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AGENDA

KEIZER CITY COUNCIL

WORK SESSION

Monday, June 10, 2024

6:00 PM

**Robert L. Simon Council Chambers
930 Chemawa Road NE
Keizer, Oregon**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. DISCUSSION**
 - a. Public Contracting Ordinance Amendments**
- 4. ADJOURNMENT**

City of Keizer Mission Statement

Keep City Government Costs And Services To A Minimum By Providing City Services To The Community In A Coordinated, Efficient, And Least Cost Fashion

"Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury."



To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Joseph Lindsay, City Attorney
Adam Brown, City Manager

Subject: Public Contracting

Proposed Motion

None--Work Session. Staff is looking for general consensus on various decision points to bring back during a general meeting.

I. Summary

Our public contracting ordinance hasn't been amended in over 15 years, with the lion's share of the ordinance being nearly 20 years old. In that time, the price for goods and services have gone up substantially, and the state law has changed significantly as well. Staff is asking to modernize our ordinance as to price and procedure to account for inflation and align more closely with state law.

II. Background

- A. Oregon's Public Contracting Code was overhauled in 2003 and became operative in March 2005. The Oregon Code allows cities to either follow the "Model Rules" adopted by the Oregon Attorney General or establish their own. The City of Keizer adopted its own ordinance April 2005 with an amendment in August 2008. The Keizer ordinance wasn't entirely different from the AG's Model Rules, but there were some slightly different procedures. Over time, the expenditure levels that trigger different processes have increased at the state level, but the Keizer ordinance was written with the older amounts in place. In 2023, the state yet again increased its procurement levels to five times that of Keizer for most procurements.
- B. Counsel has drafted an update which combines the 2005 purchasing ordinance with the 2008 amendment for a clean new ordinance.
- C. Staff presented a first draft to the City Council at a work session on April 29, 2024.

III. Current Situation

- A. Our current code requires the informal solicitation process (attempting to get three

written quotes) for most purchases or contracts between \$5,000 and \$50,000. The Model Rules have the same process for contracts between \$25,000 and \$250,000. The higher amounts that the state permits would allow us to avoid the expense and time of going out for RFPs/formal solicitations for most contracts over \$50,000 (absent exceptions).

- B. Next, our current signing authority for our City Manager is any contract under \$25,000. All amounts above \$25,000 come before the Council. This value of \$25,000 has shrunk in recent times, so a large amount of small procurements need to be set for meetings--filling up agendas and slowing down the purchasing times for items that are sometimes priced to sell. A quick survey of local cities unearthed the following expenditure levels for city managers: Medford is \$250,000, Woodburn is \$75,000, Gresham is \$150,000, Pendleton is going up to \$100,000, Wilsonville is upping theirs to \$250,000, Florence is \$75,000, and Salem is unlimited as the City Council has delegated the authority of all procurements subject to budgetary appropriations.
- C. The attached slides break out each process into decision points the council can discuss and direct staff, before coming back with a final update to a City Council meeting.

IV. **Analysis**

- A. **Strategic Impact** - No strategic impact
- B. **Financial** - If the Council's actions result in less formal solicitations/RFPs or shortened meeting times, then there will be some cost savings in advertising and staff time.
- C. **Timing** - There isn't a timeliness need, but this is a short-term goal of the current Council.
- D. **Policy/Legal** - Being more in alignment with state law (more standardized) is helpful in training new employees and negotiating with outsiders. The state amounts generally reflect our region's expected level of time and attention given to purchases using public funds. Higher amounts get more elaborate processes with more checks and balances. However, if we are using \$5,000 of staff time and resources to make a \$12,000 purchase, then we probably aren't being the best steward of public dollars.

V. **Alternatives**

- A. Discuss this ordinance and give the staff enough direction to return to a regular meeting with an ordinance for adoption.
- B. Set another work session.
- C. Do nothing and keep the current ordinance

VI. **Recommendation**

Staff recommends giving enough direction to return with an amendment more in alignment with current state law.

Attachments

1. ATT_CC_Procurement_6 10 24
2. PP_Flow Chart_City Purchasing Processes_6 2024

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To: Mayor Clark and City Council Members
Thru: Adam J. Brown, City Manager
From: Joseph Lindsay, City Attorney
Subject: Public Contracting Ordinance Amendments

Proposed Motion

No motion

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Staff recommends giving enough direction to return with an amendment more in alignment with current state law.

Attachments

- 1. DOC_WS_Comparison - Local Contracting_4 29 2024
- 2. 2005-519_2005-04-04
- 3. 2008-580_2008-08-04
- 4. ORD_WS_Local Contracting_4 29 2024

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COMPARISON
CURRENT ORDINANCE TO PROPOSED ORDINANCE
PUBLIC CONTRACTING

ORDINANCE SECTION NUMBER	CURRENT ORDINANCE	PROPOSED ORDINANCE
4	Lists classes that the contracting regulations do not apply to	References state statute only to prevent list from becoming outdated ORS 279A.025(2) – approximately 34 on the list
5(A)	City Manager has general authority up to \$25,000.00	City Manager has general authority up to \$100,000.00
6	Lists definitions	Removed definitions – will rely on state statute definitions
Current 8(B)(2) New 7(B)(2)	Needed to use amendment in Ordinance No. 2008-580	Included same language from Ordinance No. 2008-580
Current 8(B)(3) New 7(B)(3)	Needed to use amendment in Ordinance No. 2008-580 - \$50,000	Included language, but changed amount to \$25,000
Current 8(C)(2)(b) New 7(C)(2)(b)	Personal services contracts less than \$5,000 (any manner)	Less than \$25,000 (any manner)
Current 8(C)(2)(c) New 7(C)(2)(c)	Personal services contracts \$5,000, but less than \$50,000	\$25,000, but less than \$250,000
Current 8(C)(2)(d) New 7(C)(2)(d)	Personal services contracts more than \$50,000 (Informal Solicitation)	More than \$250,000 – added unless exempt under Section 7(C)(4) (Informal Solicitation)
Current 8(C)(4)(h) New 7(C)(4)(h)	Listed without dollar amount	Added under \$100,000 in accordance with ORS 279C.110(1)
Current 8(C)(4)(i) New 7(C)(4)(i)	Listed without dollar amount	Added under \$100,000 in accordance with ORS 279C.110(1)
Current 8(C)(4)(j) New 7(C)(4)(j)	Listed without dollar amount	Added under \$100,000 in accordance with ORS 279C.110(1)
Current 8(C)(4)(k) New 7(C)(4)(k)	Amendment to personal service contract shall not increase the total contract to a sum greater than \$50,000	Amendment to personal service contract shall not increase the total contract to a sum greater than 25% of the original contract
Current 8(D)(2) New 7(D)(2)	Goods and Services – up to \$150,000	Goods and Services – up to \$250,000

Current 8(E)(1) New 7(E)(1)	Solicitation Agent's Discretion – Contracts up to \$5,000	Solicitation Agent's Discretion – Contracts up to \$25,000
Current Section 11(A)(1) New Section 10(A)(1)	Department Directors authority – less than \$25,000 and not to exceed two years in length	Department Directors authority – less than \$100,000 and not to exceed three years in length
Current Section 11(A)(2) New Section 10(A)(2)	City Manager (Purchasing Manager) – less than \$25,000 and not to exceed two years in length	City Manager (Purchasing Manager) – less than \$100,000 and not to exceed three years in length
Current Section 12(B) New Section 11(B)	All contracts shall have an “Approved as to Form” line	All contracts over \$10,000 shall have an “Approved as to Form” line

1 BILL NO. 498

A BILL

ORDINANCE NO.

2

2005- 519

3

FOR

4

AN ORDINANCE

5

ESTABLISHING RULES OF PROCEDURE FOR
PUBLIC CONTRACTING AND PERSONAL SERVICES
CONTRACTS; **REPEALING ORDINANCE NO. 85-**
6 **054; REPEALING RESOLUTION R85-159 AND R98-**
7 **1016; DECLARING AN EMERGENCY**

6

7

8

9

10 WHEREAS, the Oregon Legislature adopted HB 2341 (2003 Oregon Law,
11 Chapter 794) ("The Public Contracting Code"), which was signed by the Governor, and
12 has an operative date of March 1, 2005;

13 WHEREAS, the Public Contracting Code requires the City of Keizer to adopt
14 contracting rules in areas not covered by the Public Contracting Code or "Model Rules"
15 adopted by the Oregon Attorney General;

16 NOW, THEREFORE, the City of Keizer ordains as follows:

17 Section 1. PUBLIC CONTRACTING RULES. Unless expressly provided
18 herein, or by subsequent ordinance or resolution, the Model Rules, Divisions 46, 47, and
19 49, adopted by the Attorney General under ORS 279A, 279B, and 279C, as they now
20 exist, and as they may be amended in the future are hereby adopted as the City's public
21 contracting rules. All other Model Rules adopted by the Attorney General under ORS
22 279A, 279B and 279C do not apply except as may be provided herein. Words and
23 phrases used by these rules that are defined in ORS subchapters 279A, 279B, and 279C

1 and in the Model Rules, have the same meaning as defined in ORS subchapters 279A,
2 279B, and 279C and the Model Rules. In the event that these Rules or subsequently
3 adopted local public contracting rules conflict with the Model Rules, then the local
4 public contracting rules apply. The following rules are adopted as the City's public
5 contracting rules.

6 Section 2. LOCAL CONTRACT REVIEW BOARD. The City Council of the
7 City of Keizer is designated as the Local Contract Review Board under the State of
8 Oregon "Public Contracting Code" (ORS Chapter 279A, 279B, and 279C). The Local
9 Contract Review Board may delegate its powers and responsibilities consistent with the
10 Oregon Public Contracting Code, the Model Rules, and other related City ordinances and
11 resolutions.

12 Section 3. PUBLIC CONTRACTS - REGULATION BY CITY COUNCIL.
13 Except as expressly delegated under these regulations, the City Council reserves to itself
14 the exercise of all of the duties and authority of a contract review board and a contracting
15 agency under state law, including, but not limited to, the power and authority to:

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

19 B. **Brand Name Specifications.** Exempt the use of brand name specifications
20 for public improvement contracts;

1 **C. Waiver of Performance and Payment Bonds.** Approve the partial or
2 complete waiver of the requirement for the delivery of a performance or payment bond
3 for construction of a public improvement, other than in cases of emergencies;

4 **D. Electronic Advertisement of Public Improvement Contracts.** Authorize
5 the use of electronic advertisements for public improvement contracts in lieu of
6 publication in a newspaper of general circulation;

7 **E. Appeals of Debarment and Prequalification Decisions.** Hear properly filed
8 appeals of the purchasing manager's determination of debarment, or concerning
9 prequalification;

10 **F. Rulemaking.** Adopt contracting rules under ORS 279A.065 and ORS
11 279A.070 including, without limitation, rules for the procurement, management, disposal
12 and control of goods, services, personal services and public improvements; and

13 **G. Award.** Award all contracts that exceed the authority of the Purchasing
14 Manager.

15 Section 4. APPLICATION OF PUBLIC CONTRACTING REGULATIONS. In
16 accordance with ORS 279A.025, the City of Keizer's public contracting regulations and
17 the Oregon Public Contracting Code do not apply to the following classes of contracts:

18 **A. Between Governments.** Contracts between the City of Keizer and a public
19 body or agency of the State of Oregon or its political subdivisions, or between the City
20 of Keizer and an agency of the federal government.

1 **B. Grants.** A grant contract is an agreement under which the City of Keizer is
2 either a grantee or a grantor of moneys, property or other assistance, including loans,
3 loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for
4 the purpose of supporting or stimulating a program or activity of the grantee and in
5 which no substantial involvement by the grantor is anticipated in the program or activity
6 other than involvement associated with monitoring compliance with the grant conditions.
7 The making or receiving of a grant is not a public contract subject to the Oregon Public
8 Contracting Code; however, any grant made by the City of Keizer for the purpose of
9 constructing a public improvement or public works project shall impose conditions on
10 the grantee that ensure that expenditures of the grant to design or construct the public
11 improvement or public works project are made in accordance with the Oregon Public
12 Contracting Code and these regulations.

13 **C. Legal Witnesses and Consultants.** Contracts for professional or expert
14 witnesses or consultants to provide services or testimony relating to existing or potential
15 litigation or legal matters in which the City of Keizer is or may become interested.

16 **D. Real Property.** Acquisitions or disposals of real property or interests in real
17 property.

18 **E. Textbooks.** Contracts for the procurement or distribution of textbooks.

19 **F. Oregon Corrections Enterprises.** Procurements from an Oregon corrections
20 enterprises program.

1 **G. Finance.** Contracts, agreements or other documents entered into, issued or
2 established in connection with:

3 (1) The incurring of debt by the City of Keizer, including any associated
4 contracts, agreements or other documents, regardless of whether the obligations
5 that the contracts, agreements or other documents establish are general, special
6 or limited;

7 (2) The making of program loans and similar extensions or advances of
8 funds, aid or assistance by the City of Keizer to a public or private Person for the
9 purpose of carrying out, promoting or sustaining activities or programs authorized
10 by law other than for the construction of public works or public improvements;

11 (3) The investment of funds by the City of Keizer as authorized by law.

12 **H. Employee Benefits.** Contracts for employee benefit plans as provided in ORS
13 243.105(1), 243.125(4), 243.221, 243.275, 243.291, 243.303 and 243.565.

14 **I. Exempt Under State Laws.** Any other public contracting specifically
15 exempted from the Oregon Public Contracting Code by another provision of law.

16 **J. Federal Law.** Except as otherwise expressly provided in ORS 279C.800 to
17 279C.870, applicable federal statutes and regulations govern when federal funds are
18 involved and the federal statutes or regulations conflict with any provision of the Oregon
19 Public Contracting Code or these regulations, or require additional conditions in public
20 contracts not authorized by the Oregon Public Contracting Code or these regulations.

1 Section 5. PUBLIC CONTRACTS - AUTHORITY OF PURCHASING
2 MANAGER.

3 A. **General Authority.** The City Manager shall be the purchasing manager for
4 the City of Keizer and is hereby authorized to issue all solicitations and to award all City
5 of Keizer contracts for which the contract price does not exceed \$25,000.00. Subject to
6 the provisions of this Ordinance, the purchasing manager may adopt and amend all
7 solicitation materials, contracts, and forms required or permitted to be adopted by
8 contracting agencies under the Oregon Public Contracting Code or otherwise convenient
9 for the City of Keizer's contracting needs. The purchasing manager shall hear all
10 solicitation and award protests.

11 B. **Delegation of Purchasing Manager's Authority.** Any of the responsibilities
12 or authorities of the purchasing manager under this Ordinance may be delegated and sub-
13 delegated by written directive.

14 C. **Mandatory Review of Rules.** Whenever the Oregon State Legislative
15 Assembly enacts laws that cause the attorney general to modify its Model Rules, the
16 Purchasing Manager shall review the Public Contracting Regulations, other than the
17 Model Rules, and recommend to the City Council any modifications required to ensure
18 compliance with statutory changes.

19 Section 6. PUBLIC CONTRACTS - DEFINITIONS. The following terms used
20 in these regulations shall have the meanings set forth below.

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

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

6 **Concession agreement** means a contract that authorizes and requires a private
7 entity or individual to promote or sell, for its own business purposes, specified types of
8 goods or services from real property owned or managed by the City of Keizer, and under
9 which the concessionaire makes payments to the City of Keizer based, at least in part,
10 on the concessionaire's revenues or sales. The term "concession agreement" does not
11 include a mere rental agreement, license or lease for the use of premises.

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

14 **Contract review board or local contract review board** means the Keizer City
15 Council.

16 **Cooperative procurement** means a procurement conducted by or on behalf of
17 one or more contracting agencies.

18 **Debarment** means a declaration by the Purchasing Manager under ORS
19 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the
20 City of Keizer's public contracts for a prescribed period of time.

1 **Disposal** means any arrangement for the transfer of property by the City of Keizer
2 under which the City of Keizer relinquishes ownership.

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

6 **Energy savings performance contract** means a contract with a qualified energy
7 service company for the identification, evaluation, recommendation, design and
8 construction of energy conservation measures that guarantee energy savings or
9 performance.

10 **Findings** are the statements of fact that provide justification for a determination.
11 Findings may include, but are not limited to, information regarding operation, budget and
12 financial data; public benefits; cost savings; competition in public contracts; quality and
13 aesthetic considerations, value engineering; specialized expertise needed; public safety;
14 market conditions; technical complexity; availability, performance and funding sources.

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

18 **Informal solicitation** means a solicitation made in accordance with the City of
19 Keizer's Public Contracting Regulations to a limited number of potential contractors, in
20 which the Solicitation Agent attempts to obtain at least three written quotes or proposals.

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

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

4 **Offeror** means a person who submits a bid, quote or proposal to enter into a
5 public contract with the City of Keizer.

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

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

9 **Proposal** means a binding offer to provide goods, services or public
10 improvements with the understanding that acceptance will depend on the evaluation of
11 factors other than, or in addition to, price. A Proposal may be made in response to a
12 request for proposals or under an informal solicitation.

13 **Personal services contract** means a contract with an independent contractor
14 predominantly for services that require special training or certification, skill, technical,
15 creative, professional or communication skills or talents, unique and specialized
16 knowledge, or the exercise of judgment skills, and for which the quality of the service
17 depends on attributes that are unique to the service provider. Such services include, but
18 are not limited to, the services of architects, engineers, land surveyors, "related services"
19 as defined in ORS 279C.100 (6), attorneys, auditors and other licensed professionals,
20 artists, designers, computer programmers, performers, consultants and property

1 managers. The City Manager shall have discretion to determine whether additional types
2 of services not specifically mentioned in this paragraph fit within the definition of
3 personal services.

4 **Public contract** means a sale or other disposal, or a purchase, lease, rental or
5 other acquisition, by the City of Keizer of personal property, services, including personal
6 services, public improvements, public works, minor alterations, or ordinary repair or
7 maintenance necessary to preserve a public improvement.

8 **Public improvement** means a project for construction, reconstruction or major
9 renovation on real property by or for the City of Keizer. "Public improvement" does not
10 include:

11 (1) Projects for which no funds of the City of Keizer are directly or
12 indirectly used, except for participation that is incidental or related primarily to
13 project design or inspection; or

14 (2) Emergency work, minor alteration, ordinary repair or maintenance
15 necessary to preserve a public improvement.

16 **Purchasing Manager** means the City Manager or designee appointed by the City
17 Manager to exercise the authority of the purchasing manager under these public
18 contracting regulations.

19 **Qualified pool** means a pool of vendors who are pre-qualified to compete for the
20 award of contracts for certain types of contracts or to provide certain types of services.

1 **Quote** means a price offer made in response to an informal or qualified pool
2 solicitation to provide goods, services or public improvements.

3 **Request for proposals** means a publicly advertised request for sealed competitive
4 proposals.

5 **Services** means and includes all types of services (including construction labor)
6 other than personal services.

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

12 **Solicitation Agent** means with respect to a particular solicitation or contract, the
13 City of Keizer employee charged with responsibility for conducting the solicitation and
14 making a award, or making a recommendation on award to the purchasing manager or
15 City Council as appropriate.

16 **Solicitation documents** means all informational materials issued by the City of
17 Keizer for a solicitation, including, but not limited to advertisements, instructions,
18 submission requirements and schedules, award criteria, contract terms and specifications,
19 and all laws, regulations and documents incorporated by reference.

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

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

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

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

13 (4) Qualified legally to contract with the City of Keizer;

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

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(6) Not been debarred by the City of Keizer, 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.

Surplus property means personal property owned by the City of Keizer which is no longer needed for use by the department to which such property has been assigned.

Section 7. PUBLIC CONTRACTS - PROCESS FOR APPROVAL OF SPECIAL SOLICITATION METHODS AND EXEMPTIONS.

A. Authority of City Council. In its capacity as contract review board for the City of Keizer, the City Council, upon its own initiative, or upon request of the purchasing manger, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

B. Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the City Council that contains the following:

(1) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;

(2) The estimated contract price or cost of the project, if relevant;

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(3) Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;

(4) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

(5) A description of the proposed alternative contracting methods to be employed; and

(6) The estimated date by which it would be necessary to let the contract(s).

In making a determination regarding a special selection method, the City Council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

C. Hearing.

(1) The City of Keizer shall approve the special solicitation or exemption after a public hearing before the City Council following notice by publication in at least one newspaper of general circulation in the City of Keizer area.

1 (2) At the public hearing, the City of Keizer shall offer an opportunity for
2 any interested party to appear and present comment.

3 (3) The City Council will consider the findings and may approve the
4 exemption as proposed or as modified by the City Council after providing an
5 opportunity for public comment.

6 **D. Special Requirements for Public Improvement Contracts.**

7 (1) Notification of the public hearing for exemption of a public
8 improvement contract, or class of public improvement contracts, shall be
9 published in a trade newspaper of general statewide circulation at least 14 days
10 prior to the hearing.

11 (2) The notice shall state that the public hearing is for the purpose of
12 taking comments on the City of Keizer's draft findings for an exemption from the
13 standard solicitation method. At the time of the notice, copies of the draft findings
14 shall be made available to the public.

15 **E. Commencement of Solicitation Prior to Approval.** A solicitation may be
16 issued prior to the approval of a special exemption under this section, provided that the
17 closing of the solicitation may not be earlier than five days after the date of the hearing
18 at which the City Council approves the exemption. If the City Council fails to approve

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1 a requested exemption, or requires the use of a solicitation procedure other than the
2 procedures described in the issued solicitation documents, the issued solicitation may
3 either be modified by addendum, or cancelled.

4 Section 8. PUBLIC CONTRACTS - SOLICITATION METHODS FOR
5 CLASSES OF CONTRACTS. The following classes of public contracts and the
6 method(s) that are approved for the award of each of the classes are hereby established
7 by the City Council.

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

12 **B. Public Improvement Contracts.**

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

16 (2) **Non-Transportation Public Improvements Up to \$100,000.** Public
17 improvement contracts other than contracts for a highway, bridge or other
18 transportation project for which the estimated contract price does not exceed
19 \$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.

C. Personal Service Contracts.

(1) **Purpose.** Personal Service Contracts will be used to retain the services of independent contractors. Nothing in this section shall apply to the employment of regular City employees.

(2) **Selection Rules and Procedures.**

(a) Personal services contracts in any amount may be awarded under a publicly advertised request for competitive sealed proposals.

(b) For Personal Service Contracts that are estimated to cost less than \$5,000.00, the Solicitation Agent may award a contract for such services to any qualified contractor in any manner which the Solicitation Agent deems appropriate to the City of Keizer's needs including direct appointment. The Solicitation Agent shall make a record of the method of award.

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(c) For Personal Service Contracts estimated to cost \$5,000.00, but less than \$50,000.00, the Solicitation Agent may award a contract using Informal Solicitation Procedures.

(d) For Personal Service Contracts estimated to cost \$50,000.00 or more, the Solicitation Agent shall use the formal competitive selection procedures set forth in ORS 279B.060 (Competitive Sealed Proposals).

(3) Screening Criteria. The following criteria shall be considered in the evaluation and selection of a Qualified Personal Service Contractor:

(a) Specialized experience in the type of work to be performed.

(b) Capacity and capability to perform the work, including any specialized services within the time limitations for the work.

(c) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration, where applicable.

(d) Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of designing or techniques peculiar to it, where applicable.

(e) Cost of the services.

(f) Any other relevant criteria listed in the solicitation document for the contract.

(4) **Exempt Personal Service Contracts.** The contracts or classes of contracts for personal services set forth in this sub-paragraph are exempt from the rules and procedures set forth in Section 8 C (2) of this Ordinance and the Model Rules. The Solicitation Agent may award or recommend an award of a contract for the following services to any qualified contractor in any manner which the Solicitation Agent deems appropriate to the City of Keizer's needs including direct appointment:

(a) Accountants for non-routine or specialized accounting services.

(b) Appraisers.

(c) Psychiatrists and Psychologists.

(d) Dentists.

(e) Physicians.

(f) Artists.

(g) Attorneys for non-routine or specialized legal services.

(h) Architects for non-routine or specialized services.

(i) Engineers for non-routine or specialized services.

(j) Land Surveyors for non-routine or specialized services.

(k) An amendment to a personal service contract awarded under Section 8C herein, but the cumulative amendments shall not increase the total contract price to a sum greater than \$50,000.

(l) Any other personal service contract or class of contracts that the City Council identifies as exempt Personal Service Contracts.

D. 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 using either quotes or proposals.

E. 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 City of Keizer's needs, including by direct appointment or purchase. Except where otherwise provided the Solicitation Agent shall make a record of the method of award.

(1) **Contracts Up to \$5,000.** Contracts of any type for which the contract price does not exceed \$5,000 without a record of the method of award.

Section 9. **PUBLIC CONTRACTS - INFORMAL SOLICITATION PROCEDURES.** The City of Keizer may use the following procedure for informal solicitations 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, 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 City of Keizer, 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.

Section 10. PUBLIC CONTRACTS - ELECTRONIC ADVERTISEMENT OF PUBLIC IMPROVEMENT CONTRACTS. In lieu of publication in a newspaper of

general circulation in the City of Keizer metropolitan 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 City of Keizer's website, provided that the following conditions are met:

A. The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and

B. The Solicitation Agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the City of Keizer metropolitan area and will provide costs savings for the City of Keizer, or that the use of electronic publication will be more effective than publication in a newspaper of general

1 circulation in the City of Keizer metropolitan area in encouraging meaningful
2 competition.

3 Section 11. CONTRACT AWARD AND EXECUTION AUTHORITY.

4 A. The following officials are delegated the authority specified in this section.

5 1. The Department Directors are the Solicitation Agents and may award
6 and execute contracts for goods and services, public improvements and personal
7 services estimated to cost less than \$25,000.00 for appropriations made in the
8 City of Keizer budget and under the Department Director's control. The
9 Department Directors are not authorized to award or execute contracts exceeding
10 two years in length.

11 2. The Purchasing Manager is the Solicitation Agent and may award and
12 execute contracts for goods and services, public improvements and personal
13 services estimated to cost less than \$25,000.00 for appropriations in the City of
14 Keizer budget which are not under control of Department Directors. The
15 Purchasing Manager is not authorized to award or execute contracts exceeding
16 two years in length.

17 3. The City Council shall award and direct execution of all other contracts.

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1 Section 12. CONTRACT EXECUTION REQUIREMENTS.

2 A. All contracts to which the City is a party shall have a uniform signature block
3 which shall include a signature line for the City Manager or Department Director and
4 City Recorder.

5 B. All contracts shall have an "Approved as to Form" line to be signed by the
6 City Attorney. The signature indicates that the City Attorney has approved the contract
7 format, but not its contents.

8 C. For all contracts requiring City Council approval, the City Council shall adopt
9 a resolution authorizing appropriate execution of the contract. Each resolution shall have
10 a copy of the subject contract attached to it.

11 D. All deeds, easements, and other documents to be recorded shall have notary
12 acknowledgments.

13 Section 13. LOCATION OF ORIGINAL CONTRACTS. All original contracts
14 shall be maintained by the office of the City Recorder. This requirement in no way
15 restricts any department from keeping a copy of the contract for use in the department.

16 Section 14. REPEAL. Ordinance No. 85-054, Resolution R85-159 and R98-
17 1016 are repealed.

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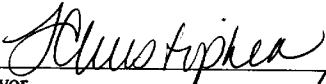
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1 Section 15. EFFECTIVE DATE. This Ordinance being necessary for the
2 immediate preservation of the public health, safety and welfare, an emergency is
3 declared to exist and this Ordinance shall take effect immediately upon its passage.

4 PASSED this 4th day of April, 2005.

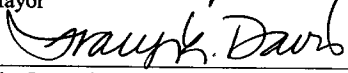
5 SIGNED this 4th day of April, 2005.

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Mayor

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City Recorder

1 BILL NO. 559

A BILL

ORDINANCE NO.

2008- 580

3 FOR

4
5 AN ORDINANCE

6
7 AMENDING RULES OF PROCEDURE FOR PUBLIC
8 CONTRACTING; DECLARING AN EMERGENCY;
9 (AMENDING ORDINANCE NO. 2005-519)

10
11 WHEREAS, the State of Oregon has amended Oregon Revised Statute 279C.335
12 describing the competitive bidding exceptions and exemptions for public improvement
13 contracts;

14 WHEREAS, the City of Keizer prefers that its public contracting procedures
15 parallel state law;

16 NOW, THEREFORE, the City of Keizer ordains as follows:

17 Section 1. AMENDMENT OF SECTION 8.B.(2) REGARDING PUBLIC
18 IMPROVEMENT CONTRACTS. Ordinance No. 2005-519 (Establishing Rules of
19 Procedure for Public Contracting and Personal Services Contracts; Repealing Ordinance
20 No. 85-054; Repealing Resolution R85-159 and R98-1016; Declaring an Emergency) is
21 hereby amended at Section 8, Subsection B.(2) to read as follows:

22 “ (2) **Public Improvements Up to \$100,000.** Public
23 improvement contracts for which the contract price does not
24 exceed \$100,000 may be awarded using an informal solicitation
25 for quotes.”

1 Section 2. AMENDMENT OF SECTION 8.B.(3) REGARDING PUBLIC
2 IMPROVEMENT CONTRACTS. Ordinance No. 2005-519 (Establishing Rules of
3 Procedure for Public Contracting and Personal Services Contracts; Repealing Ordinance
4 No. 85-054; Repealing Resolution R85-159 and R98-1016; Declaring an Emergency) is
5 hereby amended at Section 8, Subsection B.(3) to read as follows:

6 “(3) **Public Improvements Up to \$5,000.** Public improvement
7 contracts with a contract price less than \$5,000 may be awarded
8 in any manner which the solicitation agent deems appropriate
9 and will best serve the City of Keizer’s needs provided that the
10 solicitation agent will make a record of the method of award.”

11 Section 3. ORDINANCE REMAINS IN EFFECT. Except as amended herein,
12 Ordinance No. 2005-519 (Establishing Rules of Procedure for Public Contracting and
13 Personal Services Contracts; Repealing Ordinance No. 85-054; Repealing Resolution
14 R85-159 and R98-1016; Declaring an Emergency) remains in full force and effect.

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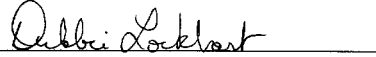
1 Section 4. EFFECTIVE DATE. This Ordinance being necessary for the immediate
2 preservation of the public health, safety and welfare, an emergency is declared to exist
3 and this Ordinance shall take effect immediately upon its passage.

4 PASSED this 4th day of August, 2008.

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6 SIGNED this 4th day of August, 2008.

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10 Mayor

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13 Deputy City Recorder

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A BILL
FOR
AN ORDINANCE

ORDINANCE NO.
2024-_____

ESTABLISHING RULES OF PROCEDURE FOR PUBLIC
CONTRACTING AND PERSONAL SERVICES CONTRACTS;
**REPEALING ORDINANCE NO. 2005-519 AND ORDINANCE
NO. 2008-580**

WHEREAS, the Oregon Legislature adopted HB 2341 (2003 Oregon Law,
Chapter 794) (“The Public Contracting Code”), which was signed by the Governor, and
had an operative date of March 1, 2005;

WHEREAS, the Public Contracting Code required the City of Keizer to adopt
contracting rules in areas not covered by the Public Contracting Code or “Model Rules”
adopted by the Oregon Attorney General;

WHEREAS, the City Council adopted contracting rules on April 4, 2005 by
Ordinance No. 2005-519;

WHEREAS, the City Council adopted amendments to its contracting rules on
August 4, 2008 by Ordinance No. 2008-580;

WHEREAS, the City of Keizer desires to replace its existing contracting rules
with the contracting procedures set forth herein;

The City of Keizer ordains as follows:

Section 1. PUBLIC CONTRACTING RULES. Unless expressly provided
herein, or by subsequent ordinance or resolution, the Model Rules, Divisions 46, 47, and

1 49, adopted by the Attorney General under ORS 279A, 279B, and 279C, as they now
2 exist, and as they may be amended in the future are hereby adopted as the City’s public
3 contracting rules. All other Model Rules adopted by the Attorney General under ORS
4 279A, 29B and 279C do not apply except as may be provided herein. Words and
5 phrases used by these rules that are defined in ORS subchapters 279A, 279B, and 279C
6 and in the Model Rules, have the same meaning as defined in ORS subchapters 279A,
7 279B, and 279C and the Model Rules. In the event that these Rules or subsequently
8 adopted local public contracting rules conflict with the Model Rules, then the local
9 public contracting rules apply. The following rules are adopted as the City’s public
10 contracting rules.

11 Section 2. LOCAL CONTRACT REVIEW BOARD. The City Council of the
12 City of Keizer is designated as the Local Contract Review Board under the State of
13 Oregon “Public Contracting Code” (ORS Chapter 279A, 279B, and 279C). The Local
14 Contract Review Board may delegate its powers and responsibilities consistent with the
15 Oregon Public Contracting Code, the Model Rules, and other related City ordinances
16 and resolutions.

17 Section 3. PUBLIC CONTRACTS – REGULATION BY CITY COUNCIL.
18 Except as expressly delegated under these regulations, the City Council reserves to itself
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1 the exercise of all of the duties and authority of a contract review board and a
2 contracting agency under state law, including, but not limited to, the power and authority
3 to:

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

7 **B. Brand Name Specifications.** Exempt the use of brand name specifications
8 for public improvement contracts;

9 **C. Waiver of Performance and Payment Bonds.** Approve the partial or
10 complete waiver of the requirement for the deliver of a performance or payment bond
11 for construction of a public improvement, other than in cases of emergencies;

12 **D. Electronic Advertisement of Public Improvement Contracts.** Authorize
13 the use of electronic advertisements for public improvement contracts in lieu of
14 publication in a newspaper of general circulation;

15 **E. Appeals of Debarment and Prequalification Decisions.** Hear properly filed
16 appeals of the purchasing manager's determination of debarment, or concerning
17 prequalification;

1 **F. Rulemaking.** Adopt contracting rules under ORS 279A.050, ORS 279A.065,
2 and ORS 279A.070 including, without limitation, rules for the procurement,
3 management, disposal and control of goods, services, personal services and public
4 improvements;

5 **G. Award.** Award all contracts that exceed the authority of the purchasing
6 manager.

7 Section 4. APPLICATION OF PUBLIC CONTRACTING REGULATIONS.

8 The City of Keizer’s public contracting regulations and the Oregon Public Contracting
9 Code do not apply to the classes described in ORS 279A.025(2).

10 Section 5. PUBLIC CONTRACTS – AUTHORITY OF PURCHASING
11 MANAGER.

12 **A. General Authority.** The city manager shall be the purchasing manager for
13 the City of Keizer and is hereby authorized to issue all solicitations and to award all City
14 of Keizer contracts for which the contract price does not exceed \$100,000. Subject to
15 the provisions of this ordinance, the purchasing manager may adopt and amend all
16 solicitation materials, contracts, and forms required or permitted to be adopted by
17 contracting agencies under the Oregon Public Contracting Code or otherwise convenient
18 for the City of Keizer’s contracting needs. The purchasing manager shall hear all
19 solicitation and award protests.

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1 **B. Delegation of Purchasing Manager’s Authority.** Any of the responsibilities
2 or authorities of the purchasing manager under this ordinance may be delegated and
3 subdelegated by written directive by the purchasing manager.

4 **C. Mandatory Review of Rules.** Whenever the Oregon State Legislative
5 Assembly enacts laws that cause the attorney general to modify its Model Rules, the
6 purchasing manager shall review the Public Contracting Regulations, other than the
7 Model Rules, and recommend to the City Council any modifications required to ensure
8 compliance with statutory changes.

9 Section 6. PUBLIC CONTRACTS – PROCESS FOR APPROVAL OF
10 SPECIAL SOLICITATION METHODS AND EXEMPTIONS.

11 **A. Authority of City Council.** In its capacity as contract review board for the
12 City of Keizer, the City Council, upon its own initiative, or upon request of the
13 purchasing manager, may create special selection, evaluation and award procedures for,
14 or may exempt from competition, the award of a specific contract or class of contracts as
15 provided in this section.

16 **B. Basis for Approval.** The approval of a special solicitation method or
17 exemption from competition must be based upon a record before the City Council that
18 contains the following:

- 19 (1) The nature of the contract or class of contracts for which the special
20 solicitation or exemption is requested;

1 (2) The estimated contract price or cost of the project, if relevant;

2 (3) Findings to support the substantial cost savings, enhancement in
3 quality or performance or other public benefit anticipated by the proposed
4 selection method or exemption from competitive solicitation;

5 (4) Findings to support the reason that approval of the request would be
6 unlikely to encourage favoritism or diminish competition for the public contract
7 or class of public contracts, or would otherwise substantially promote the public
8 interest in a manner that could not practicably be realized by complying with the
9 solicitation requirements that would otherwise be applicable under these
10 regulations;

11 (5) A description of the proposed alternative contracting methods to be
12 employed;

13 (6) The estimated date by which it would be necessary to let the
14 contract(s).

15 In making a determination regarding a special selection method, the City Council may
16 consider the type, cost, amount of the contract or class of contracts, number of persons
17 available to make offers, and such other factors as it may deem appropriate.

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1 **C. Hearing.**

2 (1) The City of Keizer shall approve the special solicitation or exemption
3 after a public hearing before the City Council following notice by publication in a
4 least one newspaper of general circulation in the City of Keizer area.

5 (2) At the public hearing, the City of Keizer shall offer an opportunity for
6 any interested party to appear and present comment.

7 (3) The City Council will consider the findings and may approve the
8 exemption as proposed or as modified by the City Council after providing an
9 opportunity for public comment.

10 **D. Special Requirements for Public Improvement Contracts.**

11 (1) Notification of the public hearing for exemption of a public
12 improvement contract, or class of public improvement contracts, shall be
13 published in a trade newspaper of general statewide circulation at least 14 days
14 prior to the hearing.

15 (2) The notice shall state that the public hearing is for the purpose of
16 taking comments on the City of Keizer's draft findings for an exemption from the
17 standard solicitation method. At the time of the notice, copies of the draft
18 findings shall be made available to the public.

19 **E. Commencement of Solicitation Prior to Approval.** A solicitation may be
20 issued prior to the approval of a special exemption under this section, provided that the

1 closing of the solicitation may not be earlier than five days after the date of the hearing
2 at which the City Council approves the exemption. If the City Council fails to approve a
3 requested exemption, or requires the use of a solicitation procedure other than the
4 procedures described in the issued solicitation documents, the issued solicitation may
5 either be modified by addendum, or cancelled.

6 Section 7. PUBLIC CONTRACTS – SOLICITATION METHODS FOR
7 CLASSES OF CONTRACTS. The following classes of public contracts and the
8 method(s) that are approved for the award of each of the classes are hereby established
9 by the City Council.

10 **A. Purchases from Nonprofit Agencies for Disable Individuals.** The City of
11 Keizer shall give a preference to goods, services and public improvements available
12 from qualified nonprofit agencies for disabled individuals in accordance with the
13 provisions of ORS 279.835 through 279.850.

14 **B. Public Improvement Contracts.**

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

18 (2) **Public Improvements Up to \$100,000.** Public improvement
19 contracts for which the contract price does not exceed \$100,000 may be awarded
20 using an informal solicitation for quotes.

1 (3) **Public Improvements Under \$25,000.** Public improvement
2 contracts with a contract price less than \$25,000 may be awarded in any manner
3 which the solicitation agent deems appropriate and will best serve the City of
4 Keizer's needs provided that the solicitation agent will make a record of the
5 method of award.

6 **C. Personal Service Contracts.**

7 (1) Personal Service Contracts will be used to retain the services of
8 independent contractors. Nothing in this section shall apply to the employment of
9 City employees.

10 (2) Selection Rules and Procedures.

11 (a) Personal services contracts in any amount may be awarded
12 under a publicly advertised request for competitive sealed proposals.

13 (b) For Personal Service Contracts that are estimated to cost less
14 than \$25,000.00, the solicitation agent may award a contract for such
15 services to any qualified contractor in any manner which the solicitation
16 agent deems appropriate to the City of Keizer's needs including direct
17 appointment. The solicitation agent shall make a record of the method of
18 award.

1 (c) For Personal Service Contracts estimated to cost \$25,000.00,
2 but less than \$250,000.00, the solicitation agent may award a contract
3 using Informal Solicitation Procedures.

4 (d) For Personal Service Contracts estimated to cost \$250,000.00
5 or more, the solicitation agent shall use the formal competitive selection
6 procedures set forth in ORS 279B.060 (Competitive Sealed Proposals),
7 unless exempt under Section 7(C)(4) herein.

8 (3) Screening Criteria. The following criteria shall be considered in the
9 evaluation and selection of a Qualified Personal Service Contractor:

10 (a) Specialized experience in the type of work to be performed.

11
12 (b) Capacity and capability to perform the work, including any
13 specialized services within the time limitations for the work.

14 (c) Educational and professional record, including past record of
15 performance on contracts with governmental agencies and private parties
16 with respect to cost control, quality of work, ability to meet schedules, and
17 contract administration, where applicable.

18 (d) Availability to perform the assignment and familiarity with the
19 area in which the specific work is located, including knowledge of design
20 or techniques peculiar to it, where applicable.

1 (e) Cost of the services.

2 (f) Any other relevant criteria listed in the solicitation document
3 for the contract.

4 (4) Exempt Personal Service Contracts. The contracts or classes of
5 contracts for personal services set forth in this sub-paragraph are exempt from the
6 rules and procedures set forth in Section 7(C)(2) of this ordinance and the Model
7 Rules. The solicitation agent may award or recommend an award of a contract for
8 the following services to any qualified contractor in any manner which the
9 solicitation agent deems appropriate to the City of Keizer's needs including direct
10 appointment:

11 (a) Accountants for non-routine or specialized accounting services.

12 (b) Appraisers.

13 (c) Psychiatrists and Psychologists.

14 (d) Dentists.

15 (e) Physicians.

16 (f) Artists.

17 (g) Attorneys for non-routine or specialized legal services.

18 (h) Architects for non-routine or specialized services under
19 \$100,000 in accordance with ORS 279C.110(10).

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1 (i) Engineers for non-routine or specialized services under
2 \$100,000 in accordance with ORS 279C.110(10).

3 (j) Land Surveyors for non-routine or specialized services under
4 \$100,000 in accordance with ORS 279C.110(10).

5 (k) An amendment to a personal service contract awarded under
6 Section 7(C) herein, but the cumulative amendments shall not increase the
7 total contract price to a sum greater than 25% of the original contract.

8 (l) Any other personal service contract or class of contracts that the
9 City Council identifies as exempt Personal Service Contracts.

10 **D. Contracts for Goods and Services.**

11 (1) Any Procurement. The procurement of goods or services, or goods
12 and services in any amount may be made under either an invitation to bid or a
13 request for proposals.

14 (2) Procurements Up to \$250,000. The procurement of goods or services,
15 or goods and services, for which the estimated contract price does not exceed
16 \$250,000 may be made under an Informal Solicitation using either quotes or
17 proposals.

18 **E. Contracts Subject to Award at Solicitation Agent's Discretion.** The
19 following classes of contracts may be awarded in any manner which the solicitation
20 agent deems appropriate to the City of Keizer's needs, including by direct appointment

1 or purchase. Except where otherwise provided, the solicitation agent shall make a record
2 of the method of award.

3 (1) Contracts Under \$25,000. Contracts of any type for which the contract
4 price does not exceed \$25,000 without a record of the method of award.

5 Section 8. PUBLIC CONTRACTS – INFORMATION SOLICITATION
6 PROCEDURES. The City of Keizer may use the following procedure for information
7 solicitations in lieu of the procedures set forth in the Model Rules.

8 **A. Informally Solicited Quotes and Proposals.**

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

17 (2) Award. The solicitation agent shall attempt to obtain a
18 minimum of three written quotes or proposals before making an award. If
19 the award is made solely on the basis of price, the solicitation agent shall
20 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 City of Keizer, 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.

Section 9. PUBLIC CONTRACTS – ELECTRONIC ADVERTISEMENT OF PUBLIC IMPROVEMENT CONTRACTS. In lieu of publication in a newspaper of general circulation in the City of Keizer metropolitan 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 City of Keizer's website, provided that the following conditions are met:

A. The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and

B. The solicitation agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication

1 in a newspaper of general circulation in the City of Keizer metropolitan area and
2 will provide costs savings for the City of Keizer, or that the use of electronic
3 publication will be more effective than publication in a newspaper of general
4 circulation in the City of Keizer metropolitan area in encouraging meaningful
5 competition.

6 Section 10. CONTRACT AWARD AND EXECUTION AUTHORITY.

7 A. The following officials are delegated the authority specified in this section.

8 1. The department directors are the solicitation agents and may award
9 and execute contracts for goods and services, public improvements and personal
10 services estimated to cost less than \$100,000.00 for appropriations made in the
11 City of Keizer budget and under the Department Director's control. The
12 department directors are not authorized to award or execute contracts exceeding
13 three years in length.

14 2. The purchasing manager is the solicitation agent and may award
15 and execute contracts for goods and services, public improvements and personal
16 services estimated to cost less than \$100,000.00 for appropriations in the City of
17 Keizer budget which are not under control of department directors. The
18 purchasing manager is not authorized to award or execute contracts exceeding
19 three years in length.
20

1 3. The City Council shall award and direct execution of all other
2 contracts.

3 Section 11. CONTRACT EXECUTION REQUIREMENTS.

4 A. All contracts to which the City is a party shall have a uniform
5 signature block which shall include a signature line for the city manager or
6 department director.

7 B. All contracts over \$10,000 shall have an "Approved as to Form" line to
8 be signed by the city attorney. The signature indicates that the city attorney has
9 approved the contract format, but not its contents.

10 C. For all contracts requiring City Council approval, the City Council
11 shall adopt a resolution authorizing appropriate execution of the contract. Each
12 resolution shall have a copy of the subject contract attached to it except for public
13 improvement contracts.

14 D. All deeds, easements, and other documents to be recorded shall have
15 notary acknowledgments.

16 Section 12. LOCATION OF ORIGINAL CONTRACTS. All original contracts
17 shall be maintained by the office of the City Recorder with a copy to the legal
18 department. This requirement in no way restricts any department from keeping a copy
19 of the contract for use in the department.
20

1 Section 13. REPEAL. Ordinance No. 2005-519 (Establishing Rules of
2 Procedure for Public Contracting and Personal Services Contracts; Repealing Ordinance
3 No. 85-054; Repealing Resolution R85-159 and R98-1016) and Ordinance No. 2008-580
4 (Amending Rules of Procedure for Public Contracting; Amending Ordinance No. 2005-
5 519) are hereby repealed in their entirety.

6 Section 14. EFFECTIVE DATE. This ordinance shall take effect thirty (30)
7 days after its passage.

8 PASSED this _____ day of _____, 2024.

9

10 SIGNED this _____ day of _____, 2024.

11

12

13

14

Mayor

15

16

17

City Recorder

Proposed Update to Purchasing Policies

City Council Work Session June 10, 2024





Two Considerations

Process

- Informal or Formal Not Required
- Information Required
- Formal Required

Authority

- Department Head Approval
- City Manager Approval
- Council Approval
- City Attorney



Definitions

- Solicitation Agent
 - Department Head if it is budgeted in their departmental budget and they are conducting the solicitation
 - City Manager if it is not in a departmental budget
- Purchasing Agent – City Manager

Housekeeping



Changes to Section 4

Currently

- We have been specifying state exemptions, which become out of date every time the state makes a change.

Recommended

- Under the proposed ordinance we would just reference the Oregon Revised Statutes (ORS) that lists the exemptions. Future changes by the state for exemptions would automatically be added.

Yes ☐

No ☐



Changes to Former Section 6

Currently

- We have been repeating definitions from state law.

Recommended

- Under the proposed ordinance we rely on the (ORS) for definitions. Future changes by the state for exemptions would automatically be included.

Former Section 7 becomes Section 6

Yes ☐

No ☐



Former Section 7 becomes Section 6

Section 7 is about solicitation methods for classes of contracts.

Recommended

- No Changes

Yes ☐

No ☐



New Section 11 (Formerly 12)

Currently

- 12(B) All contracts shall have an “Approved as to Form” line

Recommended

- 11(B) All contracts over \$10,000 shall have an “approved as to Form” line.

Yes ☐

No ☐



Changes Across All Three

Personal Services
Goals and Services
Public Contracting



New Section 10 (Formerly 11)

Currently

- 11(A)(1) Department Directors authority – less than \$25,000, budgeted, and not to exceed two years in length

Recommended

- 10(A)(1) Department Director's authority – less than \$100,000, budgeted, and not to exceed three years in length.

Yes ☐

No ☐



New Section 10 (Formerly 11)

Currently

- 11(A)(2) City Manager authority – less than \$25,000, budgeted, and not to exceed two years in length

Recommended

- 10(A)(2) City Manager authority – less than \$100,000, budgeted and not to exceed three years in length.

Yes ☐

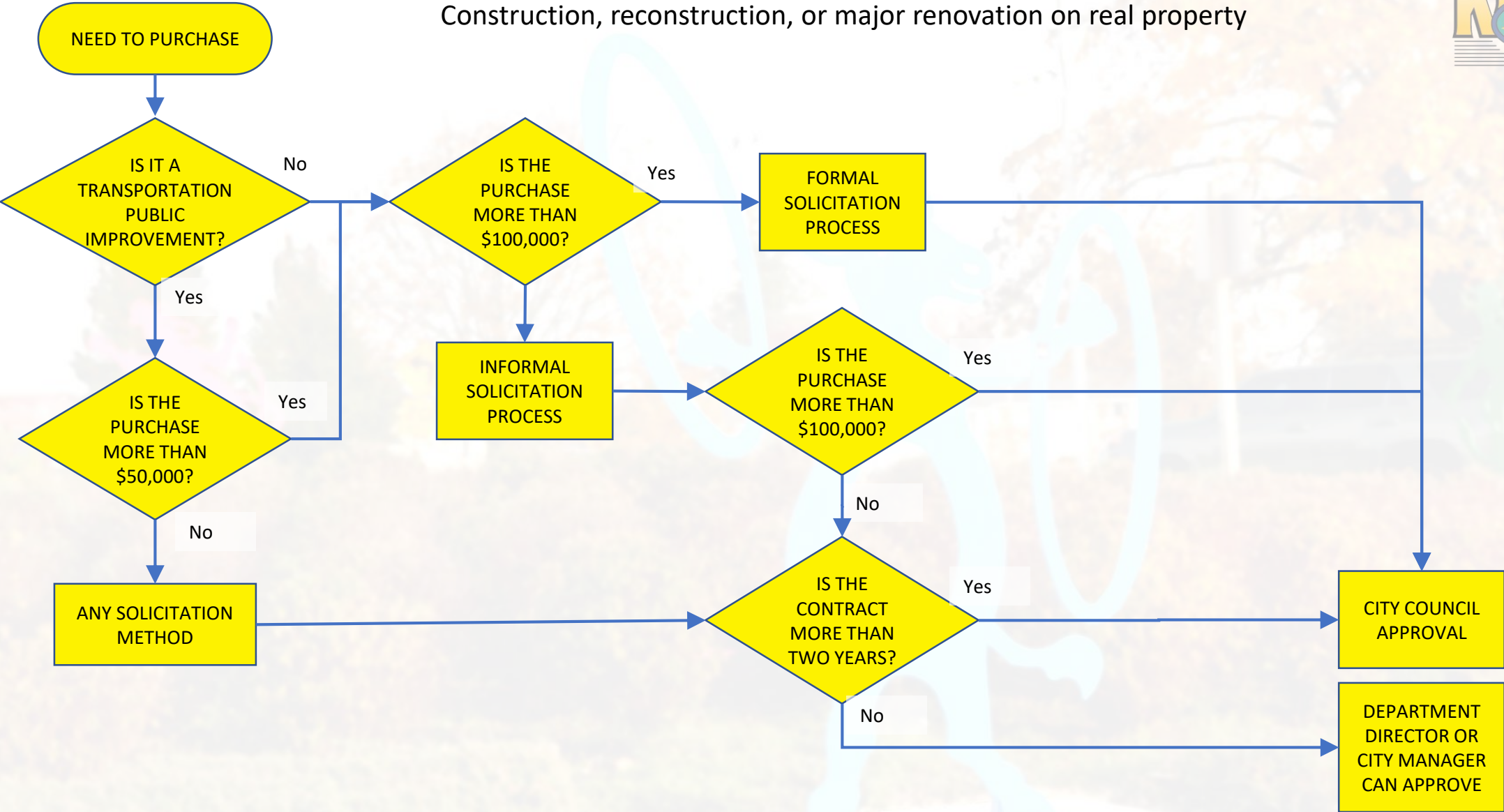
No ☐



Public Improvement Projects

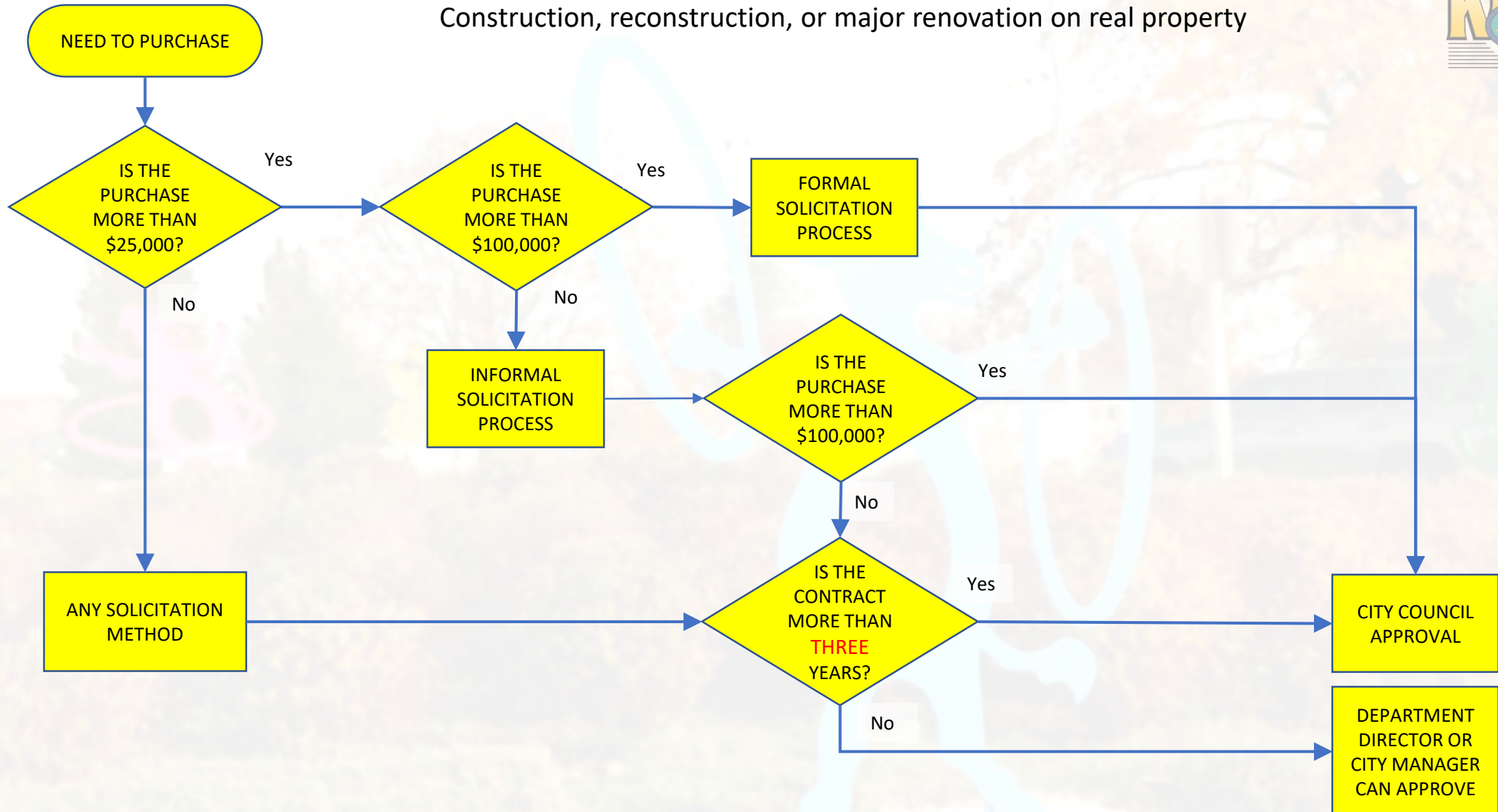
Public Improvements – As Is Flow Chart

Construction, reconstruction, or major renovation on real property



Public Improvements – Recommended Flow Chart

Construction, reconstruction, or major renovation on real property





What is a Public Improvement Project

- A project for construction, reconstruction or major renovation on real property by or for the City of Keizer. “Public Improvement” does not include:
 1. Projects for which no funds of the City of Keizer are directly or indirectly used, except for participation that is incidental or related primary to project design or inspection; or
 2. Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.



New Section 7 (Formerly 8)

Currently

- 8(B)(2) Public Improvements Projects

Recommended

- No change in solicitation requirements, re-writes from 2005 and 2008 incorporated together

Yes ☐

No ☐



New Section 7 (Formerly 8)

Currently

- 8(B)(3) Transportation Public Improvements called out individually with limit of \$50,000 using an any method deemed appropriate

Recommended

- 7(b)(3) Include Transportation Projects into all Public Improvements and lower the discretion of using any method appropriate to \$25,000.

Yes ☐

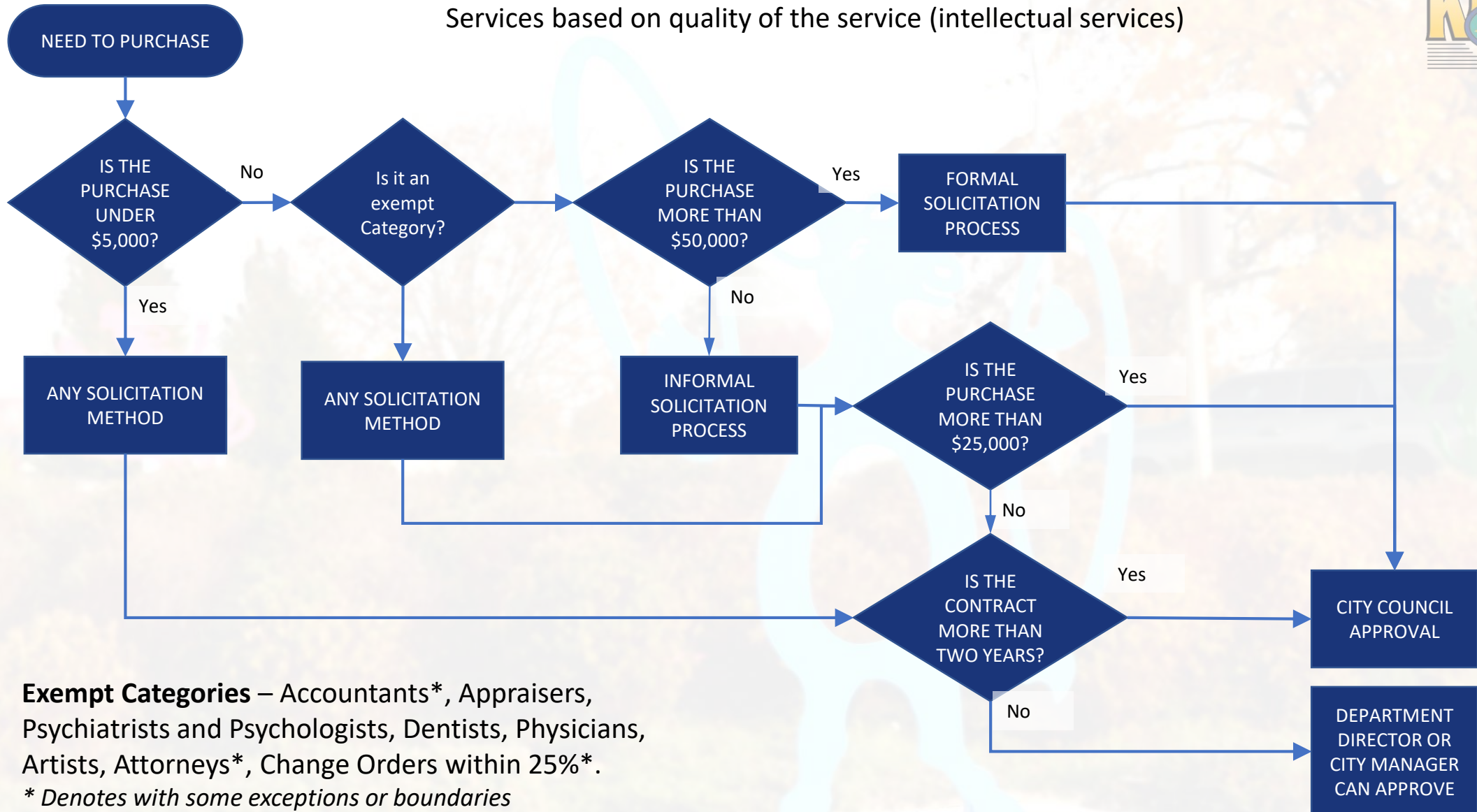
No ☐



Personal Services Contracts

Personal Service Contracts – As Is Flow Chart

Services based on quality of the service (intellectual services)

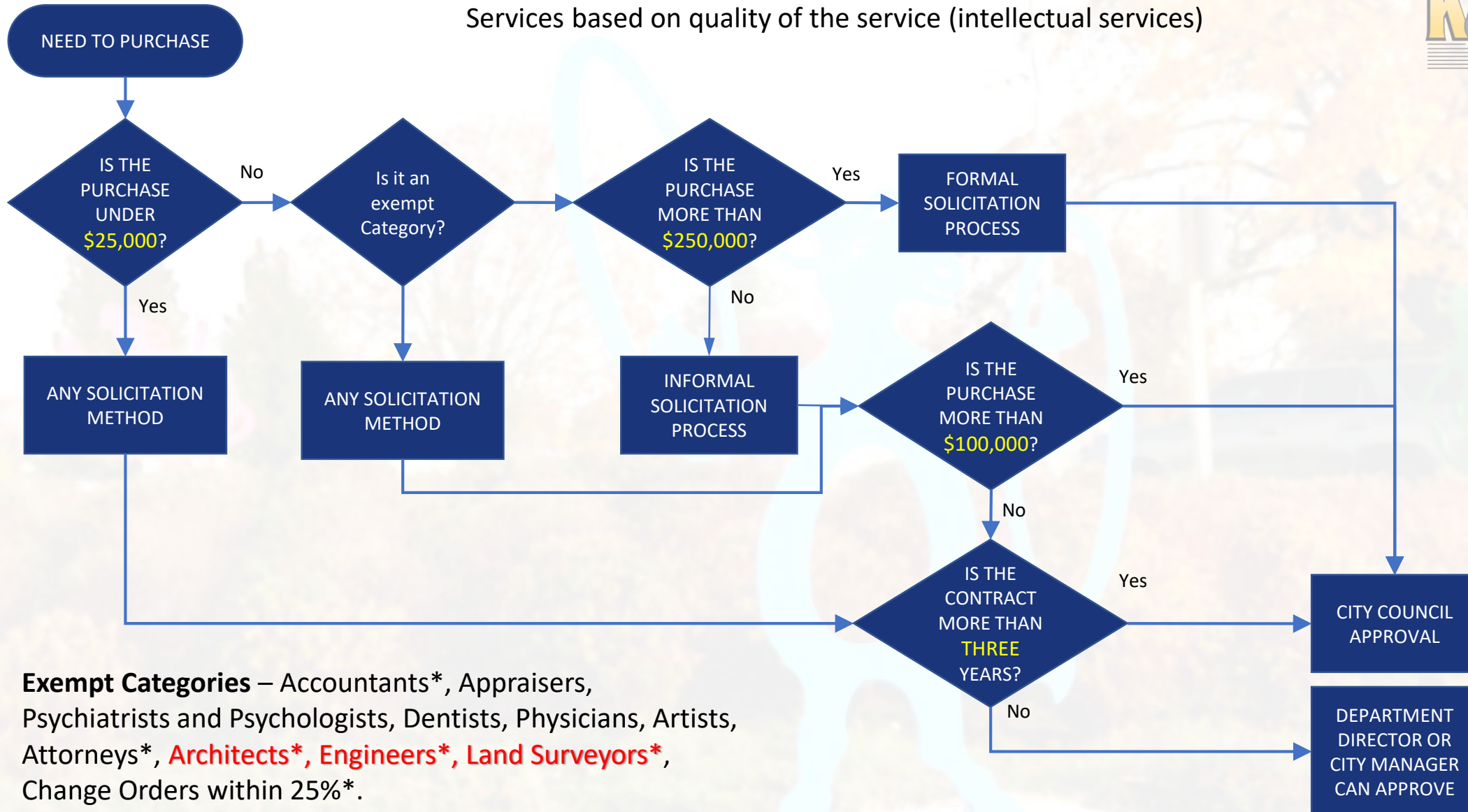


Exempt Categories – Accountants*, Appraisers, Psychiatrists and Psychologists, Dentists, Physicians, Artists, Attorneys*, Change Orders within 25%*.

** Denotes with some exceptions or boundaries*

Personal Service Contracts – Recommended Flow Chart

Services based on quality of the service (intellectual services)



Exempt Categories – Accountants*, Appraisers, Psychiatrists and Psychologists, Dentists, Physicians, Artists, Attorneys*, **Architects***, **Engineers***, **Land Surveyors***, Change Orders within 25%*.

** Denotes with some exceptions or boundaries*



New Section 7 (Formerly 8)

Currently

- 8(C)(2)(b) Personal Services contracts under \$5,000 can use any solicitation manner

Recommended

- 7(C)(2)(b) Personal Service contracts under \$25,000 can use any solicitation manner

Yes ☐

No ☐



New Section 7 (Formerly 8)

Currently

- 8(C)(2)(c) Personal Services contracts above \$5,000 but less than \$50,000 can use any solicitation manner

Recommended

- 7(C)(2)(c) Personal Service contracts more than \$25,000 but less than \$250,000 can use informal solicitation manner

Yes ☐

No ☐



New Section 7 (Formerly 8)

Currently

- 8(C)(2)(d) Personal Services contracts above \$50,000 require formal solicitation manner (sealed proposals)

Recommended

- 7(C)(2)(d) Personal Service contracts more than \$250,000 require formal solicitation manner (sealed proposals)

Yes ☐

No ☐



New Section 7 (Formerly 8)

Currently

- 8(C)(4)(h, i & j) Architects, Engineers, and Land Surveyor's were treated the same as Accountants, Physicians, Artists, and Attorneys (i.e. all exempt personal services contracts with no amounts)

Recommended

- 7(C)(4)(h, i, & j) Architects, Engineers, and Land Surveyor's over \$100,000 must be formal in accordance with ORS 279C.110(10)

Yes ☐

No ☐



New Section 7 (Formerly 8)

Currently

- 8(C)(4)(k) cumulative amendments cannot exceed \$50,000 of personal services contract exemption awards – Council approval needed over \$50,000

Recommended

- 7(C)(4)(k) Change \$50,000 to 25% - this only applies to personal services contract exemption awards - Council approval needed at 25%

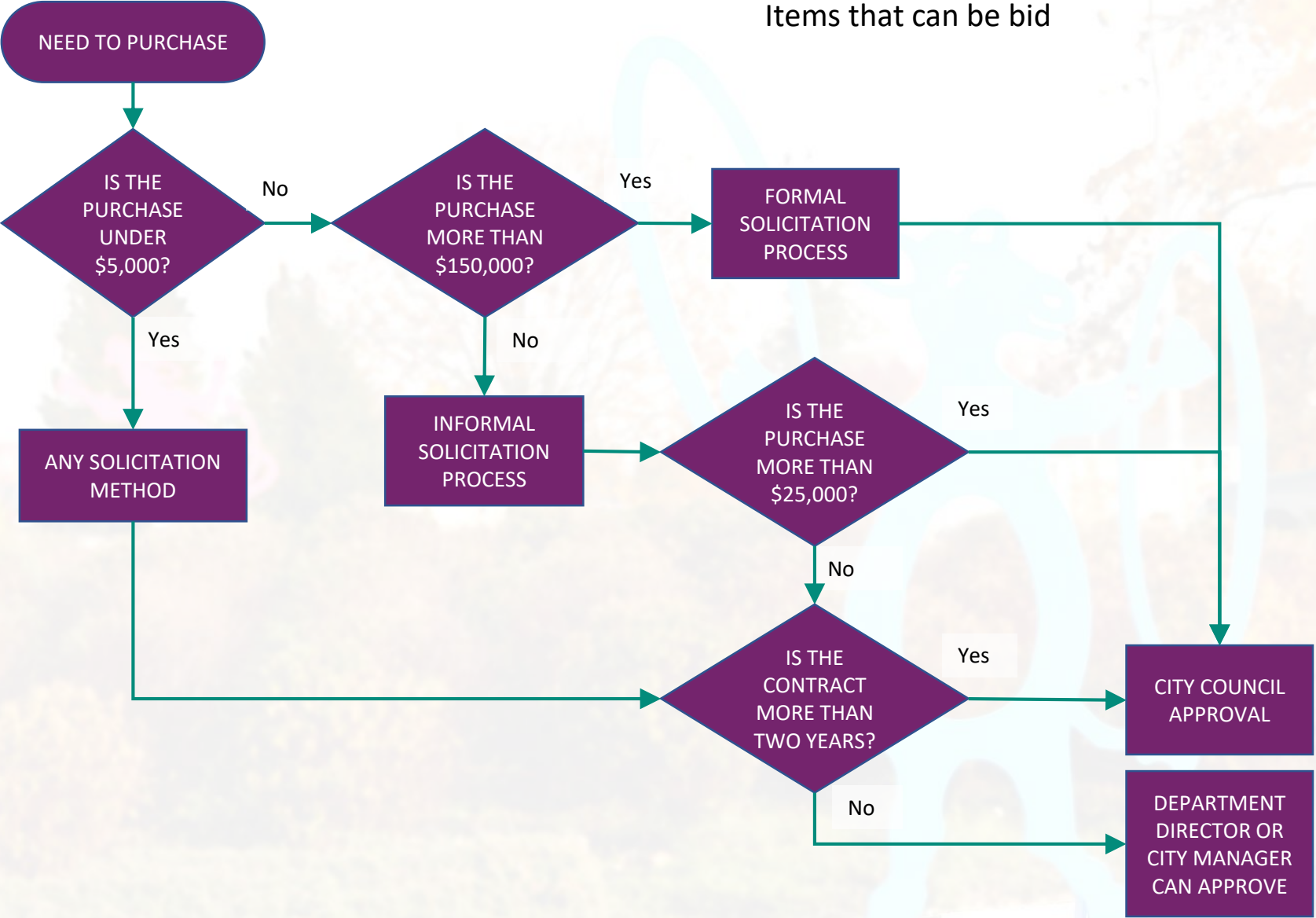
Yes ☐

No ☐

Goods & Services

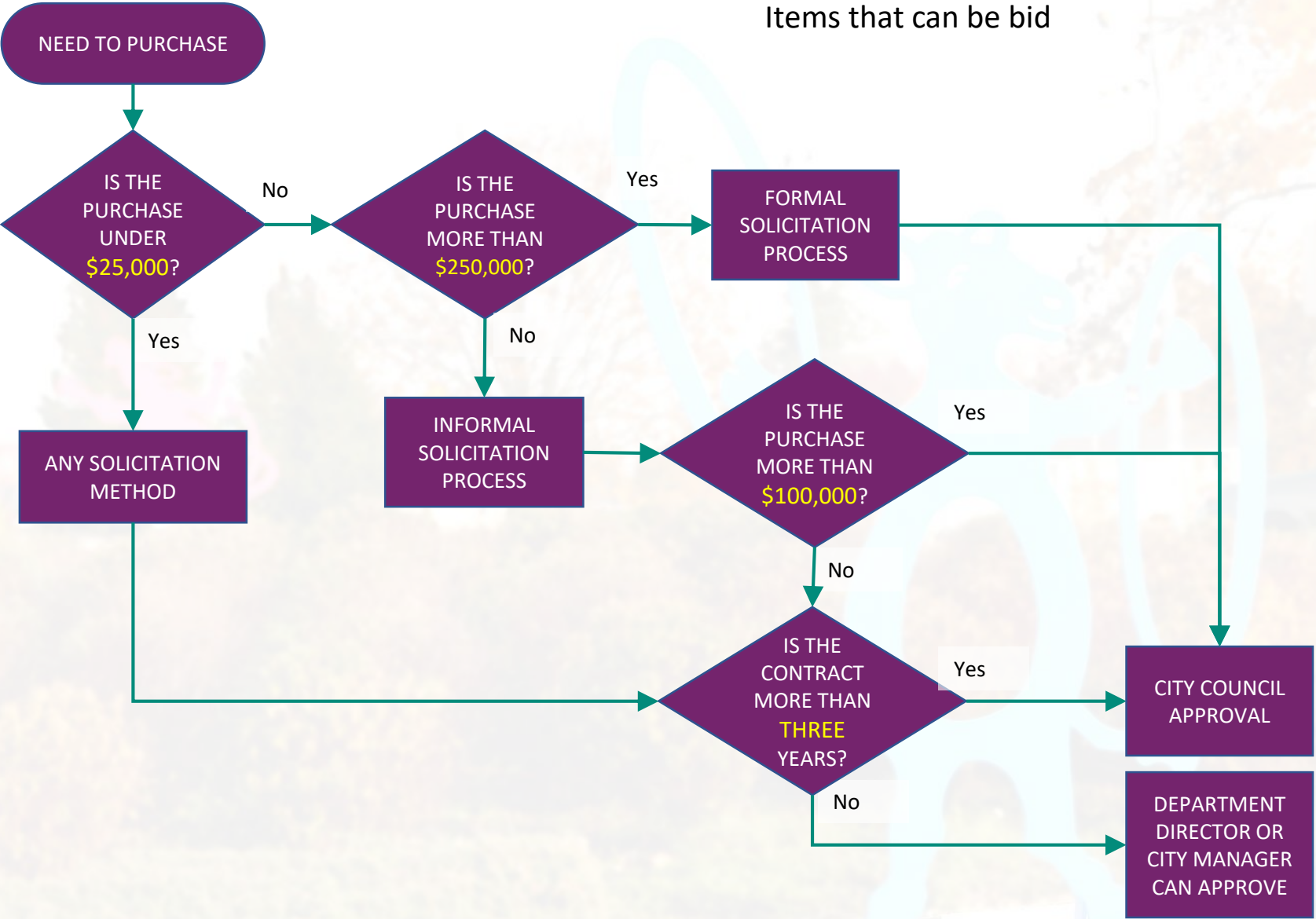
Goods and Services Contracts – As Is Flow Chart

Items that can be bid



Goods and Services Contracts – As Is Flow Chart

Items that can be bid





New Section 7 (Formerly 8)

Currently

- 8(D)(2) Goods and Services Under \$150,000 can use informal solicitation

Recommended

- 7(D)(2) Under \$250,000 can use informal solicitation

Yes ☐

No ☐



New Section 7 (Formerly 8)

Currently

- 8(E)(1) The solicitation agent can award contracts under \$5,000 solicitation

Recommended

- 7(E)(1) The solicitation agent can award contracts under \$25,000 solicitation

Yes ☐

No ☐



The End