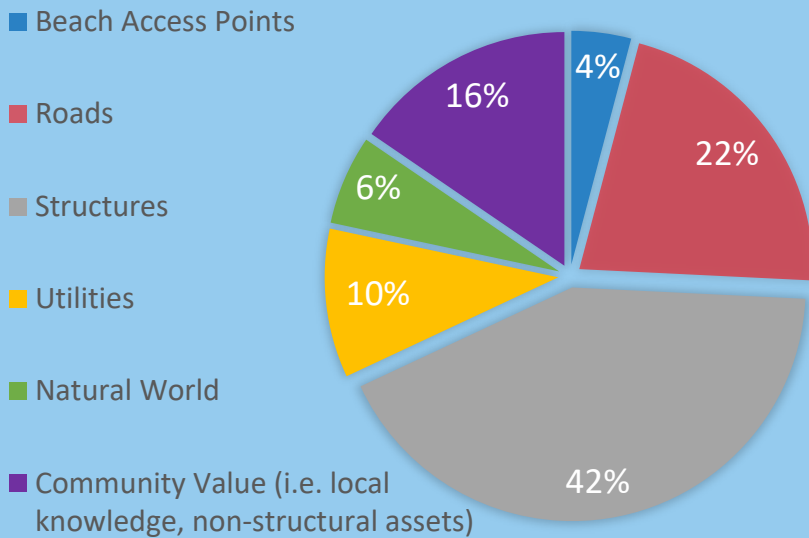


WORKSHOP RECAP:

On March 23rd, 2023, the Oregon Coastal Management Program held a workshop at the Brownsmead Grange to discuss sea level rise impacts on the community. As part of this workshop series, attendees provided insight into the places that make their communities valuable to them and discussed how vulnerable these places are to sea level rise. From these workshops, project ideas and funding opportunities for mitigation efforts have been identified, and project partners are being contacted. At least one project is currently moving through a grant application process. Below are some of the highlights from the workshop!



ASSET TYPE IDENTIFIED AS VULNERABLE TO SEA LEVEL RISE



KEY COMMUNITY ISSUES:

Dikes and levees

Transportation flooding and erosion

Utilities (power, sanitation)

Community (grange, fire station, agricultural land)

NEXT STEPS:

Using the information learned in the workshop, the OCMP has been working with Clatsop County and other partners to identify projects and funding sources that can help mitigate the effects of sea level rise on your community.

Agenda Item #4.

Questions? Email carl.hendrickson@dlcd.oregon.gov

Board of Commissioners Clatsop County

WORK SESSION AGENDA ITEM SUMMARY

February 7, 2024

Topic: Appointments to Recreational Lands Planning and Advisory Committee
Presented By: Steve Meshke, Natural Resources Manager

Informational Summary:

The Recreational Lands Planning Advisory Committee is a group of volunteers appointed by the county commissioners to help develop long-range plans for county parks and changes to the county’s comprehensive land-use plan related to recreational lands. The members of the committee shall be residents of Clatsop County and whenever possible, provide member representation from each of the county’s five districts. Each member shall serve a three-year term.

Recent advertisement for the Recreational Lands Planning and Advisory Committee received five applications. Currently there are three vacancies on the committee. Three of the current members; Steve Ferguson, Tom Sayre and Lynne Leland, are requesting to be reappointed to the committee for another term. Two new applicants have applied; Lisa Heigh and Clara Sroufe.

CURRENT MEMBERS				
Name	Commissioner District	Occupation	Term Expiration	Current Term
Steve Ferguson	#1	Retired Forester	2/01/2024	3rd
Tom Sayre	#2	Retired	2/01/2024	3rd
Brad Catton	#3	ODF Forester	2/01/2026	2nd
Lynne Leland	#4	Retired Teacher	2/01/2024	3rd
Mike Hinton	#5	Semi-Retired Contractor	2/01/2025	1st

APPLICANTS			
Name	Commissioner District	Occupation	
Steve Ferguson	#1	Retired Forester	
Tom Sayre	#2	Retired	
Lynne Leland	#4	Retired Teacher	
Lisa Heigh	#1	Retired Solid Waste Planner	
Clara Sroufe	#5	Gardener	

Attachment List

- A. Steve Ferguson Committee Application
- B. Tom Sayre Committee Application
- C. Lynne Leland Committee Application
- D. Lisa Heigh Committee Application
- E. Clara Sroufe Committee Application

COMMITTEE, BOARD OR COMMISSION APPLICATION
CLATSOP COUNTY

Date: 12/17/2023

Steve Ferguson
Name

200 SW Kalmia Ave
Mailing Address

Warrenton
City

Street Address: 200 SW Kalmia Ave Email: srcjferg@hotmail.com

Home Telephone: 503-861-8187 Other Telephone: 503-791-6412
 work cell phone

Current Occupation Retired

Past Occupation (if retired) Forester OR Dept. of Forestry

Years Resident of County: 50

Do you live within the city limits: Yes No

In which Commission District do you reside: 1 2 3 4 5

Committee, Board of Commission Applied for:

- 1. Rec Lands
- 2. /
- 3. /

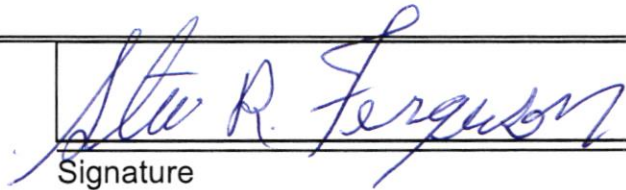
Background (Relevant education, training, experience, etc.):

Forester w/ ODF Astoria 30+ Years

Please complete other side

Describe your interest in serving on this Board, Committee or Commission:

Rec Lands Committee 3 Terms


Signature

Return Form To: County Manager's Office
800 Exchange St., Ste. 410
Astoria, OR 97103
Fax: 325-8325
email: commissioners@co.clatsop.or.us

COMMITTEE, BOARD OR COMMISSION APPLICATION
CLATSOP COUNTY

Date: 12/11/23

Tom Sayre
Name

33671 Rainbows End
Mailing Address

Warrenton
City

Street Address: Same as above Email: tomdsayre@gmail.com

Home Telephone: (503) 861-8555 Other Telephone: (253) 905-3198
 work cell phone)

Current Occupation: Retired

Years Resident of County: 10

Do you live within the city limits: Yes No

In which Commission District do you reside: 1 2 3 4 5

Committee, Board of Commission Applied for:

1. Recreational Lands Planning Advisory Committe
2. _____
3. _____

Background (Relevant education, training, experience, etc.):

Please see below.

Please complete other side →

Describe your interest in serving on this Board, Committee or Commission:

2023-Present Oregon State Parks Member, Oregon Outdoor Recreation Committee
2022-2023 Oregon State Parks Member, Accessibility Standards & Guidelines Committee (SB2171 S4)
2021-2023 Oregon State Parks Member, Rules Advisory Committees
2019-2022 Oregon State Parks Member, Local Government Grant Program Advisory Committee
2020-2021 Salmonberry Trail Member, Plan Review Committee, River and Canyon Segments
2014-Present Clatsop County Past Chair, Recreational Lands Advisory Committee
2006-2013 Pierce County Past Chair, Parks & Recreation Citizens' Advisory Board
2010-2011 Pierce County Member, Open Space Task Force
2000-2002 Metro Parks Tacoma Chairperson, Off-Leash Dog Park Citizens' Advisory Panel
1995-1996 City of West Linn Past Chair, Parks and Recreation Advisory Board
1995-1998 NRPA Certified Playground Safety Inspector
1992-1994 City of Tualatin Member, Parks Advisory Committee
1990-1992 City of Tualatin Member, Architectural Review Board (Planning Commission)
1989-1992 Portland State University BS Architecture & Geography

Describe your interest in serving on this Board, Committee or Commission:

Serving on this advisory committee is a perfect fit for my interest and skill set. I believe my prior work experiences coupled with my educational pursuits, will continue to allow me to make meaningful contributions to this committee's work. Also, as an active park user, giving back in this capacity provides me with personal fulfillment.

Thank you for your consideration!

Tom Sayre

Signature

**Return Form To: County Manager's Office
800 Exchange St., Ste. 410
Astoria, OR 97103
Fax: 325-8325**

email: commissioners@co.clatsop.or.us

COMMITTEE, BOARD OR COMMISSION APPLICATION
CLATSOP COUNTY

Date: 12/18/23

LYNNE S. LELAND
Name

40314 Compass Ln
Mailing Address

ASTORIA, OR 97103
City

Street Address: Same

Email: lleland97103@gmail.com

Home Telephone: 503-458-5241

Other Telephone: 971-395-9753

work cell phone

Current Occupation Retired

Past Occupation (if retired) Teacher

Years Resident of County: 32 yrs

Do you live within the city limits: Yes No

In which Commission District do you reside: 1 2 3 4 5

Committee, Board of Commission Applied for:

1. RLPAC

2. _____

3. _____

Background (Relevant education, training, experience, etc.):

Physical Ed Major OSU / Special Ed PE U of O Grad School

PLANNING Commission Clatsop Co 8 yrs

Master Plan Committee County Parks 2006

RLPAC

Please complete other side →

Describe your interest in serving on this Board, Committee or Commission:

I enjoy serving on the RHPAC and hope I make some valuable contributions to our wonderful team. Our Master Plan is outdated in many ways + needs to at least be revised.

The Parks Dept. has some challenges because of the size of the County + time it takes to cover/service all of the Parks. More seasonal help would be beneficial for the department.

I look forward to the completion of the picnic/playground area for the Westport Park - I believe this Park will be a great benefit for both visitors and the local community.

I would appreciate being re-appointed to this committee so I can continue to contribute to its success -

Thank you for your consideration,

Lynne S Leland

Lynne S Leland

Signature

Return Form To: County Manager's Office
800 Exchange St., Ste. 410
Astoria, OR 97103
Fax: 325-8325
email: commissioners@co.clatsop.or.us

COMMITTEE, BOARD OR COMMISSION APPLICATION
CLATSOP COUNTY

Date: January 8, 2024

Lisa Heigh

Name

102 South Place

Mailing Address

Astoria

City

Street Address: 102 South Place Email: winter962001@yahoo.cor

Home Telephone: 503-544-3698 Other Telephone: N/A
 work cell phone

Current Occupation Retired

Past Occupation (if retired) Solid Waste Planner

Years Resident of County: Five

Do you live within the city limits: Yes No

In which Commission District do you reside: 1 2 3 4 5

Committee, Board of Commission Applied for:

1. Recreational Lands Planning Advisory Comm

2. _____

3. _____

Background (Relevant education, training, experience, etc.):

MS Marine Resource Management (OSU), Project Management (PSU), Facilitation and Consensus (OSU & EPA)

Solid Waste Planner (20 years), Metro, Portland,

Watershed Assessment Coordinator (2 years) Lower Columbia Watershed Councils, Astoria, OR

Outreach and Education Coordinator (5 years), Tillamook National Estuary Program, Garibaldi, OR

Natural Resource Industry (2.5 years, QA/QC Forest Products Lab Tech, Medite, Medford, OR; and field Biological Tech, Shasta Land Management Company, Shasta, CA and US Forest Service.

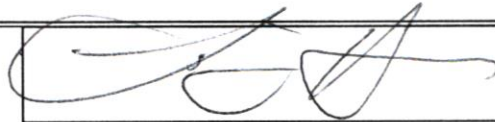
Please complete other side →

HEIGH, LISA

Describe your interest in serving on this Board, Committee or Commission:

I have been looking for opportunities to support my community. I know that a healthy, strong community doesn't just happen and isn't just the responsibility of elected leaders. At present, I am a member of the State Forestry's Recreation Advisory Committee (2017-present) (State of Oregon), the treasurer of the Saddle Mountain Archers (local), and a volunteer dog walker at the Clatsop County Animal Shelter (local). I can do more.

My interest in serving on this board is three-fold: I have deep knowledge (e.e., planning, land-use policy, how government works) and solid skills (e.g., public process, meeting management, board development) that are helpful for productive board membership and would like to utilize my knowledge and skills; I am an all-around and passionate recreationalist (hiker, archer, hunter (when I get good enough with my bow), birder, biker, trail runner, boogey boarder, stand-up-paddle boarder, nature wanderer, beginner pickle ball player, horseback rider and beach comber and feel able to (at a minimum) understand many recreationalists' perspectives; and finally I love this place that we all call home and would like to be of service. Thank you for considering my application.



Signature

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COMMITTEE, BOARD OR COMMISSION APPLICATION
CLATSOP COUNTY

Date: 12/11/23

Tom Sayre

Name

33671 Rainbows End

Mailing Address

Warrenton

City

Street Address: Same as above Email: tomdsayre@gmail.com

Home Telephone: (503) 861-8555 Other Telephone: (253) 905-3198
(work cell phone)

Current Occupation Retired

Past Occupation (if retired) _____

Years Resident of County: 10

Do you live within the city limits: Yes No

In which Commission District do you reside: 1 2 3 4 5

Committee, Board of Commission Applied for:

1. Recreational Lands Planning Advisory Committe

2. _____

3. _____

Background (Relevant education, training, experience, etc.):

Please see below.

Please complete other side →

Describe your interest in serving on this Board, Committee or Commission:

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2022-2023 Oregon State Parks Member, Accessibility Standards & Guidelines Committee (SB2171 S4)
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2014-Present Clatsop County Past Chair, Recreational Lands Advisory Committee
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1990-1992 City of Tualatin Member, Architectural Review Board (Planning Commission)
1989-1992 Portland State University BS Architecture & Geography

Describe your interest in serving on this Board, Committee or Commission:

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Thank you for your consideration!

Tom Sayre

Signature

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Board of Commissioners Clatsop County

AGENDA ITEM SUMMARY

February 7, 2024

Agenda Title: Update Public Clatsop County Code § 1.04.060 – Public Contracting Rules
Category: Business Agenda
Presented By: Anthony Pope – County Counsel

Issue Before the Commission: Update to Clatsop County Contracting Rules

Informational Summary: Clatsop County adopted its contracting rules as a policy in 2005, and revised them periodically prior to codification as Clatsop County Code §1.04.060 in 2012. Since 2012 there have been no major amendments to the rules, with the last update occurring in 2016 with only minor changes.

After reviewing the current Contracting Rules, staff decided to draft a new version rather than amending the current rules. Attached is a list of the key changes in the proposed Contracting Rules, including a revised contract signing authority amount.

As background, the current contract authority delegated to the County Manager (\$30,000) was formalized in 2005. Staff recommends this amount be increased to \$150,000 based on the current practices of similarly situated counties as detailed below.

<i>Clatsop County:</i>	\$ 30,000	<i>(current)</i>
Jackson County:	\$ 100,000	
Marion County:	\$ 100,000	
Hood River County:	\$ 150,000	
Clackamas County:	\$ 150,000	
Lane County:	\$ 150,000	
Deschutes County:	\$ 250,000	
Washington County:	\$ 300,000	

Attachment List

- A. List of key changes to Contracting Rules
- B. Proposed Contracting Rules

Key differences with the current public contracting rules and the proposed contracting rules:

- Rather than follow the AG model rules as a limitation, authorizes full use of all of the contracting powers and authorities. In other words, allows the model rules to authorize, rather than limit the County. Gives the County the most flexibility to adapt to a particular contract situation.
- Eliminates the idea that “purchase orders” are not contracts. Treats all purchases and contracts the same under the rules.
- Clarifies that the following are not subject to the public contracting regulations for solicitation:
 - o IGAs
 - o Grants
 - o Witnesses or legal consultants for litigation (not attorneys)
 - o Real property
 - o Finance debt such as bonds or loans
 - o Employee benefits
 - o Federal contracts
 - o Concession agreements (used to be exempt from solicitation).
- Sets up procedure for award and solicitation protests, debarments or prequalification decisions. All such decisions are made by the Purchasing Manager (County Manager).
- Increases the delegated authority to the County Manager to \$150,000 for all purchases and contracts. Increases the change order authority to \$150,000 as well.
- Authorizes the County Manager to adopt solicitation forms, contracts for the County’s needs.
- Eliminates the one-year limitation for contracts. Rather, the authority limit will be current for the life of the contract.
- Expands small procurements from \$3k to \$10k
- Specifically authorizes electronic advertisement of public improvement contracts in lieu of publishing.
- Leases are exempted from the public contracting process.

**PUBLIC CONTRACTING REGULATIONS
FOR THE CLATSOP COUNTY**

Section 1. Public Contracts – Clatsop County

- A. Short Title.** This may be cited as the Public Contracting Regulations for Clatsop County.
- B. Purpose of Public Contracting Regulations.** It is the policy of Clatsop County (“County”) 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 County as they emerge within various contracting activities.
- C. Interpretation of Public Contracting Rules.** In furtherance of the purpose of the objectives set forth in subsection B, it is County’s intent that these Public Contracting Regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C and the Model Rules of the Attorney General set forth in OAR 137-046, 047, 048, and 049.

Section 2. Application of Public Contracting Regulations.

In accordance with ORS 279A.025, the County’s public contracting regulations and the Oregon Public Contracting Code do NOT apply to the following classes of contracts:

- A. Between Governments.** Contracts between the County and a public body or agency of the State of Oregon or its political subdivisions, or between the County and an agency of the federal government.
- B. Grants.** A grant contract is an agreement under which the County is either a grantee or a grantor of moneys, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions. The making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code; however, any grant made by County for the purpose of constructing a public improvement or public works project shall impose conditions on the grantee that ensure that expenditures of the grant to design or construct the public improvement or public works project are made in accordance with the Oregon Public Contracting Code and these regulations.

- C. **Legal Witnesses and Consultants.** Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the County is or may become interested or involved.
- D. **Real Property.** Acquisitions or disposals of real property or interests in real property.
- E. **Finance.** Contracts, agreements or other documents entered into, issued or established in connection with:
 - (1) The incurring of debt by the County, including contracting with various professionals to assist County with the process and any contracts, agreements or other documents associated with incurring the debt, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;
 - (2) The making of program loans and similar extensions or advances of funds, aid or assistance by the County to a public or private Person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law, other than for the construction of public works or public improvements;
 - (3) The investment of funds by the County as authorized by law; or
 - (4) Banking, money management or other predominantly financial transactions of the County that, by their character, cannot practically be established under the competitive contractor selection procedures, “based upon the findings of the Purchasing Manager.”
- F. **Employee Benefits.** Contracts for employee benefit plans or retirement plans.
- G. **Exempt Under State Laws.** Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law.
- H. **Federal Law.** Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.
- I. **Concession Agreements.** Contracts for a franchise or concession to promote or sell by a private entity or individual for its own business purposes.

Section 3. Public Contracts – Regulation by County.

Except as expressly delegated under these regulations, the County Board of Commissioners reserves to itself the exercise of all of the duties and authority of a contract review board and a contracting agency under state law including, but not limited to, the power and authority to:

- A. **Solicitation Methods Applicable to Contracts.** Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;

- B. Waiver of Performance and Payment Bonds.** Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;
- C. Appeals of Debarment and Prequalification of Decisions.** Hear properly filed appeals of the Purchasing Manager’s determination of debarment or prequalification;
- D. Rulemaking.** Adopt contracting rules under ORS 279A.065 and ORS 279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services and public improvements; and
- E. Award.** Award all contracts that exceed the authority of the Purchasing Manager. Such contract awards may expressly delegate to the County Manager or Chair, the authority to approve a specific contract without further Board action.

Section 4. Public Contracts – Attorney General Model Rules.

The Model Rules adopted by the Attorney General under ORS 279A.065 (Model Rules) are hereby adopted as the public contracting rules for the County, to the extent that the Model Rules do not conflict with the provisions of this Resolution, including any amendments to this Resolution.

Section 5. Public Contracts – Authority of Purchasing Manager.

- A. General Authority.** The County Manager shall be the Purchasing Manager for the County and is hereby authorized to issue all solicitations and to award all County contracts for which the contract price does not exceed \$150,000. Said contracts shall be within budgetary restraints. Subject to the provisions of this Resolution, 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 County’s contracting needs. The Purchasing Manager shall hear all solicitation and award protests.
- B. Change Orders and Amendments.**
 - (1) Non-compensation.** The County Manager may execute any amendment extending the contract period or changing terms other than compensation.
 - (2) Compensation.** The County Manager may execute amendments or change orders not exceeding the following:
 - (a) The original contract amount plus 25% or \$150,000, whichever is greater, based on the aggregate amount of the contract, plus all change orders and extra work; or
 - (b) The amount expressly authorized by the Board at the time the contract is approved. If this authorization is used, the person delegated the authority to authorize the amendments or change order(s) shall formally advise the Board of all change order(s) made.

- C. **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.

- D. **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 County Counsel shall review the Public Contracting Regulations, other than the Model rules, and recommend to the County Board of Commissioners any modifications required to ensure compliance with statutory changes.

Section 6. Public Contracts – Definitions.

The following terms used in these regulations shall have the meaning set forth below.

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

Bid means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.

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 County’s public contracts for a prescribed period of time.

Disposal means any arrangement for the transfer of property by the County under which the County 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.

Informal solicitation means a solicitation made in accordance with the County’s Public Contracting Regulations to a limited number of potential contractors, in which the Solicitation Agent attempts to obtain at least three written quotes or proposals.

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

Model Rules means the public contracting rules adopted by the Attorney General under ORS 279A.065.

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

Oregon Public Contracting Code means ORS chapters 279A, 279B and 279C.

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 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 architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, landscaping designers, artists, designers, 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 County 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 improvement means a project for construction, reconstruction or major renovation on real property by or for the County. “Public improvement” does not include:

- (1) Projects for which no funds of the County 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 County Manager, or designee appointed by the County Manager, 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 services. The pool may be created by the County, 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 or public improvements.

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

Services means and includes all types of services (including construction labor) other than 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 County with respect to a proposed project, procurement or other contracting opportunity. The word “solicitation” also refers to the process by which the County requests, receives and evaluates potential contractors and awards public contracts.

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

Solicitation documents means all informational materials issued by the County 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 County;
- (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; and

(6) Not been debarred by the County 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 in order to undertake or perform the work specified in the contract.

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

Section 7. Timber Sales – County Procedure. Sale of county timber does not require a declaration of surplus property. The County Manager may authorize sales of less than \$75,000. Sales with a gross value of less than \$5,000 may be sold by direct contract. Sales with gross value of \$5,000, or more shall require a competitive process in ORS 275.290 and ORS 275.340, if applicable.

Section 8. Public Contracts – Solicitation Methods for Classes of Contracts. The following classes of public contracts, and the method(s) that are approved for the award of each of the classes, are hereby established by the County Board of Commissioners.

A. Purchases from Nonprofit Agencies for Disabled Individuals. The County shall give a preference to goods, services and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of ORS 279.835 through 279.850.

B. Public Improvement Contracts.

(1) Any Public Improvement. Unless otherwise provided in these regulations or approved for a special exemption, public improvement contracts in any amount may be issued only under an invitation to bid.

(2) Non-Transportation Public Improvements Up to \$100,000. Public improvement contracts (other than contracts for a highway, bridge or other transportation project) for which the estimated contract price does not exceed \$100,000 may be awarded using an informal solicitation for quotes.

(3) Transportation Public Improvements up to \$50,000. Contracts for which the estimated contract price does not exceed \$50,000 for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes.

(4) \$100,000 Award from Qualified Pool. Contracts for construction services for which the estimated contract price does not exceed \$100,000 may be awarded by direct appointment without competition from a Qualified Pool.

C. Personal Services Contracts.

- (1) Any Personal Services Contract.** Personal services contracts in any amount may be awarded under a publicly advertised request for competitive sealed proposals.
- (2) Personal Service Contracts Not Exceeding \$150,000.** Contracts for personal services for which the estimated contract price does not exceed \$150,000 may be awarded using an informal solicitation for proposals.
- (3) \$150,000 Award from Qualified Pool.** Contracts for personal services for which the estimated contract price does not exceed \$150,000 may be awarded by direct appointment without competition from a Qualified Pool.
- (4) Personal Service Contracts for Continuation of Work.** Contracts of not more than \$150,000 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.
- (5) Contracts for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying and Related Services.** Contracts for architectural, engineering, photogrammetric mapping, transportation planning or land surveying services shall follow ORS 279C.100 to 279C.125 for selection procedures. Selection procedures for contracts estimated up to \$100,000 may be by direct appointment.
- (6) Local Contracting.** In contracting for personal services not covered under the requirements of ORS 279C.110(2), the County will make reasonable efforts to spread such contracting among local, qualified persons.

D. Hybrid Contracts. The following classes of contracts include elements of public improvement construction as well as personal services and may be awarded under a request for proposals, unless otherwise exempt from competitive solicitation.

- (1) Design/Build and CM/GC Contracts.** Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction manager/general contractor construction method must be approved by the Purchasing Manager or designee, upon application of the Solicitation Agent, in which the Solicitation Agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the County.
- (2) Energy Savings Performance Contracts.** Unless the contract qualifies for award under another classification in this Section 8, contractors for energy savings

performance contracts shall be selected under a request for proposals in accordance with the County's Public Contracting Regulations.

E. Contracts for Goods and Services.

- (1) **Any Procurement.** The procurement of goods or services, or goods and services in any amount may be made under either an invitation to bid or a request for proposals.
- (2) **Procurements Up to \$150,000.** The procurement of goods or services, or goods and services, for which the estimated contract price does not exceed \$150,000 may be made under an informal solicitation for either quotes or proposals.

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

- (1) **Advertising.** Contracts for the placing of notice or advertisements in any medium.
- (2) **Amendments.** Contract amendments shall not be considered to be separate contracts if made in accordance with the Public Contracting Regulations.
- (3) **Animals.** Contracts for the purchase of animals.
- (4) **Asphaltic Concrete, Concrete and Rock.** Contracts for asphalt, concrete or rock. Where practical, competitive quotes shall be obtained.
- (5) **Attorneys, Mediators and Hearings Officers.** Contracts for legal advice, mediation or to act as a hearings officer.
- (6) **Ballots and Voter's Pamphlet.** The printing of ballots and ballot envelopes, including ballot pages and labeling of ballot cards and the voter's pamphlet.
- (7) **Contracts Up to \$10,000.** Contracts of any type for which the contract price does not exceed \$10,000.
- (8) **Copyrighted Materials and Library Materials.** Contracts for the acquisition of materials entitled to copyright, including, but not limited to works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
- (9) **Engineers, Wetland Consultants, Geotechnical Consultants and Traffic Study Consultants.** Contracts for the hire of engineers, wetland consultants, geotechnical consultants, and traffic study engineers up to \$100,000.
- (10) **Equipment Repair.** Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without

extensive preliminary dismantling or testing. A record of the method of solicitation and award is required.

- (11) **Fish Food.** Contracts for fish food in hatcheries and net pens.
- (12) **Government Regulated Items.** Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
- (13) **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.
- (14) **Insurance.** Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.
- (15) **Information Technologies Support.** Contracts for maintenance, repair and technical support for computer hardware, software and networking systems.
- (16) **Laboratory and Medical Supplies.** Contracts for the purchase of laboratory and medical supplies including but not limited to vaccines, medication and medical/pharmaceutical supplies.
- (17) **Manufacturer Direct Supplies.** Contracts for a large volume purchase if the cost from the manufacturer is the same or less than the cost of the manufacturer charges to its distributor.
- (18) **Medical and Mental Health.** Contracts for the provision of medical services, mental health services, disability care services and drug and alcohol services.
- (19) **Non-Owned Property.** Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the County.
- (20) **Payroll Services.** Contracts for Payroll Services provided to the County.
- (20) **Petroleum Products.** Contracts for the purchase of gasoline, diesel fuel, heating oil and lubricants if quotes are obtained.
- (21) **Renewals.** Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.
- (22) **Sole Source Contracts.** Contracts for goods or services which are available from a single source may be awarded without competition.
- (23) **Sponsor Agreements.** Sponsorship agreements, under which the County receives a gift or donation in exchange for recognition of the donor.

(24) 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.

(25) Temporary Use of County-Owned Property. The County may negotiate and enter into a license, permit or other contract for the temporary use of County-owned property without using a competitive selection process if:

- (a) The contract results from an unsolicited proposal to the County based on the unique attributes of the property or the unique needs of the proposer;
- (b) The proposed use of property is consistent with the County's use of the property and the public interest; and
- (c) The County reserves the right to terminate the contract without penalty, in the event that the County determines that the contract is no longer consistent with the County's present or planned use of the property or the public interest.

(26) Temporary Workers. Contracts for the provision of temporary workers.

(27) Used Property up to \$100,000. The Purchasing Manager, for procurements up to \$100,000, may contract for the purchase of used property by negotiation if such property is suitable for the County's needs and can be purchased for a lower cost than substantially similar new property. For this purpose, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the County. The Purchasing Manager shall record the findings that support the purchase.

(28) Utilities. Contracts for the purchase of gas, electricity, heat, water, telecommunications services, and other utilities.

G. Contracts Required by Emergency Circumstances.

(1) In General. When the Purchasing Manager determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the Purchasing Manager may execute the contract without competitive selection and award or County Board of Commissioners approval; provided, however, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(2) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances: (1) document 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 County and the public; and (2) notify the County Board of Commissioners of the facts and circumstances surrounding the emergency execution of the contract.

(3) Emergency Public Improvements Contracts. A public improvement contract may only be awarded under emergency circumstances if the Purchasing Manager has made a written declaration of emergency. Any Public Improvement Contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the County Board of Commissioners grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the Purchasing Manager may waive the requirement for all or a portion of required performance and payment bonds.

H. Federal and State Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration (“GSA”) or State Purchasing through Oregon Procurement Information Network (“ORPIN”).

I. Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.

J. Surplus Property.

(1) 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 County. Factors that may be considered by the Solicitation Agent include costs of sale, administrative costs, and public benefits to the County. 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.

(a) Governments. Without competition, by transfer or sale to another County department or public agency.

(b) Auction. By publicly advertised auction to the highest bidder.

(c) Bids. By publicly advertised invitation to bid.

(d) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.

(e) 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.

(f) 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.

(g) Donation. By donation to:

- (i) Any organization operating within or providing a service to residents of the County 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.
- (2) **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.
- (3) **Personal-Use Items.** An item (or indivisible set of items) of specialized and personal use, other than police officer's handguns, 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.
- (4) **Restriction on Sale to County Employees.** County employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.
- (5) **Conveyance to Purchaser.** Upon the consummation of a sale of surplus personal property, the County shall, at the written request of purchaser, make, execute and deliver, a bill of sale signed on behalf of the County, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

Section 9. Public Contracts – Informal Solicitation Procedures. The County may use the following procedure for informal solicitation in lieu of the procedures set forth in the Model Rules.

A. Informally Solicited Quotes and Proposals.

- (1) **Solicitation of Offers.** When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the Solicitation Agent, or in any other manner which the Solicitation Agent deems suitable for obtaining competitive quotes or proposals. The Solicitation Agent shall deliver or otherwise make available to potential offerors, a written scope of work or specifications, a description of how quotes or proposals are to be submitted and description of the criteria for award.

- (2) **Award.** The Solicitation Agent shall attempt to obtain a minimum of three written quotes or proposals before making an award. If the award is made solely on the basis of price, the Solicitation Agent shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than or in addition to price, the Solicitation Agent shall award the contract to the responsible offeror that will best serve the interest of the County, based on the criteria for award.
- (3) **Records.** A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice, provided that a written record is made of the effort to obtain the quotes.

B. Qualified Pools.

- (1) **General.** To create a qualified pool, the Purchasing Manager may invite prospective contactors to submit their qualifications to the County 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.
- (2) **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 County. 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 County's appropriate department office and on the County's website.
- (3) **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 County.
- (4) **Contract.** The operation of each qualified pool may be governed by the provisions of a pool contract to which the County and all pool participants are parties. The Contract shall contain all terms required by the County, 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 County 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 County contract.

- (5) **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 County require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.
- (6) **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.
- (7) **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 County Board of Commissioners in the manner described in Section 13.

Section 10. Public Contracts – Bid, Performance and Payment Bonds.

- A. **Solicitation Agent May Require Bonds.** The Solicitation Agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.
- B. **Bid Security.** Except as otherwise exempted, the solicitations for all contracts that include the construction of a public improvement and for which the estimated contract price will exceed \$100,000 shall require bid security or, in the case of contracts for highways, bridges and other transportation projects, more than \$50,000. Bid security for a request for proposal may be based on the County's estimated contract price.
- C. **Performance Bonds.**
 - (1) **General.** Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.
 - (2) **Contracts Involving Public Improvements.** Prior to executing a contract for more than \$100,000 that includes the construction of a public improvement, or, in the case of contracts for highways, bridges and other transportation projects, more than \$50,000, the contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the County and any public agency that is providing funding for the project for which the contract was awarded.
 - (3) **Cash-in-Lieu.** The Purchasing Manager may permit the successful offeror to submit a cashier's check, certified check, or County approved irrevocable letter of credit, in lieu of all or a portion of the required performance bond.

D. Payment Bonds.

(1) **General.** Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.

(2) **Contracts Involving Public Improvements.** Prior to executing a contract for more than \$100,000 that includes the construction of a public improvement, or, in the case of contracts for highways, bridges and other transportation projects, more than \$50,000, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.

E. Design/Build Contracts. If the public improvement contract is with one Person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.

F. Construction Manager/General Contractor Contracts. If the public improvement contract is with one Person to provide construction manager and general contract services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by Subsection A. of this section upon execution of an amendment establishing the guaranteed maximum price. The County shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

G. Surety; Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon and satisfactory to the County. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the County or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the Purchasing Manager or County Counsel.

H. Emergencies. In cases of emergency, or when the interest or property of the County probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions above, unless the County Board of Commissioners requires otherwise.

Section 11. Public Contracts – Electronic Advertisement of Public Improvement Contracts. In lieu of publication of a newspaper of general circulation in the County area, the advertisement for an invitation to bid or request for proposals for a contract involving a public improvement may be published electronically by posting on the County’s website.

Section 12. Appeal of Debarment or Prequalification Decision.

- A. Right to Hearing.** Any person who has been debarred from competing for County contracts or for whom prequalification has been denied, revoked or revised may appeal the County’s decision to the County Board of Commissioners as provided in in these rules.

- B. Filing of Appeal.** The person must file a written notice of appeal with the County’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 County Manager.
 - (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 County Board of Commissioners.** Immediately upon receipt of such notice of appeal, the Purchasing Manager shall notify the County Board of Commissioners 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 County shall notify the appellant of the time and place of a hearing before the County Manager;
 - (2) On the basis of the hearing, the County Manager may determine to grant the appeal and reverse the debarment or prequalification denial. If the County Manager decides to recommend denial of the appeal, the County Manager shall make written findings and recommendations on the appeal to the County Board of Commissioners. All persons appearing at the hearing shall be provided copies of the findings and recommendations.
 - (3) Upon receipt of the County Manager’s findings and recommendation, the County Board of Commissioners 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 County Manager for further hearing; and
 - (4) At the hearing, the County Board of Commissioners 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. Board of Commissioner’s consideration of the appeal shall be on the hearing record established before the County Manager, but, at Board of Commissioner’s discretion, the parties may address the Board of Commissioners.

- E. Decision.** The County Board of Commissioners shall set forth in writing the reasons for the decision.
- F. Costs.** The County Board of Commissioners may allocate the County's costs for the hearing between the appellant and the County. The allocation shall be based upon facts found by the County Board of Commissioners and stated in the County Board of Commissioner's decision that, in the County Board of Commissioner's opinion, warrant such allocation of costs. If the County Board of Commissioners does not allocate costs, the costs shall be paid by the appellant, if the denial decision is upheld, or by the County, if the denial decision is overturned.
- G. Judicial Review.** The decision of the County Board of Commissioners may be reviewed only upon a petition in the Circuit Court of Clatsop County filed within 15 days after the date of the County Board of Commissioner's decision.

Finding 13. Miscellaneous Provisions.

The County Board of Commissioners 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; therefore, upon a determination by the Solicitation Agent that it is in the best interests of the County to do so, a time shorter than seven days may be permitted if provided in the Solicitation Document.