

RESOLUTION NO. 2020 - 04

JOINT RESOLUTION OF THE BOARD OF DIRECTORS AND LOCAL CONTRACT REVIEW BOARD OPTING OUT OF THE ATTORNEY GENERAL'S MODEL PUBLIC CONTRACTING RULES AND AMENDING PUBLIC CONTRACTING RULES FOR THE LANE COUNCIL OF GOVERNMENTS

WHEREAS, it is the policy of the Lane Council of Governments (LCOG) that a sound and responsive public contracting system should allow impartial, meaningful, and open competition, preserving formal competitive selection as the standard for public contracts unless otherwise specifically exempted herein, by state law, or by subsequent ordinance or resolutions; and

WHEREAS, in 2016, LCOG opted out of the Public Contracting Model Rules adopted by the Attorney General under ORS subchapters 279A, 279B, and 279C set forth in Oregon Administrative Rules Chapter 137, Divisions 46, 47, 48 and 49 (the "Model Rules") and adopted its own rules; and

WHEREAS, the Public Contracting Code divides powers and duties for contracting into two categories: those that must be performed by the "Local Contract Review Board"; and those that must be performed by the "Contracting Agency"; and

WHEREAS, pursuant to ORS 279A.060, the LCOG Executive Committee is the Local Contract Review Board for LCOG and, as such, is authorized to act on all such matters on behalf of LCOG, adopt Public Contracting Rules, and establish procedures for amendment of such rules; and

WHEREAS, LCOG recognizes it may exempt certain public improvement contracts or classes of such contracts under ORS 279C.335; and

WHEREAS, the LCOG Board additionally requests that LCOG's Local Contract Review Board approve the classes of special procurements set forth in the attached rules, based upon the findings set forth in Exhibit A to this Resolution.

NOW, THEREFORE, it is resolved as follows:

1. The LCOG Executive Committee (Committee) is hereby designated to continue as the Local Contract Review Board of LCOG and shall have all of the rights, powers and authority necessary to carry out the provisions of Chapters 279A, 279B, and 279C (the "Public Contracting Code") and attached Rules. Except as otherwise provided in this Resolution, the definitions established in the attached Rules apply herein. The term "Contracting Agency" as used in the attached Rules includes Contracting Agency's Executive Director, his or her designee, or any other purchasing agent, as designated by LCOG policy. Those individuals are hereby designated as LCOG's Contracting Agency and may exercise all authorities, powers and duties

granted to a Contracting Agency under the Public Contracting Code and attached Rules, unless otherwise established by LCOG policy.

2. The above recitals and Exhibit A are hereby adopted by the Committee, sitting as the Local Contract Review Board, as findings of fact supporting approval of the Directors' request for classes of special procurement and public improvement contract exemptions.

3. The Model Rules adopted by the Attorney General pursuant to ORS 279A.065, including those effective January 1, 2020, do not apply to LCOG. Instead, LCOG hereby prescribes the following Rules, which include portions of the Attorney General's Model Rules, as the Rules of Procedure that LCOG will use for its public contracting: Public Contracting Rules Chapter 137, Divisions 46, 47, 48 and 49. While the numbering of these Rules reflects the numbering system of the Attorney General's Model Rules, they incorporate LCOG's changes to the Model Rules, and, therefore, are not the Attorney General's promulgated administrative rules. LCOG's exemptions are also set forth in these Rules, as numbered Exemptions 1 through 18 (E-1 through E-18). All above-referenced Rules are attached to this Resolution as Exhibit B, and incorporated herein by this reference.

4. In accordance with ORS 279A.065(6)(b), LCOG shall review its Public Contracting Rules, adopted herein, each time the Attorney General modifies its Model Rules in order to determine whether amendments are required to ensure statutory compliance.

5. Amendments to these Rules and new rules shall be adopted in accordance with this Resolution and the Public Contracting Code. Special procurement requests and approvals shall be made in accordance with Division 47 of the attached Rules and ORS 279B.085. Public improvement contract exemption procedures, including notice and public hearing requirements, shall be made in accordance with Division 49 of the attached Rules and ORS 279C.335.

6. The Model Cost Accounting Guidelines developed by the Oregon Department of Administrative Services pursuant to Section 3, Chapter 869, Oregon Laws 1979 are hereby adopted as the LCOG's Cost Accounting System to apply to public improvement projects exceeding \$5,000 and constructed with LCOG's own equipment or personnel. ORS 279C.310. For such public improvement projects estimated to cost more than \$200,000, or for certain road maintenance projects exceeding \$125,000, City shall also comply with the requirements of ORS 279C.305.

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7. All previously adopted resolutions, including Resolution No. 2020 - 04, establishing public contracting rules for LCOG are hereby repealed.

DATED this 25 day of June, 2020.

Mary Walston, Chair
Local Contract Review Board and
Board of Directors

Brendalee Wilson, Executive Director
Lane Council of Governments