

RESOLUTION NO. 2023-07

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 MCMINNVILLE FIRE DISTRICT

WHEREAS, it is the policy of the McMinnville Fire District (District) 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, the Oregon Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794), which was signed by the Governor with an operative date of March 1, 2005. This Act repealed Oregon Revised Statutes ("ORS") Chapter 279 (with minor exceptions) and replaced it with three new subchapters: ORS 279A, 279B, and 279C. These three subchapters, together, constitute the Public Contracting Code (or Code). Any District rules and exemptions previously adopted under ORS Chapter 279 expired on March 1, 2005; and

WHEREAS, absent any action by the Local Contract Review Board on or after March 1, 2005, the District has operated under 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

WHEREAS, in order to adopt new public contracting rules that differ from the Model Rules, under ORS 279A.065(5), the District Board must specifically state that the Model Rules adopted by the Attorney General do not apply to District and prescribe its own public contracting rules, which may include portions of the Attorney General's Model Rules. The Local Contract Review Board may also adopt rules for public contracting not covered by the Model Rules, as long as they do not conflict with the Public Contracting Code; 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 District Board is the Local Contract Review Board for District and, as such, is authorized to act on all such matters on behalf of the District, adopt Public Contracting Rules, and establish procedures for amendment of such rules; and

WHEREAS, the Local Contract Review Board may designate certain personal service contracts or classes of service contracts as personal service contracts, which are not subject to the procedural requirements of the Public Contracting Code or the Model Rules; and

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

WHEREAS, the District Board additionally requests that the District'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 District Board of Directors (District Board) is hereby designated to continue as the Local Contract Review Board of the District 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 chief administrative officer, his or her designee, or any other purchasing agent, as designated by District policy. Those individuals are hereby designated as District'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 District policy.

2. The above recitals and Exhibit A are hereby adopted by the District Board, 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, 2022, do not apply to District. Instead, the District hereby prescribes the following Rules, which include portions of the Attorney General's Model Rules, as the Rules of Procedure that the District 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 District changes to the Model Rules, and, therefore, are not the Attorney General's promulgated administrative rules. District 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), the District 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 District's Cost Accounting System to apply to public improvement projects exceeding \$5,000 and constructed with District'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, District shall also comply with the requirements of ORS 279C.305.

7. All previously adopted resolutions establishing public contracting rules for District are hereby repealed.

DATED this 17th day of August, 2023.



Adam D. Garvin, President
Board of Directors



Adam D. Garvin, President
Local Contract Review Board

ATTEST:



Secretary
Board of Directors

ATTEST:



Secretary
Local Contract Review Board

