

## ORDINANCE NO. 5009

An Ordinance of the City of McMinnville adopting public contracting rules; repealing Ordinance 3780; repealing Ordinance 4736; and, declaring an emergency.

### RECITALS

The City of McMinnville last amended its Public Contracting Rules in 2000 through the adoption of Ordinance 4736 (9-12-2000), which amended Ordinance 3780 (12-23-1975).

In 2003, the Oregon Legislature adopted a new Public Contracting Code (HB 2341; 2003 Or. Laws, Chapter 794), which became effective March 1, 2005. The new law repealed most provisions of the former public contracting laws that were set forth at Oregon Revised Statutes Chapter 279, and replaced them with three new chapters: ORS Ch. 279A, 279B, and 279C. By operation of the new Public Contracting Code, all rules and exemptions that had previously been adopted by the City pursuant to ORS Ch. 279, expired on March 1, 2005. This includes Ordinances 3780 and 4736 (codified as McMinnville Municipal Code Chapter 2.20).

Under the Public Contracting Code, the McMinnville City Council is the designated Local Contract Review Board of the City, unless otherwise provided by action of the Council (ORS 279A.060). Absent any action by the Local Contract Review Board to adopt its own rules for public contracting, the City is subject to the Model Rules adopted by the Oregon Attorney General (ORS 279A.065). The Model Rules are set forth at OAR Chapter 137, Divisions 46, 47, 48, and 49.

The City has authority to designate certain service contracts or classes of service contracts as personal services contracts, and to enter into such personal services contracts in accordance with procedures adopted by the City to screen and select persons to perform personal services (ORS 279A.055 and 279A.070).

The Attorney General's Model Rules provide procedures for the selection of consultants to provide architectural, engineering, photogrammetric mapping, transportation planning, land surveying, and related services for the award of certain personal services contracts (OAR Ch. 137, Div. 48). However, the Model Rules do not provide express procedures for the selection of other professionals such as accountants, attorneys, appraisers, facilitators, or related services providers for the award of personal services contracts.

The City desires to designate certain service contracts and classes of service contracts as personal services contracts, and to adopt procedures to screen and select persons to perform personal services contracts that are consistent with the Attorney General's Model Rules for the selection of architects, engineers, and related consultants set forth at OAR Ch. 137, Div. 48.

Now therefore, THE COMMON COUNCIL FOR THE CITY OF McMinnville  
ORDAINS AS FOLLOWS:

1. Ordinance 3780 is repealed in its entirety.
2. Ordinance 4736 is repealed in its entirety.
3. The provisions set forth in the Attached Exhibit 1, which are incorporated by this reference, are hereby adopted as the Public Contracting Rules for the City of McMinnville.
4. An emergency is hereby declared, making this Ordinance effective immediately upon its passage.

Passed by the Council this 9<sup>th</sup> day of August 2016, by the following votes:

Ayes: Jeffries, Hill, Menke, Ruden, Yoder

Nays: \_\_\_\_\_

Approved this 9<sup>th</sup> day of August 2016.

  
\_\_\_\_\_  
MAYOR

Attest:

Approved as to form:

  
\_\_\_\_\_  
CITY RECORDER

  
\_\_\_\_\_  
CITY ATTORNEY

## EXHIBIT 1

### Chapter 2.21

#### PUBLIC CONTRACTING

##### Sections:

- 2.21.010. Definitions
- 2.21.020. Public Contracting Rules
- 2.21.030. Local Contract Review Board
- 2.21.100. Personal Services Contracts

#### PUBLIC CONTRACTING

##### 2.21.010 - Definitions

As used in this Chapter:

- A. "Board" or "Local Contract Review Board" means the Local Contract Review Board for the City of McMinnville, as described in ORS 279A.060.
- B. "City" means the City of McMinnville, Oregon, and its elected and appointed officers, employees, or agents who are authorized to solicit, negotiate and/or award public contracts for the City.
- C. "City Council" means the Mayor and City Councilors of the City.
- D. "Personal Services Contract" include contracts for services that require specialized technical, artistic, creative, professional or communication skills or talent, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the service depends on attributes that are unique to the service provider, other than contracts for professional services described in ORS 279C.100.
- E. "Model Rules" means the Model Rules set forth at OAR Chapter 137, Divisions 46, 47, 48 and 49, adopted by the Oregon Attorney General pursuant to the provisions of the Oregon Public Contracting Code, as they now exist, and as they may be amended in the future.
- F. "Public Contracting Code" means ORS 279A, 279B, and 279C.

##### 2.21.020 - Public Contracting Rules

Except as expressly provided by the provisions of this Chapter, as they now exist, and as they may be amended in the future:

- A. The Model Rules shall apply to public contracts awarded by the City.
- B. Words and phrases used by these rules that are defined the Public Contracting Code and in the Model Rules, have the same meaning as defined in the Public Contracting Code and in the Model Rules.

### 2.21.030 - Local Contract Review Board

The City Council is designated as the Local Contract Review Board under the Public Contracting Code. The Board may delegate its powers and responsibilities consistent with the Public Contracting Code, the Model Rules, and the McMinnville Municipal Code.

### 2.21.100 - Personal Services Contracts

A. Personal services contracts will be used to retain the services of independent contractors, other than contracts for architectural, engineering, photogrammetric mapping, transportation planning, land surveying and related services described in ORS 279C.100. Nothing in this section shall apply to the employment of regular city employees.

B. Pursuant to ORS 279A.055(2), the following service contracts or classes of service contracts are designated as contracts for personal services, which shall be subject to the provisions of this Section:

1. Accountant or auditing services;
2. Appraisal services;
3. Information technology programming, data processing or related consulting services;
4. Legal services;
5. Investing or financial consulting services;
6. Human Resources and training services;
7. Advertising, Marketing and/or Graphics consulting services;
8. Public Relations or Communications consulting services;
9. Management Systems consulting services;
10. Any other personal services contracts or classes or contracts that the Local Contract Review Board identifies as personal services contracts.

C. Personal services contracts shall be solicited, negotiated and/or awarded in accordance with the procedures described for the selection of Consultants set forth in Division 48 of the Model Rules.