



CITY OF MILWAUKIE  
*"Dogwood City of the West"*

**Resolution No. 82-2013**

**A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, adopting amended public contracting rules and findings as to amendments of personal services contracts.**

**WHEREAS**, the City of Milwaukie adopted updated local public contracting rules on or about January 3, 2006; and

**WHEREAS**, since 2006, the legislature has adopted new statutes applicable to public contracting and revised rules have been drafted to comply with the new statutes; and

**WHEREAS**, the City Council has determined and is still of the opinion that the revised draft rules better suit the needs of the City than the proposed Attorney General Model Rules; and

**WHEREAS**, the City of Milwaukie finds that there will be a future need for the City to enter into public contracts and that it is therefore appropriate for the City to adopt and revise public contracting rules and revisions thereto, consistent with the state Public Contracting Code.

**Now, Therefore, be it Resolved that**

Section 1. The City Council, sitting as the local contract review board for the City of Milwaukie, hereby adopts the rules attached as Exhibit A pursuant to the authority granted the Board by Milwaukie City Code Chapter 3.05, Local Contract Review Board. These rules shall apply to personal services contracts as more specifically set forth within the proposed rules.

Section 2. The Local Contract Review Board adopts the findings in support of the amended exemptions included in Exhibit A.

Section 3. The City of Milwaukie continues to opt out of the Attorney General Model Public Contracting Rules.

Section 4. This resolution takes effect immediately upon adoption and the rules adopted under Section 1 shall be effective as to contracts that have not been advertised or entered into as of November 19, 2013. However, the public contracting rules in existence prior to this resolution shall remain in effect as to any contract entered into prior to November 19, 2013, or for which invitations to bid or requests for proposals are or have been advertised prior to November 19, 2013.

Introduced and adopted by the City Council on November 19, 2013.

This resolution is effective on November 19, 2013.



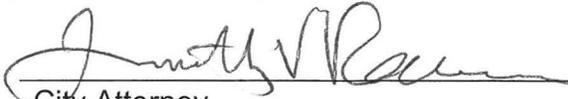
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

## Exhibit A

### Proposed Rule and Findings

#### 70.020 AMENDMENTS

A. Amendments for additional work on personal service contracts shall be permitted only if the City requests additional work of the same type. Any such amendment may not exceed 25% of the original contract value. If an additional personal services contract is to be awarded for work related to an existing personal service contract, the total value of the new and old contracts is to be considered in determining the type of selection procedure required. If a contract was originally awarded by the informal selection procedure, amendments that would result in a total contract price of more than \$150,000 are not permitted. If a contract was originally awarded by the direct appointment procedure, amendments that would result in a total contract price of more than \$50,000 are not permitted.

B. Notwithstanding the provisions in subsection (A), above, a contract for an architect, engineer, photogrammetric mapping, transportation planning, or land surveyor allowed under ORS 279C.115 may be entered into under this section so long as the following criteria are met:

1. A contract was previously awarded to the same consultant under a competitive process or an intermediate level process;
2. The City's project manager creates a memo to the project file that explains how the new contract satisfies the following requirements:
  - a. The work described in the proposed contract consists of work that was substantially described, planned, or otherwise previously studied or rendered in the earlier awarded contract;
  - b. The date of the competitive process is identified, or the other qualified consultants considered in the intermediate process are identified;
  - c. Why the work proposed in the new contract is a continuation of the earlier project; and
  - d. A statement describing why it was not possible or practicable to finish the project under the terms of the earlier agreement.
3. If a proposed amendment would increase the consultant's cost to a level at or beyond twice the value of the original agreement, the City Manager shall review and approve all such proposed amendments, even if the City Manager does not have signing authority over the amendment.

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4. Signing authority for an amendment belongs to the individual or entity with authority over the agreement given the cumulative value of the agreement. For purposes of this section cumulative value refers to the value of the original agreement, plus approved amendments, plus the value of the amendment proposed for approval.

Findings:

1. At times the City's needs change during the course of a contract and more goods, services, or work is needed to meet the City's needs. It would not be cost-effective to require a new contracting process for additional work closely related to an existing contract. It could also increase the City's project costs to hire a new consultant, unrelated to the earlier work, who must be paid for educating him or herself on an existing project, if the earlier consultant is available and willing to accept the assignment.

2. This exemption is limited to the professional disciplines identified in ORS 279C.115, thus limiting the potential for abuse. Moreover, amendments cannot exceed a limited value under this provision absent City Manager approval. These constraints discourage favoritism by causing review of extensions when projects require additional contracting not originally proposed.

3. The exemption does not discourage competition because it applies only when the existing contract was awarded by a competitive process or by intermediate level of competition. Direct appointment contracts cannot be reviewed under this section.

4. The exemption is in the public interest because it saves the cost of a competitive process to make minor amendments to an existing contract.

5. State law creates exemptions for these contracts, and the City has already adopted similar extensions for other types of personal service contracts. Thus the City's exemptions implement state law rather than create a new or special exemption.