



Board of Directors **Business Session**

May 21, 2020

#thinkPCCfirst

Portland Community College Board of Directors

Vision

Building futures for our Students and Communities

Mission

Portland Community College supports student success by delivering access to quality education while advancing economic development and promoting sustainability in a collaborative culture of diversity, equity and inclusion.

Core Themes

- Access and Student Success
- Economic Development and Sustainability
- Quality Education
- Diversity, Equity and Inclusion

Approved January 21, 2016

Who We Are

Portland Community College is a public, multi-campus, comprehensive community college serving the lifelong learning needs of our students. We offer college transfer programs; career and technical education programs; adult basic skills; opportunities to develop English as a second language; high school completion and dual credit; community and continuing education programs; and service-learning opportunities that foster the development of civic responsibility and engagement. Through extensive partnerships with business, industry, labor, educational institutions and the public sector, we provide training and learning opportunities for the local and state workforce and promote economic and community development.

We Value

- Effective teaching and student development programs that prepare students for their roles as citizens in a democratic society in a rapidly changing global economy
- An environment that is committed to diversity as well as the dignity and worth of the individual
- Leadership through innovation, continuous improvement, efficiency, and sustainability
- Leadership through the effective use of technology in learning and all College operations
- Being a responsible member of the communities we serve by actively participating in their development
- Quality, lifelong learning experiences that helps students to achieve their personal and professional goals
- Continuous professional and personal growth of our employees and students including an emphasis on fit and healthy lifestyles that decrease disease and disability
- Academic Freedom and Responsibility - creating a safe environment where competing beliefs and ideas can be openly discussed and debated
- Collaboration predicated upon a foundation of mutual trust and support
- An agile learning environment that is responsive to the changing educational needs of our students and the communities we serve – making students marketable for jobs in the future and promoting economic development
- The public's trust by effective and ethical use of public and private resources

Portland Community College
BOARD OF DIRECTORS
PO BOX 19000, Portland, Oregon 97280

May 21, 2020

AGENDA

The Board of Directors meetings are held in accordance with open meeting laws and accessibility requirements. If a person with a disability needs assistance in order to attend or participate in a meeting, please notify the Board of Director's Office at least 48 hours in advance by calling (971) 722-4365 or by email at boardmember@pcc.edu, please use **ACCESSIBILITY** in the subject line.

3:00 PM **Work Session**

Video: Join **Zoom** Meeting: <https://portlandcc.zoom.us/j/91047732040>

Dial In Option: +1 669 900 6833, Meeting ID: 910 4773 2040

- Policy Discussion
- Budget Update

4:15 PM Transition to Executive Session

4:30 PM **Executive Session**

In accordance with ORS 192.660 (2), in accordance with ORS 192.660 (2), (a) employment of a public official (k) school safety

Media Requests to join the Executive Session can be emailed (boardmember@pcc.edu, please use **MEDIA REQUEST** in the subject line) or phoned in (971.722.4365) by 2:30 pm of the meeting date.

5:15 PM Transition to Board Meeting

5:30 PM **Call to Order—Business Session**

Video: <https://portlandcc.zoom.us/j/93352026081>

Dial In Option: +1 253 215 8782, Meeting ID: 933 5202 6081

- Approval of Agenda
- Approval of Minutes—April 16, 2020

5:35 PM **Information Sessions**

- COVID-19 Update—Mark Mitsui (20 minutes)
- Work Plan Review—Mark Mitsui (15 minutes)
- EAC Update—Josephine Pino (10 minutes)

- Accreditation Update—Dr. Katy Ho (10 minutes)

6:30 PM

Public Comment on Agenda Items

Persons wishing to make public comment on agenda items can request a time slot by using this [link](#). Details and directions can be found at the link.

6:35 PM

Business Session

Consent Agenda: (All items will be approved by consent agenda unless an item is withdrawn by request of a member of the Board. A separate motion will then be required to take action on the item in question.)

<u>PERSONNEL</u>	<u>Page</u>
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Academic Professional Appointments:	
Madison Barrientos-Chinn, International Student Advisor, Student Affairs Division, Southeast Campus (Temporary)	
Willan Cervantes, Academic Advising Specialist, Office of the Dean of Student Development, Cascade Campus (Temporary)	
Shawn Forde, Health Share Program Coordinator, Allied Health, Emergency and Legal Services Division, Cascade Campus (Non-General Fund Temporary)	
Chris Hamreus, Resource Center Coordinator, Veterans Resource Center, Office of the Dean of Student Development, Southeast Campus (Temporary)	
Anny Hawkins, Financial Aid Advisor, Student Affairs Division, Sylvania Campus (Temporary)	
Administrative Appointments:	
Sonya Bedient, Interim Dean of Student Success, Student Affairs Division, Sylvania Campus Administrative Appointment (Temporary)	
Joe Gamble, Interim Facilities Operations Manager, Finance and Administration Division, Sylvania Campus (Temporary)	
Brad Ortman, Interim Director of Facilities Management Services, Finance and Administration Division, Sylvania Campus (Temporary)	
Jason Pinkal, Associate Dean of Student Development, Office of the Dean of Student Development, Cascade Campus (Temporary)	
Rondi Schei, Program Manager II, Online Learning, Online Learning Division, Sylvania Campus (Temporary)	
Sarah Ray, Human Resources Business Partner, Office of the Executive Vice President, Downtown Center	

Faculty Appointments:

Jimena Alvarado, Instructor, Women’s and Gender Studies, Liberal Arts and Pre-College Division, Southeast Campus

Veronica Vichit-Vakadan, Reference Librarian, Academic Affairs, Sylvania Campus

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BOARD

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6:45 PM

Public Comment on Non-Agenda Items

Public comment on non-agenda items can be emailed by 3:00 pm on the meeting date to boardmember@pcc.edu. These comments will be kept as part of the official meeting minutes. Please use **NON-AGENDA PUBLIC COMMENT** in the subject line.

6:50 PM

Reports (5 minutes each)

- Faculty and Academic Professionals
- Classified
- Students
- Board Members
- President

7:15 PM

Adjourn Business Meeting and Convene as Local Contract Review Board

- Public Hearing on Exemption from Competitive Bidding in accordance with ORS 279C.335 (2) and (5)
- Linda Degman, Director, Planning and Capital Construction
- Public Comment can be emailed by 3:00 pm to boardmember@pcc.edu, use **EXEMPTION FROM COMPETITIVE BIDDING** in the subject line.
- Roll Call Vote

20-152	Adopt Findings - Grant an Exemption from Competitive Bidding - Authorize Use of the Construction Manager/General Contractor (CM/GC) Alternative Contracting Method for Cascade Campus Public Safety Building and Public Service Education Building	361
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20-153 Accept Proposed Changes to the Community
 College Rules of Procurement
 (Second Reading) 371

- Mike Mathews, Director, Manager, Purchasing and Procurement
- Public Comment can be emailed by 3:00 pm to boardmember@pcc.edu, use **RULES OF PROCUREMENT** in the subject line.
- Roll Call Vote

7:30 PM **Adjournment Local Contract Review Board**

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Portland Community College Board of Directors
PO BOX 19000, Portland, Oregon 97280

April 16, 2020
Via remote access

BOARD MEETING MINUTES

ATTENDANCE

Hannah Alzgal, Mohamed Alyajouri, Denise Frisbee, Jim Harper, Tiffani Penson, Dan Saltzman, Michael Sonnleitner, Alex Díaz Rios

CALL TO ORDER

Chair Harper called the Business Meeting to order at 5:56 pm.

COVID-19 UPDATE

President Mitsui thanked all the faculty and staff of the College for making the extraordinary transition to online operations. Cabinet has been meeting three times a week, making key decisions regarding remote operations. Emma Kallaway, who is staying on as Government Relations Director, and President Mitsui continue to speak with state legislators, federal delegation, and review the CARES Act while preparing for the emergency and long session.

Academic Affairs, led by Vice President Dr. Katy Ho, has gone from supporting 699 courses online to 3,305 online supported courses over the course of ten days. They provided training to 1,875 faculty and staff in online instruction and continue delivering ongoing instructional training for our new online environment.

Student Affairs, led by Interim Vice President Dr. Heather Lang, has moved almost all student services functions to remote delivery, delayed enrollment and payment related deadlines, waived late fees, and implemented a generous appeals review process to support students through this difficult transition. Over 700 students requested technology access support and approximately 250 laptops were purchased by the Foundation, with an additional 115 laptops available for distribution next week. Emergency grants have been awarded to support WiFi connections and devices. Over \$43,000 in emergency grants awarded to nearly 100 students from student activity fees. Also identify a plan to quickly distribute \$6.2 million in direct emergency aid from CARES Act funds.

Finance and Administration, led by Vice President Eric Blumenthal, initiated a COVID – 19 planning team in late February, which provides guidance and direction to the college regarding emergent COVID related issues. This team coordinates logistical support for remote college operations, and maintains communication with state and local agencies. The current situation is informing the ongoing development of the Emergency Operations Plan and Business Continuity Plan. In July, PCC will offer a FEMA sanctioned course, “Multi-Hazard Emergency Management for Higher Education.”

Willow Creek Center has partnered with the Oregon Employment Department to allow them access to the space and software they needed to process unemployment insurance claims, which are now hitting record numbers.

Office of the Executive Vice President, led by Executive Vice President Sylvia Kelley, has identified with Planning & Capital Construction twenty projects to move forward, along with some IT and Public Safety initiatives. Human Resources has established a comprehensive COVID-19 FAQ list; created a process for employees to request leave under the Oregon sick leave law and the federal Families First Coronavirus Response Act. The communications team has established a PCC COVID-19 website, while having several print, digital, and TV news stories published and/or broadcasted in local and national markets. The PCC Foundation Board approved \$750,000 allocation for COVID-19 response for emergency grants, food gift cards, and laptops and internet access for our students. PCC will receive an additional \$75,000 award from Bank of America.

Information Technology, led by Chief Information Officer Michael Northover, responded quickly to ensure continuity of operations in preparation for remote administration and Spring Term online instruction. In partnership with Marketing and Communications, IT developed a Remote Work Technology Resources web page and a Telecommuting Center that provides online set up instructions and training materials for all technology products required for remote work. IT implemented a scalable, secure mechanism for remote access to Banner, a system used extensively by PCC faculty and staff. PCC's Virtual Private Network infrastructure was insufficient for the expected need of remote operations. The IT team evaluated, purchased, and implemented a remote desktop solution, which has provisioned 150 users on the platform. The Information Security department is developing information security risk assessments for changes adopted as a result of the rapid shift to remote work.

Next steps for the College's COVID-19 response include finding the best sources of peer-reviewed information and data for decision making, establishing and preparing if/then scenarios, establishing key milestones, identifying budget impact and implications, taking care of the community, understanding the implications for strategic planning, and noting lessons learned.

APPROVAL OF THE AGENDA

The agenda was approved as published. Alyajouri/ Sonnleitner

Alyajouri – Yes	Harper - Yes	Sonnleitner – Yes
Díaz Rios - Yes	Penson – Yes	
Frisbee - Yes	Saltzman – Yes	

The March 19, 2020 meeting minutes were approved as published. Sonnleitner/Frisbee

Alyajouri – Yes	Harper - Yes	Sonnleitner – Yes
Díaz Rios - Yes	Penson – Yes	
Frisbee - Yes	Saltzman – Yes	

BUSINESS SESSION

Chair Harper proposed approval of Resolutions 20-120 to 20-133. Frisbee/Sonnleitner

Alyajouri – Yes
Díaz Rios – Yes
Frisbee - Yes

Harper - Yes
Penson – Yes
Saltzman – Yes

Sonnleitner – Yes

ADJOURN BUSINESS MEETING AND CONVENE AS LOCAL CONTRACT REVIEW BOARD

Mike Mathews, Manager, Purchasing and Procurement provided an update on Resolution 20-133 and the need for changes. He highlighted some of the updates that will affect PCC business practices.

No public comment was received on Resolution 20-133.

Motion to approve 20-133 to Accept Proposed Changes to the Community College Rules of Procurement (First Reading). Frisbee/Alyajouri

Roll call vote:

Alyajouri – Yes
Díaz Rios – Yes
Frisbee - Yes

Harper - Yes
Penson – Yes
Saltzman – Yes

Sonnleitner – Yes

ADJOURNMENT SD LOCAL CONTRACT REVIEW BOARD

There being no further business, the meeting adjourned at 7:04 pm.

Jim Harper, Chair

Mark Mitsui, College President

Prepared by:

Gloria Gunn, Executive Coordinator

Minutes approved on May 21, 2020.

May 21, 2020

20-175 APPROVAL OF PERSONNEL ACTIONS

PREPARED BY: The Human Resources Department Staff

APPROVED BY: Mark Mitsui, College President

RECOMMENDATION: That the Board of Directors approve the following actions:

A. Approval of new hires, new positions and change of position

Academic Professional Appointment (Temporary)– **Madison Barrientos-Chinn**

International Student Advisor

Student Affairs Division, Southeast Campus

Annual Salary: \$45,559 Grade: 3 Step: 1

Effective: April 1, 2020 to March 31, 2021

Applicant Flow: Article 3.64 Appointment

Academic Professional Appointment (Temporary)– **Willan Cervantes**

Academic Advising Specialist

Office of the Dean of Student Development, Cascade Campus

Annual Salary: \$54,109 Grade: 3 Step: 6

Effective: April 22, 2020 to April 22, 2021

Applicant Flow: Article 3.64 Appointment

Academic Professional Appointment (Non-General Fund Temporary)– **Shawn Forde**

Health Share Program Coordinator

Allied Health, Emergency and Legal Services Division, Cascade Campus

Annual Salary: \$45,559 Grade: 3 Step: 1

Effective: April 20, 2020 to June 30, 2021

Applicant Flow: Article 3.64 Appointment

Academic Professional Appointment (Temporary)– **Chris Hamreus**

Resource Center Coordinator, Veterans Resource Center

Office of the Dean of Student Development, Southeast Campus

Annual Salary: \$61,732 Grade: 4 Step: 8

Effective: April 22, 2020 to August 30, 2020

Applicant Flow: Article 3.64 Appointment

Academic Professional Appointment (Temporary)– **Anny Hawkins**

Financial Aid Advisor

Student Affairs Division, Sylvania Campus

Annual Salary: \$44,276 Grade: 2 Step: 2
Effective: March 31, 2020 to August 20, 2020
Applicant Flow: Article 3.64 Appointment

Administrative Appointment (Temporary)– Sonya Bedient

Interim Dean of Student Success
Student Affairs Division, Sylvania Campus
Annual Salary: \$121,314 Grade: O
Effective: May 6, 2020 to June 30, 2021
Applicant Flow: Direct Appointment

Administrative Appointment (Temporary)– Joe Gamble

Interim Facilities Operations Manager
Finance and Administration Division, Sylvania Campus
Annual Salary: \$101,881 Grade: M
Effective: April 13, 2020 to June 30, 2021
Applicant Flow: Direct Appointment

Administrative Appointment (Temporary)– Brad Ortman

Interim Director of Facilities Management Services
Finance and Administration Division, Sylvania Campus
Annual Salary: \$120,000 Grade: O
Effective: April 6, 2020 to June 30, 2021
Applicant Flow: Direct Appointment

Administrative Appointment (Temporary)– Jason Pinkal

Associate Dean of Student Development
Office of the Dean of Student Development, Cascade Campus
Annual Salary: \$87,000 Grade: K
Effective: April 20, 2020 to June 30, 2021
Applicant Flow: Direct Appointment

Administrative Appointment (Temporary)– Rondi Schei

Program Manager II, Online Learning
Online Learning Division, Sylvania Campus
Annual Salary: \$68,734 Grade: K
Effective: March 13, 2020 to March 12, 2021
Applicant Flow: Direct Appointment

Administrative Appointment– Sarah Ray

Human Resources Business Partner
Office of the Executive Vice President, Downtown Center
Annual Salary: \$77,500 Grade: K
Effective: May 4, 2020
Applicant Flow:
Gender Ethnicity

45	Female	0	American Indian or Alaska Native
22	Male	1	Asian
2	Not Disclosed	10	Black or African American
		1	Hispanic/Latino
		0	Native Hawaiian or Other Pacific Islander
		4	Not Disclosed
		9	Two or More Selections
		44	White
		<hr/>	
		69	Total

Faculty Appointment– Jimena Alvarado

Instructor, Women’s and Gender Studies

Liberal Arts and Pre-College Division, Southeast Campus

Annual Salary: \$66,191 Step: 7

Effective: September 1, 2020

Applicant Flow:

Gender		Ethnicity	
51	Female	0	American Indian or Alaska Native
6	Male	1	Asian
7	Not Disclosed	3	Black or African American
		2	Hispanic/Latino
		0	Native Hawaiian or Other Pacific Islander
		5	Not Disclosed
		4	Two or More Selections
		49	White
		<hr/>	
		64	Total

Faculty Appointment– Veronica Vichit-Vakadan

Reference Librarian

Academic Affairs, Sylvania Campus

Annual Salary: \$57,681 Step: 3

Effective: September 1, 2020

Applicant Flow:

Gender		Ethnicity	
45	Female	1	American Indian or Alaska Native
32	Male	3	Asian
9	Not Disclosed	2	Black or African American
		3	Hispanic/Latino
		0	Native Hawaiian or Other Pacific Islander
		11	Not Disclosed
		2	Two or More Selections
		64	White
		<hr/>	
		86	Total

**ETHNIC AND GENDER DESCRIPTION OF STAFF
PROPOSED TO BE HIRED IN THE MAY 21, 2020 PERSONNEL REPORT**

Female	7
Male	6
Not Disclosed	0
	<hr/>
	13

American Indian/Alaskan Native	0
Asian	2
Black or African American	1
Hispanic/Latino	1
Native Hawaiian/Pacific Islander	0
Not Disclosed	0
Two or More Selections	2
White	7
	<hr/>
	13

April 30, 2020

20-135

COMMENDATION OF RETIRING EMPLOYEE –
SUSAN ATKIN

PREPARED BY: Human Resource Department Staff

APPROVED BY: Mark Mitsui, College President

REPORT Susan Atkin has performed faithfully in her duties as a Programmer Analyst I and Programmer Analyst II for Portland Community College since January 17, 1995. She retires effective May 29, 2020.

RECOMMENDATION: That the Board commend her for her service to Portland Community College and wish her well in her retirement years.

April 30, 2020

20-136

COMMENDATION OF RETIRING EMPLOYEE –
NITA HARRIS

PREPARED BY: Human Resource Department Staff

APPROVED BY: Mark Mitsui, College President

REPORT Nita Harris has performed faithfully in her duties as a Business Office Cashier, Cash Control Clerk, Secretary, Information/PBX Clerk, Data Control Clerk, Financial Aid Clerk, Financial Aid Tech I and II for Portland Community College since January 21, 1980. She retires effective May 29, 2020.

RECOMMENDATION: That the Board commend her for her service to Portland Community College and wish her well in her retirement years.

May 21, 2020

20-137

COMMENDATION OF RETIRING EMPLOYEE –
TONY ICHSAN

PREPARED BY: Human Resource Department Staff

APPROVED BY: Mark Mitsui, College President

REPORT: Tony Ichsan has performed faithfully in his duties as a Facilities Management Services Director for Portland Community College since December 21, 2015. He retires effective April 20, 2020.

RECOMMENDATION: That the Board commend him for his service to Portland Community College and wish him well in his retirement years.

May 21, 2020

20-138

AWARD CONTRACT FOR TELEPHONE SYSTEM
LICENSING AND SOFTWARE SUPPORT

PREPARED BY: Ed Hawkins, Manager, Infrastructure and Voice Services,
Information Technology
Juanita Lognion, Lead Buyer, Information Technology

FINANCIAL
RESPONSIBILITY: Michael Northover, CIO, Information Technology

APPROVED BY: Mark Mitsui, College President

REPORT: The Board Resolution relates to extending existing district wide services for telephone system licensing and support that are key to the operation of the college VoIP system (voice over internet protocol).

The support and licensing agreement provides regular authorized technical support, scheduled system upgrades, and warranty repair of the VoIP telephone system used throughout the district. The Customer Interaction Center system is a product of Genesys Inc and is the current installed telephone system that is in use.

The previous contract with Avtex is contract #048-16 and Board Resolution 15-142, which ends on 30JUN20.

The College finds that this critical system contract shall continue with Avtex for an additional one (1) year renewal term. The authorization for this renewal is pursuant to the current Emergency Declaration due to the COVID-19 pandemic. The Emergency Declaration dated 3/25/2020 was issued and extended in accordance with PCC-47-0280, PCC-48-0200(1)(a), PCC-49-0150, ORS 279B.080, and ORS 279C.110(11)

No firms that provide Genesys Support are certified by the Oregon Certification Office for Business Inclusion and Diversity.

RECOMMENDATION: Notification of the award of the contract renewal to Avtex Solutions LLC for Genesys Inc Premier support and licensing under the Declared Emergency. The contract

cost is \$277,472.30 for a total of one year of service.
Funding will be from Information Technology Utility Fund.

May 21, 2020

20-139

APPROVE THE ISSUANCE OF A CONTRACT TO T2 SYSTEMS INC. FOR THE CONTINUED USE OF THE CURRENT PARKING MANAGEMENT SYSTEM

PREPARED BY: Kim Copley, Buyer/Contract Specialist, Procurement and Contract Services
Michael Mathews, Manager, Procurement and Contract Services

FINANCIAL RESPONSIBILITY: Ken Brown, Director, Auxiliary Services

APPROVED BY: Eric Blumenthal, Vice President, Finance and Administration
Mark Mitsui, College President

REPORT: April 16, 2017, the College entered into a contract (#19-00341) with T2 Systems Inc. for a Parking Management System. The software integrates with the Colleges ERP system (Banner) and is used to track parking permit sales, citations, appeals, and amounts owed to PCC. A contract amendment is needed to increase the contract dollar amount not to exceed \$258,000.00, and to extend the contract termination date through April 16, 2022.

T2 System software has been determined by the College to be a Sole Source pursuant to ORS 279B.075. The cost of changing software programs, integrating and validating a new program to ensure compliance with PCC IT systems and PCI data integrity, as well as the cost for data migration, data validation, testing and training staff on a new system. T2 System Parking Management System is not supplied by a firm certified by the Oregon Certification Office for Business Inclusion and Diversity.

RECOMMENDATION: That the Board of Directors authorizes the continuation of the current T2 System Inc. contract for the next two (2) years, not to exceed \$258,000.00. Funding will be from Transportation and Parking Services

May 21, 2020

20-140

AUTHORIZATION TO AWARD CONTRACT FOR THE
DESIGN SERVICES FOR CASCADE CAMPUS PUBLIC
SERVICES EDUCATION BUILDING SIMULATION LABS
PROJECT

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning and Capital Construction

FINANCIAL
RESPONSIBILITY: Linda Degman, Director, Planning and Capital
Construction

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: The 2017 Bond Program included funding for
interprofessional training, which is planned as new
medical simulation labs. These will bring College
programs up to date with the latest teaching technologies
and allow training between multiple allied health
programs. The College has determined that the Public
Services Education Building at Cascade Campus is the
most appropriate location for the new labs.

At the June 2019 Board Meeting the Board approved
BR19-126 to establish a price agreement for
Architectural, Engineering, and Landscape Architectural
Design Consulting Services.

Planning & Capital Construction requested Studio
Petretti, one of the firms on this agreement, to provide a
proposal for the design portion. Staff have reviewed the
proposal and recommend acceptance. The total cost
proposed, including reimbursables expenses, is
\$308,758. This is a not-to-exceed proposal and the
College will only be billed for actual costs incurred.

Studio Petretti is a registered WBE firm in Oregon.

RECOMMENDATION: That the Board of Directors authorize PCC to award the
contract for the Cascade Public Services Education
Building Design Services to Studio Petretti for a total
amount of \$339,634 including 10% contingency. Funding
is from the 2017 Bond Program.

May 21, 2020

20-141

AUTHORIZE COLLEGENET 25LIVE RENEWAL

PREPARED BY: Gregory Pitter, Director of Application Services,
Information Technology

FINANCIAL
RESPONSIBILITY: Michael Northover, CIO, Information Technology

APPROVED BY: Mark Mitsui, College President

REPORT: 25Live is scheduling software sold by CollegeNET, Inc. PCC has used this software package and its predecessors since the 1990s to manage academic scheduling and space assignment, as well as creation and management of non-academic events. The system also publishes calendars used on the PCC intranet.

As a specialized tool holding extensive information about PCC's classrooms and programs as well as complex integration with our student information system, 25Live would be a very costly system to migrate away from at this time.

CollegeNET is the sole provider of 25Live and has been determined by the College to be a Sole Source pursuant to ORS 279B.075. This product is not supplied by a firm certified by the Oregon Certification Office for Business Inclusion and Diversity.

RECOMMENDATION: That the Board approve a new Master Service Agreement with CollegeNET to continue the use of the 25Live scheduling software, beginning at \$57,338.36 for the period of 2020-2021 and increasing by not more than 5% a year for the remaining two years of the contract, for a total not to exceed \$185,000 over the three-year period.

May 21, 2020

20-142

AUTHORIZATION TO AWARD CONTRACT FOR
CONSTRUCTION AUDIT SERVICES FOR THE
SYLVANIA HEATH TECHNOLOGY BUILDING
RENOVATION PROJECT

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning and Capital Construction

FINANCIAL
RESPONSIBILITY: Linda Degman, Director, Planning and Capital
Construction

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: The College has a need for specialized construction audit services to support the renovation of the HT building at the Sylvania Campus. This is a complex multi-year project that impacts many buildings on the campus. P&CC has a need for a construction audit firm with experience in similar projects.

At the November 2019 Board Meeting the Board approved BA 20-066 to establish a price agreement for Construction Audit Services. This was a formal RFP process to identify firms able to provide project management services on as needed basis. Three firms were selected as result of that RFP.

P&CC requested Talson Solutions LLC, one of the firms on this agreement, to provide a proposal for these services. Talson is a national construction audit firm with experience auditing large complex public projects. Staff have reviewed the proposal and recommend acceptance. The total cost proposed, including reimbursable expenses, is \$316,266 for services through June 30th, 2023. This is a maximum price and the College will be invoiced for actual hours used up to this amount.

MWESB participation was sought at the time the price agreement was established. One MWESB firm was selected and they are currently working on another P&CC project.

RECOMMENDATION: That the Board of Directors authorize PCC to award the contract for Construction Audit Services for the Sylvania HT Building renovation to Talson Solutions LLC for a total amount of \$347,893 including 10% contingency. Funding is from the 2017 Bond Program.

May 21, 2020

20-143

APPROVE EARLY WORK AMENDMENT #2 FOR CM/GC SERVICES FOR SYLVANIA CAMPUS HT BUILDING DIVE POOL

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning and Capital Construction

FINANCIAL RESPONSIBILITY: Linda Degman, Director, Planning and Capital Construction

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: On September 20, 2018, per Board Resolution BA19-028, the Board of Directors authorized the College to enter into a contract with Lease Crutcher Lewis for a not to exceed fee of \$200,000 to provide preconstruction services for the Sylvania Campus HT Building renovation and associated projects.

At this time the project is in the design phase, however there is a need to proceed with repairs to the HT Dive Pool. Time is of the essence as the work needs to be performed while the pool area is off-line. Lease Crutcher Lewis have provided a cost proposal of \$285,258 to perform this work. P&CC staff have reviewed this and recommend acceptance. This is a not-to-exceed price and the College will only be invoiced for costs incurred.

RECOMMENDATION: That the Board of Directors authorize PCC to execute an amendment to the contract with Lease Crutcher Lewis for up to \$313,784 including 10% contingency for Early Works Package #2 for the HT Dive Pool. Board approval will be requested when the proposed Guaranteed Maximum Price for construction is established. Funding will be from Bond funds.

May 21, 2020

20-144

AUTHORIZATION TO AWARD CONTRACT FOR IT
FIREWALLS UPGRADE

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning and Capital Construction

FINANCIAL
RESPONSIBILITY: Linda Degman, Director, Planning and Capital
Construction
Michael Northover, Chief Information Officer

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: As part of the Network Optimization Project, Information
Technology (IT) will upgrade the core, perimeter and
sites firewall environments to the latest technology. In
addition, the two NGFWs will decrease our ongoing
maintenance costs, significantly reduce support
complexity, and greatly improve efficiencies in network
traffic routing, security and administration.

Firewall equipment will be purchased from Six Degrees
Consulting who are on a cooperative contract issued by
the Government Services Administration (GS-35F-
0511T) which exempts the College from a competitive
process per PCC-46-0400. This contract expires on June
26th, 2022

Six Degrees provided a quote for \$2,679,442.83 which
includes five (5) years maintenance and support. Staff
have reviewed the quote and recommend acceptance.

This contract is being issued against a Federal
Government Services Administration (GSA) cooperative.
The GSA does significant outreach and contracting with
minority and SBA certified businesses.

In this instance, a certified firm does not hold a contract
for the technology goods and related services being
procured.

RECOMMENDATION: That the Board of Directors authorize PCC to award the

contract for IT Firewalls Upgrade to Six Degrees Consulting for a fee of \$2,947,387 including 10% contingency. Funding for the equipment purchase and included maintenance is from the 2017 Bond Program. IT General Fund will be used for maintenance costs after the included period.

May 21, 2020

20-145

AUTHORIZATION TO AWARD CONTRACT FOR
CONSTRUCTION AUDIT SERVICES FOR THE
PORTLAND METROPOLITAN WORKFORCE
TRAINING CENTER PROJECT

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning and Capital Construction

FINANCIAL
RESPONSIBILITY: Linda Degman, Director, Planning and Capital
Construction

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: The College has a need for specialized construction audit services to support the construction of the new Portland Metropolitan Workforce Training Center (PMWTC). P&CC has a need for a construction audit firm with experience in similar projects.

At the November 2019 Board Meeting the Board approved BA 20-066 to establish a price agreement for Construction Audit Services. This was a formal RFP process to identify firms able to provide project management services on as needed basis. Three firms were selected as result of that RFP.

Planning & Capital Construction requested Sjoberg Evashank Consulting Inc, one of the firms on this agreement, to provide a proposal for these services. Sjoberg Evashank are a national construction audit firm with experience auditing large complex public projects. Staff have reviewed the proposal and recommend acceptance. The total cost proposed, including reimbursable expenses, is \$309,170 for services through June 30th, 2023. This is a maximum price and the College will be invoiced for actual hours used up to this amount.

MWESB participation was sought at the time the price agreement was established. One Oregon MWESB firm was selected and they are currently working on another

P&CC project. Sjoberg Evashank are registered in California as both a WBE and a DBE.

RECOMMENDATION: That the Board of Directors authorize PCC to award the contract for Construction Audit Services for the PMWTC project to Sjoberg Evashank Consulting Inc for a total amount of \$340,087 including 10% contingency. Funding is from the 2017 Bond Program.

May 21, 2020

20-146

AUTHORIZATION TO AWARD CONTRACT FOR THE
ROCK CREEK EVENT CENTER PARKING LOT

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning & Capital Construction

FINANCIAL
RESPONSIBILITY: Linda Degman, Director, Planning & Capital Construction

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: The 2017 Bond Program included upgrading the Rock Creek Event Center Parking Lot. The existing gravel lot is not suitable for extended use and will be replaced by a paved lot that includes electric car charging stations, improved lighting, and expanded landscaping.

On April 3, 2020 the Invitation to Bid (ITB) was advertised in the Daily Journal of Commerce, State of Oregon (ORPIN), Portland Observer, and the Portland Business Tribune. In addition, P&CC staff reached out all identified COBID registered firms who could provide these services. A total of thirty-seven (37) firms registered and received a copy of the ITB document. Eight (8) firms were COBID certified. At the proposal closing time of 10:00 AM May 5th, 2020 the College received three (3) proposals of which one (1) was from a firm registered with Oregon COBID.

Proposals were ranked on price with the lowest responsive bidder recommended for the contract.

P&CC staff recommend that the contract be awarded to JH Kelly LLC whose bid of \$1,297,777 was the lowest responsive bid.

JH Kelly are aware of the College target of 20% COBID participation. P&CC staff will work with the contractor to maximize COBID usage.

RECOMMENDATION: That the Board of Directors authorize PCC to award the contract for the Rock Creek Event Center Parking Lot improvements to JH Kelly LLC for a stipulated sum of

\$1,297,777 and contingency of \$129, 778 for a total authorized amount of \$1,427,555. Funding is from the 2017 Bond Program.

May 21, 2020

20-147

BP 2410 BOARD POLICIES, BYLAWS AND
ADMINISTRATIVE PROCEDURES (FIRST READING)

PREPARED BY: Jeannie Moton, Executive Coordinator, Board of Directors

APPROVED BY: Mark Mitsui, College President

REPORT: The Board of Directors may adopt such policies and bylaws that are authorized or determined by the Board of Directors to be necessary for the efficient operation of Portland Community College. Board policies and bylaws are intended to be statements of intent by the Board of Directors on a specific issue within its subject matter jurisdiction.

The policies and bylaws have been written to be consistent with provisions of law but do not encompass all laws relating to Portland Community College's activities. All Portland Community College employees are expected to know and observe all provisions of law pertinent to their job responsibilities.

Policies and bylaws of the Board of Directors may be adopted, revised, added to, or amended at any regular Board of Directors meeting by a majority vote. Proposed changes or additions shall be introduced not less than one regular meeting prior to the meeting at which action is recommended. The Board of Directors shall regularly assess its policies and bylaws for effectiveness in fulfilling Portland Community College's mission.

Administrative procedures are to be issued by the College President as statements of method to be used in implementing Board of Directors policy. Administrative procedures may be revised as deemed necessary by the College President to be consistent with the intent of Board of Directors policy.

The policies and bylaws adopted by the Board of Directors shall be recorded in the minutes of the Board of Directors and only those so adopted and recorded shall be official policies and bylaws of the Board of Directors. Unless circumstances require immediate action, a policy or bylaw shall not be adopted at the first meeting during which it is presented.

The Board of Directors encourages staff and administration to review and recommend new policies or changes in existing policy.

Copies of all Board of Directors policies and bylaws shall be readily available for public review at www.pccc.edu/board.

RECOMMENDATION: In accordance with NWCCU Standards 2.A.2 and 2.A.6 the Board of Directors approve BP 2410 as presented. The adoption of this policy will replace Board Policy B202-Formulation of Written Policies and Bylaws.

May 21, 2020

20-148

APPLY TO THE HIGHER EDUCATION COORDINATING
COMMISSION FOR APPROVAL OF THE ASL/ENGLISH
INTERPRETING PROGRAM AAS DEGREE FOR PORTLAND
COMMUNITY COLLEGE

PREPARED BY: Susan Watson, Curriculum Coordinator, Curriculum Support Services

FINANCIAL RESPONSIBILITY: Julie Kopet Division Dean, English and World Languages

APPROVED BY: Dr. Katy Ho, Vice President, Academic Affairs
Mark Mitsui, College President

REPORT: The proposed ASL/English Interpreting Program AAS Degree is a revision of the Sign Language Interpretation Program AAS degree. This significant revision was undertaken in order to position the degree for future alignment with a professional accrediting body and to address curricular scaffolding needs in the program. This 94-credit degree prepares students for ASL/English interpreting positions.

RECOMMENDATION: That the College be authorized to submit an application to the Higher Education Coordinating Commission for the ASL/English Interpreting Program AAS Degree for Portland Community College.

May 21, 2020

20-149

APPLY TO THE HIGHER EDUCATION COORDINATING
COMMISSION FOR APPROVAL OF THE CREATIVE CODING
& IMMERSIVE TECHNOLOGIES AAS DEGREE FOR
PORTLAND COMMUNITY COLLEGE

PREPARED BY: Susan Watson, Curriculum Coordinator, Curriculum Support Services

FINANCIAL RESPONSIBILITY: Dan Wenger, Division Dean, Arts and Professions

APPROVED BY: Dr. Katy Ho, Vice President, Academic Affairs
Mark Mitsui, College President

REPORT: The proposed Creative Coding & Immersive Technologies AAS Degree offers students an opportunity to be a part of a new generation of multi-disciplinary artists, designers and creatives leveraging multi-disciplinary knowledge, new technologies, cultural awareness and equity frameworks to produce the art, media, entertainment, experiences and hardware of the future. This 90-credit degree prepares Portland communities to be employees and leaders in Portland's trend-setting, globally competitive creative coding and immersive technologies industry.

RECOMMENDATION: That the College be authorized to submit an application to the Higher Education Coordinating Commission for the Creative Coding & Immersive Technologies AAS Degree for Portland Community College.

May 21, 2020

20-150

AUTHORIZATION TO REFUND LAB FEES FOR
SPRING TERM 2020 TO STUDENTS

PREPARED BY:

Michelle Brown, Manager, Treasury and Bursar

FINANCIAL
RESPONSIBILITY:

Dina Farrell, Associate Vice President, Finance
Eric Blumenthal, Vice President, Finance and Administration

APPROVED BY:

Mark Mitsui, College President

REPORT:

This Board Resolution relates to refunding Student Lab Fees to students for the spring 2020 term. Adjustments are due to PCC moving to remote operations during the COVID-19 pandemic.

Student Lab Fees are mandatory fees charged to students for certain academic lab courses, at varying rates up to \$45 per lab. Lab fees cover a broad range of costs including materials, supplies, and equipment.

Removal and refunding of course lab fees for the spring 2020 term will reduce lab fee revenue by approximately \$168,000. Backfilling the reduction of lab fee revenue is a recognized use of the institutional portion of US Department of Education CARES ACT funds.

Student lab fees along with other student fees were reviewed by the President's Cabinet for possible adjustment due to the move to remote operations and changes in services to students. The Cabinet endorsed the adjustment to student lab fees.

RECOMMENDATION:

That the Board of Directors authorize the removal and refunding of student lab fees for the spring 2020 term.

May 21, 2020

20-151

AUTHORIZATION TO REFUND STUDENT
TRANSPORTATION FEE FOR SPRING TERM
2020 AND NOT CHARGE STUDENT
TRANSPORTATION FEE FOR SUMMER TERM
2020

PREPARED BY:

Michelle Brown, Manager, Treasury and Bursar

FINANCIAL
RESPONSIBILITY:

Dina Farrell, Associate Vice President, Finance
Eric Blumenthal, Vice President, Finance and Administration

APPROVED BY:

Mark Mitsui, College President

REPORT:

This Board Resolution relates to removing and refunding the Student Transportation Fee for the spring 2020 term and discontinuing the charging of the Student Transportation Fee for the summer 2020 term because no TriMet student select transit passes have been, or will be, sold to students during these academic terms. The change is due to PCC moving to remote operations during the COVID-19 pandemic.

The Student Transportation Fee is a mandatory fee charged to all students at \$8.00 per student per term. The fee covers the subsidized portion of TriMet student select transit passes sold to students. No transit passes were issued during the spring 2020 term and with the expected continuation of remote operations during the summer 2020 term, no transit passes will be issued for the summer term either. Since TriMet student select passes have not been purchased for the spring 2020 term and will not be purchased for the summer 2020 term, there is little to no substantial lost revenue due to refunding the fee in the spring 2020 term and not charging the fee in the summer 2020 term.

The Student Transportation Fee along with other student fees were reviewed by the President's Cabinet for possible adjustment due to the move to remote operations and changes in services to students. The Cabinet endorsed the adjustments to the Student Transportation Fee.

RECOMMENDATION: That the Board of Directors authorize the removal and refunding of the Student Transportation Fee for spring term 2020 and further authorizes discontinuation of charging the Student Transportation Fee for summer term 2020.

May 21, 2020

20-152

ADOPT FINDINGS - GRANT AN EXEMPTION FROM
COMPETITIVE BIDDING - AUTHORIZE USE OF THE
CONSTRUCTION MANAGER/GENERAL
CONTRACTOR (CM/GC) ALTERNATIVE
CONTRACTING METHOD FOR CASCADE CAMPUS
PUBLIC SAFETY BUILDING & PUBLIC SERVICE
EDUCATION BUILDING

PREPARED BY: John MacLean, Finance and Procurement Manager,
Planning and Capital Construction

FINANCIAL
RESPONSIBILITY: Linda Degman, Director, Planning and Capital
Construction

APPROVED BY: Sylvia Kelley, Executive Vice President
Mark Mitsui, College President

REPORT: The 2107 Bond Program included the replacement of the existing Campus Public Safety Building (PSB) on the Cascade Campus. The existing building is a converted dental office that does not meet the department's needs and is unsuitable for renovation. The project involves demolition of the existing building and construction of a new purpose-built facility. The 2017 Bond also included funding to create medical simulation labs. The College has determined that the Public Services Education Building (PSEB) at Cascade is the most appropriate location for these labs.

These two projects at the Cascade Campus are both small but complex projects that are suited to the CM/GC delivery method.

The estimated combined project budget is \$6M.

The PSB project is complicated by the site's location on N Killingsworth Street requiring care coordination of the work. The work in the PSEB will be in an occupied building that needs to remain open during construction. To minimize impact to the campus P&CC staff recommend that the same General Contractor perform the work. Each project has its own design team.

The Construction Manager/General Contractor (CMGC) form of contracting is a competitive request for proposal process that requires the contractors to provide detailed information and examples from past projects that demonstrate how they are able meet the criteria the college sets forth. One of the criteria is utilization of MWESB contractors and subcontractors. They have to demonstrate their commitment, prepare an outreach plan, share utilization from past projects, and their engagement has to be above and beyond the minimum of phone calls and emails. Using a CMGC process allows for higher MWESB and apprenticeship training percentages. Without the CMGC contracting process the college will have little to no input into the selection criteria of the subcontractors as the decision would be made solely on price.

There are also numerous other goals for inclusivity for various College and community stakeholders. It is desired that this program includes multiple internship opportunities for students and incorporate 'learning labs' in the design and construction process. Pre-apprenticeship participation and mentorship programs for small general contractors are all desired outcomes.

The College has several critical needs related to the work going forward at Cascade

- The service to staff, faculty and students at Cascade must, to the maximum extent possible, continue unimpeded through construction;
- Public, student, and staff safety must be protected in a complex, construction environment;
- Disruptions, delays, and unplanned events must be kept to an absolute minimum.

Because of the size and complexity of this project, Staff recommends that the Construction Manager/General Contractor (CM/GC) process be utilized. The CM/GC alternative contracting process is authorized for procurement of construction services under ORS 279C.337 provided that the Local Contract Review Board (the Board of Directors for PCC under ORS 297A.060) approves an exemption from competitive bidding. Under the CM/GC contracting method:

- Prospective contractors are solicited prior to completion of the design phase pursuant to a competitive request for proposals (RFP) process, where selection is based upon criteria relating to the experience and expertise of the contractor rather than low bid.
- The contractor works with the owner and architect during the design phase to develop the final design with the goals of improved constructability and value engineering, which results fewer change orders and the ability to expedite the construction schedule. It also enables the contractor to be involved in development of the construction program, including implementation of the College's inclusivity goals. (Under the standard design/bid/build method, the design is completed before the project is bid, award is based upon low bid, and the contractor comes on board at that point.)
- At the end of the design phase, the owner and contractor negotiate and agree on a guaranteed maximum price ("GMP") and the construction schedule for the construction phase of the project. Execution of the GMP Amendment starts the construction phase of the project.

The CM/GC alternative contracting method is commonly used by public contracting agencies for complex projects such as the Cascade projects.

Findings:

ORS 279C.335(2), implementing ORS 279C.330, requires the Board to make certain findings in order to grant an exemption, as follows:

" (a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts."

Finding: The requested exemption will not encourage favoritism or substantially diminish competition. The College will utilize a competitive RFP process to select the CM/GC firm.

The procurement will be formally advertised with public notice. Full competition will be encouraged and all qualified contractors will be invited to submit a proposal. The award will be based upon an objective review and scoring of proposals by a qualified College review committee based identified selection criteria. Once selected, the CM/GC will select subcontractors via competitive process in accordance with PCC Contracting Rules and as required by ORS 297C.337(3). This competitive process will include outreach to and solicitation of diverse and small contractors pursuant to the College's inclusivity goals. The CM/GC process should increase competition by maximizing the opportunity for all interested large, small, and/or diverse contractors to participate in the project.

"(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency . . . that seeks the exemption. In approving a finding under this paragraph, the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

(A) How many persons are available to bid;"

Finding: Based on previous PCC CM/GC contracting processes, the College expects that a substantial number of contractors will be interested in the Cascade project, and that there will vigorous competition during the RFP process.

"(B) The construction budget and the projected operating costs for the completed public improvement;"

Finding: The estimated project budget is set forth above in the project description. The College has not conducted a detailed analysis of the operating costs, but expects that the improved design resulting from the CM/GC's early participation during the design phase, and particularly the contractor's assistance with energy efficiency improvements designed to meet the College's rigorous energy efficiency goals, will substantially reduce long- term operating cost. This is one of the design goals

of the project and bringing the contractor on board during the design phase will improve the College's ability to achieve this goal.

"(C) Public benefits that may result from granting the exemption;"

Finding: Unlike a traditional design/bid/build procurement, an RFP process allows the District to review the qualification of the proposed GC's project team, ensuring the selected firm(s) has experience and expertise in development of education and related facilities, including the required City of Portland permitting process. This is important to ensure that the selected contractor has the experience and capacity to build and renovate complex facilities on an operating college campus.

Bringing the CM/GC on during the design phase also promotes an early team approach that leads to better communication, continuous value engineering, and improved constructability review, which results in an improved final design and, consequently, a more streamline construction process. The College's past experience with the CM/GC process has been that this reduces change orders and limits delays during the construction phase. The College also expects that the CM/GC team approach will also allow better monitoring by PCC staff to ensure that the Project stays within budget.

It is vital that the College minimize the disruption to the services provided at Cascade and that the project is completed in the shortest practical time needed to accomplish the work. Use of a CM/GC process will allow this to happen on a flexible schedule and will reduce the possibility that the College will experience increased costs due to delay and disruption.

The CM/GC process will also enable PCC to work with the contractor to maximize opportunities for participation by minority, women-owned, and emerging small businesses for subcontracting work. This will increase competition among subcontractors. The College's experience with past CM/GC contracts demonstrates that the College achieves higher MWESB utilization and subcontractor participation than it does through traditional

contracting methods.

Enhanced teamwork and early participation in the planning process by the Contractor through the CM/GC process will also allow the College to identify multiple internship opportunities for students and create 'learning lab' opportunities as part of the design and construction process.

Overall, the public benefits of the CM/GC process include cost savings, better achievement of College community goals, and more timely delivery of the project due to fewer changes and disruptions.

"(D) Whether value engineering techniques may decrease the cost of the public improvement:"

Finding: Value engineering is a routine practice in public improvement projects regardless of procurement method. The CM/GC delivery method allows for the general contractor to participate in the value engineering process during the design phase, resulting in a more effective and efficient process as compared to value engineering via change orders to a completed design. The inherent flexibility and team approach of the CM/GC process allows the College to more easily change the design and scope of work as necessary to meet the project budget before the final design is fixed. This is not something that the traditional bid process offers.

Value engineering may or may not decrease the contract sum but it will improve the College's ability to be able to manage the project within the budget and will reduce extra-cost change orders and the costs associated with the attendant project delay. PCC also expects to be able to take advantage of reduced architectural and other professional consultant service fees as a result of this more streamlined CM/GC approach.

"(E) The cost and availability of specialized expertise that is necessary for the public improvement:"

Finding: The Cascade projects are complex and require a contractor with the expertise and experience to manage multiple subcontractors, to construct the project while the existing buildings are in use by staff and students, and

that understands the particular needs of the College in terms of construction management and project delivery times. The RFP process allows for review of contractor expertise and the particular expertise of the contractor's proposed team not afforded by a low-bid procurement.

"(F) Any likely increases in public safety:"

Finding: The CM/GC process will enhance public safety because PCC will be able to consider the safety record of the contractors selected and because the CM/GC will be integral to planning the construction schedule and safety measures during the design phase. Because the adjacent PCC buildings will be occupied and open to the public throughout the Project, this public safety benefit is particularly important.

"(G) Whether granting the exemption may reduce risks to the contracting agency . . . or the public that are related to the public improvement;"

Finding: The scope and magnitude of the work requires long- term planning and scheduling around the college's academic calendar. The public interest will be best served by establishing a construction methodology that encompasses that capability over the long duration of the Program. Directly involving the contractor in development of these key plans during the design phase will result in a more realistic, achievable, and expeditious schedule.

In addition, the CM/GC process allows the contractor to discover and help address complicated technical issues during the document design process, which facilitates advanced problem-solving. The risks are better understood and are addressed early in the process, reducing financial and schedule risks as a result.

"(H) Whether granting the exemption will affect the sources of funding for the public improvement:"

Finding: This project will be funded by the 2017 Bond. There will be no impact on this funding source due to the CM/GC process.

"(I) Whether granting the exemption will better enable the contracting agency to control the impact that market

conditions may have on the cost of and time necessary to complete the public improvement:"

Finding: Because the CM/GC process results in the selection of the general contractor early in the design phase, the College is better able to take advantage of market prices by facilitating early purchase of certain project elements. The essential added value of the CM/GC process is the real time market job costing from projects around the Portland market and the West Coast. This knowledge allows the contractor and architect time to consider less costly complementary or alternative items.

"(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;"

Finding: The Cascade projects are complex and will require careful planning and coordination to reduce the impact on users of the current buildings and parking lots. One of the biggest advantages of the CM/GC method is the ability to coordinate all technical work before the start of construction and more accurately establish a construction schedule. Being able to apply best practices as a team will make for a better product within the budget constraints.

"(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;"

Finding: As noted above, the Cascade projects involve substantial remodeling and renovation of multiple buildings throughout the Cascade campus. Remodeling structures is typically much more complex than new development because there are always surprises, sometimes unpleasant, once the project is underway. Conducting such work on an operating campus significantly increases that complexity. Use of the CM/GC process will ensure that the selected contractor has the experience and expertise to do the job. The new construction envisioned as part of these projects is on a small piece of property which is adjacent to a major city street. Careful planning will be needed to avoid undue impact to the surrounding neighborhood.

"(L) Whether the public improvement will be occupied or unoccupied during construction;"

Finding: As noted above, the PSEB will operating as usual throughout the construction schedule requiring careful and accurate project scheduling.

"(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions;"

Finding: The construction may be done in one or two phases depending on recommendations from the design and construction teams for the schedule.

"(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract."

Finding: The College's Office of Planning and Capital Construction has extensive experience in implementing successful CM/GC contracting processes, including the successful Cascade, Cascade, Southeast, and Sylvania projects from the 2008 Bond Program. The District's outside legal counsel, Miller Nash Graham & Dunn LLP, has extensive experience with the CM/GC alternative contracting methods and has represented the College on multiple CM/GC projects arising from past bond programs.

Ultimate Finding: For these reasons, use of the CM/GC Alternative Contracting Method for the Cascade campus projects is likely to result in substantial cost savings and deliver other significant public benefits as compared to use of the standard/bid/build process within the meaning of ORS 279C.335(2)(b).

RECOMMENDATION: That the Board of Directors, acting as the Local Contract Review Board for the College, adopt the findings presented and grant an exemption from competitive bidding for Cascade Campus Upgrades Project to authorize the use of a CM/GC alternative contracting method for the project. Funding for this project will be from the 2017 Bond Program.

May 21, 2020

20-153

ACCEPT PROPOSED CHANGES TO THE COMMUNITY COLLEGE
RULES OF PROCUREMENT (SECOND READING)

PREPARED BY: Michael Mathews, Manager, Procurement and Contract Services

APPROVED BY: Dina Farrell, Associate Vice President, Finance
Eric Blumenthal, Vice President, Finance and Administration
Mark Mitsui, College President

REPORT: With the concurrence of our legal counsel the College recommends the adoption of the Community College Rules of Procurement (CCRP) as amended by Portland Community College. Adoption of these proposed rules would reinstate the valuable relationship with Participating Oregon Community Colleges (POCC) which is a task force formed of Oregon Community College Association (OCCA) members. These rules are written to work in conjunction with the Attorney General Model Rules and Oregon Revised Statutes 279A, 279B, and 279C.

These proposed contracting rules will align Portland Community College with our fellow Community Colleges in Oregon and allow PCC full access to efficiencies in procurement practices currently in use by public agencies and municipalities based on the Attorney General Model rules which is reviewed by the Oregon Department of Justice.

The following Community Colleges are currently listed as members of the POCC:

Blue Mountain Community College
Central Oregon Community College
Chemeketa Community College
Clackamas Community College
Clatsop Community College
Columbia Gorge Community College
Klamath Community College
Lane Community College
Linn-Benton Community College
Mt. Hood Community College
Rogue Community College
Southwestern Oregon Community College
Umpqua Community College

The primary changes in the proposed contracting rules include:

The Attorney General Model Rules are incorporated into the Agreement and thus our rules are up to date as soon as they are released by the

Department of Justice.

Increases the current Direct Award amount for Personal Services Contracts from \$50,000 to \$75,000.

Clarifies the Sole Source process allowing the Purchasing Manager to approve findings. Places a time limit on approved Sole Sources which would require a reevaluation after five years.

Aligns the number of quotes required for the informal selection process for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services to three (3) quotes as in all other informal processes.

Clarification that both the College Procurement and Contract Services Department and the Planning and Capital Construction Purchasing Department may carry out formal procurement processes.

RECOMMENDATION: That the Board, in their capacity as the Local Contract Review Board finds that it is in the best interest of the College to adopt the proposed Community College Rules of Procurement (CCRP) to be effective upon second reading and authorize the College to enter into an Intergovernmental Agreement to reinstate its membership in the Participating Oregon Community Colleges.



COMMUNITY COLLEGE RULES OF PROCUREMENT

**EFFECTIVE MARCH 1, 2005, AND AS
AMENDED AS OF December 3, 2018
AND EFFECTIVE May 21, 2020, VERSION 1.8, THROUGH
BOARD RESOLUTION *insert #***

**ADOPTED IN ACCORDANCE WITH
ORS 279A.065(5)(a) and ORS 279A.070**

BY

**PORTLAND COMMUNITY COLLEGE
THROUGH
BOARD RESOLUTION**

DATED

MAY 21, 2020

These Community College Rules of Procurement shall remain in effect unless modified, in writing, and adopted by the College's Local Contract Review Board through Board Resolution.

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SECTION 300 SUPPLEMENTARY PROVISIONS – CONTRACTING RULES

These Community College Rules of Procurement were drafted by participating statewide community college representatives with the intent that Sections 100 and 200 be adopted in their entirety and remain unchanged by their respective institutions unless modified by participating committee members at a later date and subsequently ratified by all their Local Contract Review Boards. Section 300 has been specifically set aside to address the unique philosophies, cultures, and/or concerns of the various community colleges, voting districts, and Local Contract Review Boards. In the event of conflict between rules or sections within these Community College Rules of Procurement, the rules in Section 300 (excluding Appendix A), shall take precedence over the rules in Sections 100 and/or 200 except as otherwise expressly provided in Sections 100 and 200; in all cases, Sections 100, 200, and 300 (excluding Appendix A), shall take precedence over Appendix A.

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CCR.315	Contract Reinstatements
CCR.320	Energy Management Controls Systems
CCR.325	Exception (Including Sole Source)
CCR.330	Personal Property, Used (Purchase of)
CCR.335	Personal Services Contracts
CCR.340	Purchasing Manual
CCR.345	Solicitation
CCR.350	Source Selection Special Risk Insurance Policies
CCR.355	Space Rentals (hotels, conferences, temporary offices, etcetera)
CCR.360	Special Risk Insurance Policies

APPENDIX A: OREGON ATTORNEY GENERAL’S MODEL PUBLIC CONTRACT RULES (OREGON ADMINISTRATIVE RULES), AS EXPRESSLY IDENTIFIED BY RULE NUMBER, AND INCORPORATED HEREIN BY REFERENCE--DIVISIONS 46, 47, 48, AND 49, PREPARED AND MAINTAINED BY THE STATE OF OREGON, DEPARTMENT OF JUSTICE, GENERAL COUNSEL DIVISION, AS AMENDED FROM TIME TO TIME.

Sections 100, 200, and/or 300 (excluding Appendix A), in these Community College Rules of Procurement shall prevail in every instance where there is a conflict or similarity between the Oregon Attorney General’s Model Public Contract Rules, (Appendix A), and these Community College Rules of Procurement, effective March 1, 2005, subsequently reviewed/modified pursuant to ORS 279A.065(5)(b). *Rules from the Oregon Attorney General’s Model Public Contract Rules that have been identified in the Table of Contents herein but which are shown with a line drawn through them have been stricken and have not been adopted by the College.*

DIVISION 46 GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTING

137-046-0100	Content and General Application; Federal Law Supremacy
137-046-0110	Definitions for the Model Rules
137-046-0120	Policy
137-046-0130	Application of the Code and Model Rules; Exceptions
137-046-0200	Notice to Advocate for Minorities, Women and Emerging Small Businesses
137-046-0210	Subcontracting to and Contracting with Emerging Small Businesses; DBE Disqualification
137-046-0300	Preferences for Oregon Goods and Services
137-046-0310	Reciprocal Preferences
137-046-0320	Preference for Recycled Materials
137-046-0400	Authority for Cooperative Procurements
137-046-0410	Responsibilities of Administering Contracting Agencies and Purchasing Contracting Agencies
137-046-0420	Joint Cooperative Procurements
137-046-0430	Permissive Cooperative Procurements
137-046-0440	Advertisements of Intent to Establish Contracts through a Permissive Cooperative Procurement
137-046-0450	Interstate Cooperative Procurements
137-046-0460	Advertisements of Interstate Cooperative Procurements
137-046-0470	Protests and Disputes
137-046-0480	Contract Amendments
137-046-0500	Repealed Rules

DIVISION 47 GENERAL PROVISIONS

137-047-0000	Application
137-047-0100	Definitions
137-047-0250	Methods of Source Selection; Feasibility Determination; Cost Analysis
137-047-0255	Competitive Sealed Bidding
137-047-0257	Multistep Sealed Bidding
137-047-0260	Competitive Sealed Proposals
137-047-0261	Multi-tiered and Multistep Proposals
137-047-0265	Small Procurements
137-047-0270	Intermediate Procurements
137-047-0275	Sole-Source Procurements
137-047-0280	Emergency Procurements
137-047-0285	Special Procurements
137-047-0290	Cooperative Procurements
137-047-0300	Public Notice of Solicitation Documents
137-047-0310	Bids or Proposals are Offers
137-047-0320	Facsimile Bids and Proposals
137-047-0330	Electronic Procurement
137-047-0400	Offer Preparation
137-047-0410	Offer Submission

137-047-0420	Pre-Offer Conferences
137-047-0430	Addenda to Solicitation Document
137-047-0440	Pre-Closing Modification or Withdrawal of Offers
137-047-0450	Receipt, Opening, and Recording of Offers; Confidentiality of Offers
137-047-0460	Late Offers, Late Withdrawals and Late Modifications
137-047-0470	Mistakes
137-047-0480	Time for Agency Acceptance
137-047-0490	Extension of Time for Acceptance of Offer
137-045-0500	Responsibility of Bidders and Proposers
137-047-0525	Qualified Products Lists
137-047-0550	Prequalification of Prospective Offerors; Pre-negotiation of Contract Terms and Conditions
137-047-0575	Debarment of Prospective Offerors
137-047-0600	Offer Evaluation and Award
137-047-0610	Notice of Intent to Award
137-047-0620	Documentation of Award
137-047-0630	Availability of Award Decisions
137-047-0640	Rejection of an Offer
137-047-0650	Rejection of All Offers
137-047-0660	Cancellation of Procurement or Solicitation
137-047-0670	Disposition of Offers if Procurement or Solicitation Canceled
137-047-0700	Protests and Judicial Review of Special Procurements
137-047-0710	Protests and Judicial Review of Sole-Source Procurements
137-047-0720	Protests and Judicial Review of Multiple-Tiered and Multistep Solicitations
137-047-0730	Protests and Judicial Review of Solicitations
137-047-0740	Protests and Judicial Review of Contract Award
137-047-0745	Protest and Judicial Review of Qualified Products List Decisions
137-047-0750	Judicial Review of Other Violations
137-047-0760	Review of Prequalification and Debarment Decisions
137-047-0800	Amendments to Contracts and Price Agreements
137-047-0810	Termination of Price Agreements

DIVISION 48 CONSULTANT SELECTION: ARCHITECTURAL, ENGINEERING AND LAND SURVEYING SERVICES AND RELATED SERVICES CONTRACTS

137-048-0100	Application
137-048-0110	Definitions
137-048-0120	List of Interested Consultants; Performance Record
137-048-0130	Applicable Selection Procedures; Pricing Information, Disclosure of Proposals; Conflicts of Interest
137-048-0200	Direct Appointment Procedure
137-048-0210	Informal Selection Procedure
137-048-0220	Formal Selection Procedure
137-048-0230	Ties Among Proposers
137-048-0240	Protest Procedures
137-048-0250	Solicitation Cancellation Delay or Suspension; Rejection of All Proposals or Responses; Consultant Responsibility for Costs
137-048-0260	Two-Tiered Selection Procedure for Local Contracting Agency Public Improvement Projects
137-048-0270	Price Agreements
137-048-0300	Prohibited Payment Methodology; Purchase Restrictions
137-048-0310	Expired or Terminated Contracts; Reinstatement
137-048-0320	Contract Amendments

DIVISION 49 GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTS FOR CONSTRUCTION SERVICES

137-049-0100	Application
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137-049-0110	Policies
137-049-0120	Definitions
137-049-0130	Competitive Bidding Requirement
137-049-0140	Contracts for Construction Other than Public Improvements
137-049-0150	Emergency Contracts; Bidding and Bonding Exemptions
137-049-0160	Intermediate Procurements; Competitive Quotes and Amendments
137-049-0200	Solicitation Documents; Required Provisions; Assignment or Transfer
137-049-0210	Notice and Advertising Requirements; Posting
137-049-0220	Prequalification of Offerors
137-049-0230	Eligibility to Bid or Propose; Registration or License
137-049-0240	Pre-Offer Conferences
137-049-0250	Addenda to Solicitation Documents
137-049-0260	Request for Clarification or Change; Solicitation Protests
137-049-0270	Cancellation of Solicitation Document
137-049-0280	Offer Submissions
137-049-0290	Bid or Proposal Security (<i>see also CCR 204</i>)
137-049-0300	Facsimile Bids and Proposals
137-049-0310	Electronic Procurement
137-049-0320	Pre-Closing Modification or Withdrawal of Offers
137-049-0330	Receipt, Opening and Recording of Offers; Confidentiality of Offers
137-049-0340	Late Bids, Late Withdrawals and Late Modifications
137-049-0350	Mistakes
137-049-0360	First-Tier Subcontractors; Disclosure and Substitution (<i>see also CCR 282</i>)
137-049-0370	Disqualification of Persons
137-049-0380	Bid or Proposal Evaluation Criteria
137-049-0390	Offer Evaluation and Award; Determination of Responsibility
137-049-0395	Notice of Intent to Award
137-049-0400	Documentation of Award; Availability of Award Decisions
137-049-0410	Time for Contracting Agency Acceptance; Extension
137-049-0420	Negotiation with Bidders Prohibited
137-049-0430	Negotiation When Bids Exceed Cost Estimate
137-049-0440	Rejection of Offers
137-049-0450	Protest of Contractor Selection, Contract Award
137-049-0460	Performance and Payment Security; Waiver
137-049-0470	Substitute Contractor
137-049-0490	Foreign Contractor
137-049-0600	Purpose (Alternative Contracting Methods)
137-049-0610	Definitions for Alternative Contracting Methods
137-049-0620	Use of Alternative Contracting Methods
137-049-0630	Findings, Notice and Hearing
137-049-0640	Competitive Proposals; Procedure
137-049-0645	Requests for Qualifications (RFQ)
137-049-0650	Requests for Proposals (RFP)
137-049-0660	RFP Pricing Mechanisms
137-049-0670	Design-Build Contracts
137-049-0680	Energy Savings Performance Contracts (ESPC)
137-049-0690	Construction Manager/General Contractor (CM/GC)
137-049-0800	Required Contract Clauses
137-049-0810	Waiver of Delay Damages Against Public Policy
137-049-0815	BOLI Public Works Bond
137-049-0820	Retainage
137-049-0830	Contractor Progress Payments
137-049-0840	Interest

137-049-0850	Final Inspection
137-049-0860	Public Works Contracts
137-049-0870	Specifications; Brand Name Products
137-049-0880	Records Maintenance; Right to Audit Records
137-049-0890	Contracting Agency Payment for Unpaid Labor or Supplies
137-049-0900	Contract Suspension; Termination Procedures
137-049-0910	Changes to the Work and Contract Amendments

**SECTION 100 - GENERAL
INFORMATION**

Purpose and Statutory Authority

CCR.102

- (1) **Purpose.** These rules prescribe public contract Special Procurements (exemptions), whereby a Local Contract Review Board may approve a special procurement (pursuant to ORS 279B.085), personal services contracting rules, competitive procurement process rules, and supplementary provisions for community colleges, who have formally adopted through board resolution, these Community College Rules of Procurement, hereinafter referred to as Rules or CCRP.
- (2) **Statutory Authority.** These Rules are authorized by Public Contracting Code 279A.050 (*Procurement Authority*), 279A.055 (*Personal Services Contracts*), 279A.060 (*Local Contract Review Boards*), and 279A.070 (*Rules*). All references to PCC shall mean Public Contracting Code as defined in ORS 279A.010(1)(bb). (*Note: Under ORS 279A.065(4), public contracting agencies in Oregon will be operating under the State of Oregon Attorney General's Model Rules unless they have taken special action to opt out and adopt their own contracting rules.*)
- (3) **Participating Oregon Community Colleges.** These Community College Rules of Procurement (CCRP), were drafted through a statewide, collaborative effort by representatives of Participating Oregon Community Colleges (POCC). Pursuant to the POCC participatory agreement, Sections 100 and 200 of the CCRP shall remain unchanged unless modified by the POCC at a later date and subsequently ratified by each institution's Local Contract Review Board. Any member of the POCC that adopts changes to Sections 100 and/or 200 of the CCRP that have not been mutually agreed upon and adopted by all other POCC members, shall by and through its actions, no longer qualify as a member of the POCC cooperative procurement group and shall not represent itself as such.
- (4) **Sustainability Commitment.** In accordance with the Oregon Community College Rules of Procurement, member colleges are committed to the use and purchase of environmentally and socially responsible materials and products, which are fiscally responsible, reduce resource consumption and waste, perform adequately, and promote human health and well-being. Recognizing their regional economic role, colleges shall seek opportunities to educate, encourage, and influence their respective markets by utilizing, where feasible, products and services, including new environmentally preferable products, reusable products, recycled content and recycled products.

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Definitions for these Community College Rules of Procurement

CCR.104

The following terms, when they appear capitalized in these Community College Rules of Procurement, shall have the meaning set forth below unless otherwise indicated:

- (1.) **"Addendum" or "Addenda"** means an addition to or deletion from, a material change in, or general interest explanation of a Solicitation Document.
- (2.) **"Auxiliary Funds"** means funds intended to be profit making and/or self-sustaining for providing product or services to the College's customers. (See also "Enterprise Funds.") Examples of Auxiliary Fund or Enterprise Fund operations may include: bookstores; food services; printing services; medical/dental/science stores; student automotive and mechanical stores; and miscellaneous student stores for the resale of books and computers for instruction.
- (3.) **"Award" or "Intent to Award"** means, as the context requires, either the act or occurrence of the College's identification of the Person with whom the College will enter into a Contract following the resolution of any protest of the College's selection of that Person, and the completion of all Contract negotiations.
- (4.) **"Best Value, Arriving at"** means evaluation or assessment of performance factors and other aspects of service and product quality, as well as pricing, which may include, but not be limited to, combinations of quality, services, time, total cost of ownership considerations, and the probability of the Offeror performing the requirements stated in the Solicitation.
- (5.) **"Bid"** means a "Written" response to an Invitation to Bid.
- (6.) **"Bidding/Proposing Period"** means the span of time between the date of the Solicitation Document and the time and date set for receipt of Offers. The time period shall be stated in the Solicitation Document. Generally a period

of fourteen (14) calendar days shall be provided, but in no case shall the time provided be less than five (5) calendar days.

- (7.) **“Closing”** means the date and time specified in a Solicitation Document as the deadline for submitting Offers.
- (8.) **“Code”** means the Public Contracting Code, as defined in ORS 279A.010.
- (9.) **“College”** means Community College District or Community College Service District established under ORS chapter 341, hereinafter known as the specific College whose name appears on the Solicitation Document and/or subsequent Contract and whose Local Contract Review Board has adopted by resolution or ordinance these Community College Rules of Procurement.
- (10.) **“Competitive Range”** means the Offerors with whom the College will conduct discussions or negotiations if the College intends to conduct discussions or negotiations in accordance with its own rules.
- (11.) **“Contract”** means a “Public Contract,” as defined in ORS 279A.010(1)(z), a sale or other disposal, or a purchase, lease, rental or other acquisition, by a contracting agency of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. “Public Contract” does not include grants. The “Contract” includes the College’s Solicitation Document and the accepted portions of a Solicitation Document, whether attached or incorporated by reference, between the College and Contractor describing the work to be done and the obligations of the parties. Depending upon the goods and services being procured, the College may use “Contract” as meaning a purchase order, price agreement, or other contract document in addition to the College’s Solicitation Document and the accepted portions of a Solicitation Document. If the Contract is for a public improvement or public work, the “Contract” may consist of the College’s Solicitation Document, including any addenda, the general and special and/or supplementary conditions or other conditions governing the work, the accepted portions of the Solicitation Document, the performance and payment bond (if required), certificates of insurance, plans, technical specifications, approved shop drawings, Construction Change Directive or written order for a minor change in the Work, Notice of Award, Notice to Proceed, and any contract amendments, including approved change orders.
- (12.) **“Contract Price”** means, as the context requires, (i) the maximum monetary obligation that the College either will or may incur under a Contract, including bonuses, incentives, approved alternates, and contingency amounts, if the Contractor fully performs under the Contract.
- (13.) **“Contract Review Authority”** means the College’s Local Contract Review Board as set forth in ORS 279A.060.
- (14.) **“Contract Value”** - in determining the applicability of dollar threshold requirements for competitive procurements within these Community College Rules of Procurement, “Contract Value” means the gross amount of goods and/or services procured by or for the College and shall take into consideration, but not be limited to, the following elements: (1) Contract Price; (2) total amount estimated to be generated, if contract is anticipated to be revenue generating; (3) economic value, and (4) total estimated expenses incurred for which the College would be required to report to the Internal Revenue Service (e.g., 1099).
- (15.) **“Contractor”** means the Person with whom the College enters into a Contract and shall be synonymous with “Independent Contractor” (i.e., a person or business that provides services to the College in which the College neither controls nor has the right to control the means or manner by which work is performed). The College may control the results of the services, but not control the means or manner of the Contractor’s performance of the Work.
- (16.) **“Cost”** means not only the product price but also other items of expense such as the actual or reasonably estimated costs related to quality or conversion, and may include such actual or estimated items as shipping, delivery, setup, installation, and training.
- (17.) **“Descriptive Literature”** means “Written” information submitted with the Offer that addresses the Goods and Services included in the Offer.
- (18.) **“Disadvantaged Business Enterprise (DBE)”** means a small business concern pursuant to ORS 200.005(1), which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any corporation, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- (19.) **“Effective Date of Contract”** means the date established in the Contract for the Contractor’s work to begin, or the date the Contract has been fully executed and received all required approvals, whichever date is later.
- (20.) **“Electronic Advertisement”** means notice of the College’s request for Offers or Request for Quotes, available over the Internet via (a) The World Wide Web or some other Internet protocol; or (b) the College’s electronic procurement system.
- (21.) **“Electronic Offer”** means a response to the College’s request for Offers or Request for Quotes submitted to the College via email or through the College’s Electronic Procurement System.
- (22.) **“Electronic Procurement System”** means an information system that Persons may access through the Internet, using the World Wide Web or some other Internet protocol, or that Persons may otherwise remotely access using a computer, that enables Persons to send Electronic Offers and the College to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to a procurement.
- (23.) **“Emergency”** means circumstances that were not reasonably foreseen by the governing body of the College, its President or another officer authorized by the College, and create a substantial risk of loss, damage or interruption of services; a substantial threat to property, public health, welfare or safety of the environment that requires prompt execution of a Contract to remedy the condition or deal with the risk.
- (24.) **“Enterprise Funds”** means funds intended to be profit making and/or self-sustaining for providing product or services to the College’s customers. (See also “Auxiliary Funds.”) Examples of Auxiliary Fund or Enterprise Fund operations may include: bookstores; food services; printing services; medical/dental/science stores; student automotive and mechanical stores; and miscellaneous student stores for the resale of books and computers for instruction.
- (25.) **“Evidence of Competition”** means College documentation demonstrating competitive solicitation of responses/Offer from Person(s) in selecting a Contractor in accordance with the College’s public contracting rules.
- (26.) **“Facsimile”** means electronic equipment that communicates and reproduces both printed and handwritten material.
- (27.) **“Gift”** means something of economic value given to a public official or a relative or member of the household of the public official without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives or members of the household of public officials on the same terms and conditions; or for valuable consideration less than that required from others who are not public officials.
- (28.) **“Goods and Services”** or “Goods or Services” have the meaning set forth in ORS 279A.010(1)(j).
- (29.) **“Interstate Agreement”** means any agreement between the College and a unit of local government or state agency of another state.
- (30.) **“Invitation to Bid” (ITB)** means the Solicitation Document issued to invite Offers from prospective Contractors pursuant to either ORS 279B.055 or 279C.335.
- (31.) **“Life Cycle Costing”** means the total cost of ownership, including the total cost of acquiring, operating, maintaining, supporting, and if applicable, disposal.
- (32.) **“Local Contract Review Board” (LCRB)** means the LCRB and/or Board of Education as established by Board resolution or ordinance by each respective College adopting these Community College Rules of Procurement, to serve as its public contract review authority.
- (33.) **“Lowest Responsible Bidder”** as defined in ORS 279A.010(1)(r) means: (a) the lowest bidder whose Offer substantially complies with the requirements and criteria set forth in the Invitation to Bid and with all prescribed public procurement procedures and requirements; or (b) When the Invitation to Bid specifies or authorizes the award of multiple contracts to the responsible bidders, the bidders whose bids substantially comply with the requirements and criteria set forth in the Invitation to Bid and with all prescribed public procurement procedures and requirements and who qualify for the award of a public contract under the terms of the Invitation to Bid. (ORS 279B.055(10); and who has met the standards of responsibility set forth in ORS 279B.110(2) or 279C.375, has not been debarred or disqualified by the College under ORS 279B.130 or 279C.440, and is not on the list created by the Oregon Construction Contractors Board under ORS 701.227, if the advertised contract is a Public Improvement Contract. Depending upon the requirements of the Solicitation Document, “Lowest Responsible Bidder” may also

mean one who, in the determination of the Advocate for Minority, Women and Emerging Small Businesses, has undertaken both a policy and practice of actively pursuing participation by minority and women-owned business in all bids, both public and private, submitted by such bidder, pursuant to ORS 200.025 and 200.045, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225.

- (34.) **“Model Rules”** means the State of Oregon’s Attorney General’s model rules of procedure for Public Contracting, which are set forth in OAR Chapter 137, divisions 46, 47, 48, and 49, and required under ORS 279A.065.
- (35.) **“ORPIN” System:** The on-line electronic Oregon Procurement Information Network (ORPIN) administered through the State Procurement Office of the Procurement, Fleet and Surplus Services Division of the Oregon Department of Administrative Services.
- (36.) **“ORS”** means Oregon Revised Statutes.
- (37.) **“Offer”** means a “Written” offer to provide Goods or Services in response to a Solicitation Document.
- (38.) **“Offeror”** means a Person, who submits an Offer.
- (39.) **“Opening”** means the date, time and place specified in the Solicitation Document for the public opening of Offers.
- (40.) **“PCC”** means Public Contracting Code as it is defined in ORS 279A.010(1)(bb).
- (41.) **“Person”** means any of the following with legal capacity to enter into a Contract: individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.
- (42.) **“Personal Property”** means everything subject to ownership, which is not real property and has exchangeable value; includes all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment pursuant to ORS 307.020.
- (43.) **“Personal Services Competitive Solicitation”** means a documented process providing an equal and open opportunity to qualified parties, which culminates in a selection based on criteria that include, but are not limited to, the Contractor’s availability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance and fees or costs.
- (44.) **“Personal Services Contract”** or **“Contract for Personal Services”** means a Contract or member of a class of Contracts for Personal Services, other than a Contract for the services of an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor or Provider of Related Services as defined in ORS 279C.100 that the College’s Local Contract Review Board has designated as a Personal Services Contract pursuant to ORS 279A.055, whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, a Contract for the services of a(n): accountant; physician, dentist or lawyer; educator; information technology professional, travel, banking, investing, collections, or other consultant; broadcaster or artist (including a photographer, filmmaker, painter, weaver, or sculptor). “Personal Services” is also defined in ORS 279C.100, and that definition applies only to ORS 279C.100 to 279C.125 for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, Land Surveying Services or Related Services. Contracts for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, and or Land Surveying Services, and Related Services are designated as a special class of Personal Services Contracts, defined in ORS 279C.100(5). (See also Personal Services Contracting Rules section within these Community College Rules of Procurement for an expanded definition.)
- (45.) **“Personal Services Contractor”** means an Independent Contractor that performs a Contract for Personal Service(s) for the College, when the College has no right to and does not control the means and manner of performing the contract, except as to the delivery schedule, determining compliance with the Statement of Work, and accepting or rejecting the deliverables or results required under the Contract.
- (46.) **“Prequalification of Offeror”** means a process followed by the College, in advance of issuance of Solicitation Documents, to determine the qualifications of prospective Offerors to perform Public Contracts.
- (47.) **“Product Sample”** means the exact Goods or a representative portion of the Goods offered in an Offer, or the Goods requested in the Solicitation Document as a sample.
- (48.) **“Proposal”** means a “Written” response to a Request for Proposals.

- (49.) **“Public Contract”** means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the College of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. (ORS 279A.010(1)(z)).
- (50.) **“Public Notice”** means a public notice of Solicitation Document that is published electronically or at least once in at least one newspaper of general circulation in the area where the Contract is to be performed, in at least one trade newspaper of statewide circulation if the Solicitation Document is for a public improvement and the Contract has an estimated cost in excess of \$125,000, and in as many additional issues and publications as the College determines is likely to be cost effective.
- (51.) **“Recycled Materials”** means recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as defined in ORS 279A.010(1)(ii)).
- (52.) **“Request for Proposals”** or **“RFP”** means all documents used for soliciting Proposals in accordance with either ORS 279B.060 or 279C.110, where proposal evaluation and contract award is based on criteria such as proposer qualifications and experience, product features and characteristics, service quality and efficiency, and conformance with the specifications and requirements of the Solicitation Document. Price may be evaluation criterion for an RFP, but will not necessarily be the predominant basis for contract award.
- (53.) **“Request for Qualifications”** means a Written document issued by the College, to which Contractors respond in Writing by describing their experience with and qualifications for the Services, Personal Services, or Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services, or Related Services, described in the document.
- (54.) **“Request for Quotations”** means a Written or oral request for prices, rates or other conditions under which a potential Contractor would provide Goods or perform Services, Personal Services or Public Improvements described in the request.
- (55.) **“Requirements Contract”** means a price agreement that constitutes a firm Offer by the Contractor, regardless of whether any order or purchase has been made or any performance has been tendered under the price agreement and is enforceable for the period stated in the price agreement and is not revocable by the Contractor. A price agreement does not constitute an exclusive dealing commitment on the part of the College or the Contractor unless the price agreement expressly so provides. (ORS 279B.140)
- (56.) **“Responsible”** means meeting the standards set forth in OAR 137-047-0640 or 137-049-0390(2), and not debarred or disqualified by the College under OAR 137-047-0575 or 137-049-0370.
- (57.) **“Responsible Offeror”** (also, **“Responsible Bidder”** or **“Responsible Proposer,”** as applicable), means a Person that has submitted an Offer and meets the standards set forth in OAR 137-047-0640 or 137-049-0390(2), and that has not been debarred or disqualified by the College under OAR 137-047-0575 or 137-049-0370. When used alone, **“Responsible”** means meeting the aforementioned standards.
- (58.) **“Responsive Offer”** means, as the context requires, a **Responsive Bid** or **Responsive Proposal**, or other Offer that substantially complies in all material respects with applicable solicitation requirements. When used alone, **“Responsive”** means having the characteristic of substantially complying in all material respects with applicable solicitation requirements.
- (59.) **“Service Contract”** means a Contract that calls primarily for a Contractor’s time and effort rather than for an end product
- (60.) **“Signature”** means any “Written” mark, word or symbol that is made or adopted by a Person with the intent to be bound and that is attached to or logically associated with a “Written” document to which the Person intends to be bound.
- (61.) **Signed”** means, as the context requires, that a “Written” document contains a Signature or that the act of making a Signature has occurred.
- (62.) **“Solicitation”** means: (a) a request by the College for the purpose of soliciting Offers. This request may take the form of an Invitation to Bid, a Request for Proposal, a Request for Quotation, a Request for Qualifications or a

similar document; or (b) the process of notifying prospective Offerors that the College requests such Offers; or the Solicitation Document itself.

- (63.) **“Solicitation Document”** means an Invitation to Bid, Request for Proposals, Request for Quotations, or other similar document issued to invite Offers from prospective Contractors pursuant to ORS Chapter 279B or 279C. The following are not Solicitation Documents if they do not invite Offers from prospective Contractors: a Request for Qualifications, a prequalification of bidders, or a request for product prequalification.
- (64.) **“Special Procurement”** means, unless the context requires otherwise, a Class Special Procurement, a Contract-Specific Special Procurement or both (ORS 279B.085). A “Class Special Procurement” means a contracting procedure that differs from the procedures described in ORS 279B.055, 279B.060, 279B.065 and 279B.070 and is for the purpose of entering into a series of contracts over time for the acquisition of a specified class of goods or services (ORS 279B.085(1)(a)). “Contract-Specific Special Procurement” means a contracting procedure that differs from the procedures described in ORS 279B.055, 279B.060, 279B.065 and 279B.070 and is for the purpose of entering into a single contract or a number of related contracts for the acquisition of specified goods or services on a one-time basis or for a single project (ORS 279B.085(1)(b)).
- (65.) **“Specification”** means any description of the physical or functional characteristics, or of the nature of a supply, service or construction item, including any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed. Specifications may be incorporated by reference and/or through attachment to the Contract.
- (66.) **“Standard Fee Contract”** means a contract awarded for service to be performed for a standard fee, when the standard fee is established by the College, and a like Contract is available to all qualified applicants.
- (67.) **“Statement of Work”** means a “Written” statement that specifically describes the phases of Work or services, major tasks, or areas of responsibility the Contractor is to perform at a particular site, or within a particular locale during a stated period of time, according to a schedule of delivery. The statement must identify specific objectives that the Contractor is to attain or describe, in detail, and the deliverables that the Contractor is to provide.
- (68.) **“Telecommunications”** means 1-way and 2-way transmission of information over a distance by means of electromagnetic systems, electro-optical systems, or both.
- (69.) **“Work”** means the furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual item in a Contract or the entire Contract, and successful completion of all duties and obligations imposed by the Contract.
- (70.) **“Writing”** means letters, characters and symbols inscribed on paper by hand, print, type or other method of impression, intended to represent or convey particular ideas or meanings. “Writing,” when required or permitted by law, or required or permitted in a Solicitation Document, also means letters, characters and symbols made in electronic form and intended to represent or convey particular ideas or meanings.
- (71.) **“Written”** means existing in Writing.

SECTION 200 - PUBLIC CONTRACT SPECIAL PROCUREMENTS
General Contract Special Procurements

Advertising

CCR.202

The College may purchase advertising regardless of dollar amount without competitive bidding. Where it is determined to be cost effective, the College may publish its public notices electronically, via the college's or other public entity's electronic procurement system or World Wide Web site instead of, or in addition to, a newspaper of general circulation unless otherwise required by law.

Findings of Fact

1. By their nature, media sources are generally unique. Advertisements are placed in a particular source because of the specific audience that source serves.
2. Competition to furnish advertising space in daily newspapers of general, trade, or business circulation in the vicinity of the College is limited.
3. Cost savings are difficult to quantify where the sources are unique and not interchangeable. Where the volume of purchases warrants, the College may enter into advertising contracts in accordance with ORS 279B.065 and ORS 279B.070 whenever possible to maximize savings achieved through economies of scale.
4. Public notices may be advertised electronically and/or in a newspaper of general circulation in an effort to increase exposure and generate more widespread competition, except for public improvement contracts with an estimated cost in excess of \$125,000, which must be published in at least one trade newspaper of general statewide circulation (ORS 279C.360). Cost savings for increased competition are difficult to quantify, but the cost to the College for advertising may be significantly reduced where electronic advertising methods are utilized.

Conclusion of Compliance with Law

It is unlikely that this Special Procurement will result in favoritism in the awarding of public contracts or substantially diminish competition since all vendors, including Oregon businesses, are able to compete (ORS 279B.085(4)(a)), and it will enable the College to promote the public interest (ORS 279B.085(4)(b)(B)), by expediting its procurement processes while maximizing its circulation efforts and notice of bidding opportunities without compromising integrity for cost.

This rule satisfies the requirements of Oregon Revised Statute 279B.055(4)(c), wherein a Local Contract Review Board may, by rule or order, authorize public notice of bids or proposals to be published electronically instead of in a newspaper of general circulation if it is likely to be cost-effective.

* * * * *

Bid Security and Bond Requirements, Waiver of

CCR.204

Pursuant to ORS 279C.390, the College may, at its discretion, exempt certain contracts or classes of contracts from all or a portion of the requirement for bid security and from all or a portion of the requirement that good and sufficient bonds be furnished to ensure performance of the contract and payment of obligations incurred in the performance.

The College may waive bid security requirements and/or performance/payment bond requirements pursuant to ORS 279C.390 and this rule under the following conditions:

- (1) If the contract is for a public improvement or a public work and the amount of the contract does not exceed \$75,000 or another threshold as indicated by rule amendment in Section 300, and the contractor has filed a public works bond with the State of Oregon Construction Contractors Board;
- (2) If the contract is not for a public improvement; or if the contract is for a public improvement that resulted from an alternative contracting method and the contract is only for pre-construction services;

- (3) Where bidders are drawn exclusively from a list of certified Emerging Small Businesses maintained by the Advocate for Minority, Women and Emerging Small Business enterprise certified under ORS 200.055, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225, and the College has been provided funds by the legislature for the purpose of assisting Emerging Small Businesses;
- (4) In cases of emergency, or when the interest or property of the College or the public agency or agencies for whose benefit the contract was awarded probably would suffer material injury by delay or other cause and a declaration of such emergency has been made in accordance with rules adopted under ORS 279A.065.

The College shall not use Bid or Proposal security to discourage competition. The Offeror shall forfeit Bid or Proposal security after award of the contract if the Offeror fails to execute the contract and promptly return it with any required Performance Bond and Payment Bond.

Conclusion of Compliance with Law

It is unlikely that this Special Procurement will result in favoritism in the awarding of public contracts or substantially diminish competition since all vendors, including Oregon businesses, are able to compete, it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)(b)(A)), and it will enable the College to otherwise substantially promote the public interest (ORS 279B.085(4)(b)(B), by reducing costs of bidding and maximizing participation from Emerging Small Businesses.

This rule satisfies the requirements of ORS 279C.390 wherein a Local Contract Review Board may exempt certain contracts or classes of contracts from all or a portion of the requirement for bid security and from all or a portion of the requirement that good and sufficient bonds be furnished to ensure performance of the contract and payment of obligations incurred in the performance. Consequently, findings otherwise required by law are unnecessary here.

* * * * *

Cooperative Procurement Participation

CCR.205

Examples of cooperative procurement participation may include, but not be limited to: Oregon Cooperative Purchasing Program (ORCPP), Organization for Educational Technology and Curriculum (OETC), Participating Oregon Community Colleges (POCC), National IPA, E&I Coop, NASPO, and US Communities Government Purchasing Alliance.

Pursuant to ORS 279A.205, 279A.210, 279A.215, and 279A.220, contracting agencies may participate in a joint, permissive, or interstate cooperative procurement and/or subsequent contract award resulting from any solicitation which has been accomplished in compliance with ORS, as if said agencies had generated the solicitation and made the award on their own behalf.

Comment

In general, the results of any solicitation, formal or informal, which has taken place under the requirements of ORS and has resulted in an award, and is current (i.e., not closed, terminated, in abeyance or in default), may be utilized by the College pursuant to ORS 279A.205, 279A.210, 279A.215, and 279A.220. Prior to the College engaging in a cooperative procurement, due diligence must be performed, best practices employed, and factors in the buying decision considered. Examples of these factors include: in-state preferences, legislatively-mandated or LCRB-approved socioeconomic programs that overlay public contracting and accompany the expenditure of public funds; sustainability objectives; administrative resources and capacity; contracting efficiencies; time constraints; member participation costs; and ability to leverage economies of scale.

Conclusion of Compliance with Law

Cooperative Procurement Participation is not an exemption from the competitive procurement requirements of law; therefore, the College has determined that findings of fact are not required. The awarding of contracts pursuant to this process should “provide effective outcomes that represent optimal value to the College and, to the greatest extent feasible,

be consistent with market practices” (ORS 279B.010(1)). Consequently, findings otherwise required by law are unnecessary here.

* * * * *

Donated Materials and/or Services

CCR.206

The College may authorize a Person to perform services and/or provide materials regardless of dollar amount, if:

- (1) The Person has agreed to donate all, or a portion of, the materials and/or services necessary to perform the work; and
- (2) The Person enters into a license or agreement with the College whereby the Person agrees to comply with the public contract requirements applicable to the particular project and any requirements that the College deems necessary or beneficial in order to protect the College.

Findings of Fact

1. Students, staff, contractors, and other community groups from time to time offer to donate all or a portion of their professional skilled services and/or materials, to help the College meet its facilities’ and/or educational needs. The ability to take advantage of such donated materials and/or services enables the College to use its limited funds in other areas, and frequently results in improvements or services that the College would not otherwise be able to afford. This class special procurement thus has budgetary, operational, and public benefits.
2. This class special procurement enables the College to take advantage of these offers, while continuing to ensure that the requirements of the Public Contracting Code continue to be met.

Conclusion of Compliance with Law

It is unlikely that this class special procurement will encourage favoritism in the award of College Contracts or substantially diminish competition for College Contracts, because it will only apply when a Person donates all or part of the materials and/or services. In many instances, the donations are outside of the competitive market for goods and/or services. In many instances, the donations will enable the College to construct or complete projects that it otherwise would not be able to afford to do, and thus will not displace what would otherwise be a competitively solicited project. This class special procurement also substantially promotes the public interest because award of contracts pursuant to the procurement procedures in ORS Chapter 279B is not practicable in the case of donated goods and/or services.

The use of this class special procurement will result in substantial cost savings to the College, because the College is not required to pay for the goods and/or services if they are donated.

* * * * *

Emergency Contracts (Including Oil or Hazardous Material Removal)

CCR.207

- (1) Pursuant to the requirements of this rule, the College may, at its discretion, enter into a public contract without competitive solicitation if an emergency exists. Emergency means circumstances that could not have been reasonably foreseen which create a substantial risk of loss, damage, interruption of services or threat to public health, welfare, or safety, and require prompt execution of a contract to remedy the condition (ORS 279A.010(1)(f)).
- (2) Regardless of the dollar value of the contract, when entering into an emergency contract the College shall:
 - (a) Make a written declaration of emergency, including findings describing the emergency circumstances that require the prompt performance of the contract, stating the anticipated harm from failure to establish the contract on an expedited basis; and
 - (b) Encourage competition to the extent reasonable under the circumstances; and
 - (c) Record the measures taken under subsection (b) of this section to encourage competition, the amounts of the bids, quotes or proposals obtained, and the reason for selecting the contractor.
- (3) Pursuant to ORS 279B.080, if an emergency exists as defined in subsection (1) of this rule, the Board of Education, its President, or another officer authorized by the College shall declare the existence of the emergency as required by subsection (2) of this rule, which shall authorize the College to enter into an emergency contract.

- (4) The written declaration of an Emergency and resulting contract are solely entered into at the discretion of the College's President or authorized officer.
- (5) If the total award exceeds the threshold for formal public bidding, the Board shall be notified at its next available public meeting and provided with an opportunity to discuss the emergency, the award, and ratification thereof.
- (6) Oil or Hazardous Material Removal: The College may enter into public contracts without competitive bidding, regardless of dollar amount, when ordered to clean up oil or hazardous waste pursuant to the authority granted the Department of Environmental Quality (DEQ), under ORS 466.605 through 466.680 and such DEQ order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous material that has created an emergency condition. In exercising its authority under this exemption:
 - (a) The College shall:
 - (1) To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;
 - (2) Make written findings describing the circumstances requiring clean up or a copy of the DEQ order ordering such cleanup;
 - (3) Record the measures taken under subsection (a) of this section to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selecting the contractor selected.
 - (b) The College shall not contract pursuant to this exemption in the absence of an order from the Department of Environmental Quality to clean up a site with a time limitation that would not permit hiring a contractor under the usual competitive bidding procedures.

Findings of Fact

1. Under ORS 279B.080, public contracts may be exempted from the requirements of ORS 279B.050 if emergency conditions exist, which require prompt execution of the contract, subject to the additional requirements of ORS 279B.080.
2. ORS 279B.080 allows the Local Contract Review Board to adopt rules to allow the head of the contracting agency or a designated person to declare that an emergency exists and to establish procedures for determining when emergency conditions are present. Subsections (2)(a), (2)(b), and (2)(c) of this rule accomplish this.
3. When DEQ orders a public agency to remove or clean up hazardous material or oil, the public agency must respond within a very short time, which is stated in the DEQ order. This time period does not generally allow the agency to take the time necessary to solicit written bids or proposals for the work to be performed. The College would be liable for any delay in responding to DEQ orders to perform hazardous material removal or clean up.
4. This exemption, as it pertains to subsection (6), will not be used in those situations where there is no DEQ order to remedy the situation. Routine competitive procurement methods will be used where there is no DEQ order to act immediately. The college maintains open lists of vendors, who are interested in providing hazardous materials removal and clean up services. Whenever it needs hazardous material removal or disposal, the College makes use of these lists to solicit quotes, bids, or proposals as needed, in addition to advertising the procurement as required.
5. Cost savings are achieved through this exemption, because the college can be liable for DEQ penalties and fines, if it does not timely remove hazardous materials or oil as ordered. Serious risk in these situations could result in property damage or personal injury, if the College is slow to act.

Conclusion of Compliance with Law

Procurements made by the College in compliance with this exemption meet the requirements of emergency public contracts pursuant to: ORS 279B.050; 279B.080, and 279C.335.

It is unlikely that this exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts as required by ORS 279C.335(2)(a). If the College is under DEQ order to act immediately, the College will still attempt to obtain competitive quotes for the work to be performed as it has the ability and time to do so. Unless the College is faced with the quasi-emergency situation of a DEQ order to remove or clean up hazardous waste or oil, it will follow normal competitive procedures to obtain these services. The award of public contracts pursuant to this exemption will likely result in substantial cost savings to the College in these situations, as required by ORS 279C.335(2)(b), because the College must comply with the law and avoid and minimize risk to persons and property. Where possible, the College will seek competitive quotes for the work to be performed and will award the contract to the lowest, responsive and responsible proposer.

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Equipment Repair & Overhaul (Including Maintenance Agreements)

CCR.208

- (1) The College may enter into a public contract for equipment repair, maintenance agreements, or overhaul of equipment without competitive bidding, subject to the following conditions:
 - (a) Service and/or parts required are unknown, and the cost cannot be determined without extensive preliminary dismantling or testing; and/or
 - (b) Service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source;
 - (c) Maintenance agreements must be procured from the provider of the equipment and/or software being maintained in order to be valid, preserve warranties, provide the best possible service, or conform to other similar agreements being provided by the same provider for maximizing economy and/or servicing functions;
 - (d) The College shall conduct its procurement for equipment repair, maintenance agreements, or overhaul of equipment pursuant to methods and parameters established in (2) of this rule.
- (2) The following limitations shall apply:
 - (a) At the discretion of the College, if it is practical to competitively procure equipment repair, maintenance agreements, or overhaul of equipment using quotations or other forms of Solicitation Documents then these competitive processes shall be utilized. If not, the file should be documented with the reasons for invoking this exemption from competitive procurement, specifically supporting the impracticality of a competitive procurement.
 - (b) If the contract exceeds or is anticipated to exceed the thresholds for Small or Intermediate Procurements as these thresholds are defined in Section 300, the College shall document in its procurement file the reasons why a competitive procurement process was deemed impractical, and the College may directly enter into the contract.

Findings of Fact

The need for equipment repair or overhaul of equipment cannot always be anticipated by College staff. If a piece of equipment is broken or not working properly, the College incurs the cost of down time, possible replacement equipment rental fees, staff time, and other inconveniences or liabilities to its programs.

1. Generally, there are a limited number of vendors, who are able to perform repair or overhaul on a particular piece of equipment, because of its make or manufacture. Sophisticated equipment may require specially trained personnel available from only one source. Often, a piece of equipment will have a partial warranty in place, which will guarantee some savings to the College in the parts and/or labor needed to do the repair or overhaul. This warranty savings may only be achieved if the original manufacturer or provider of the equipment performs the necessary repair or overhaul.
2. The dollar limits on the use of this Special Procurement ensure that when the cost of the equipment repair or overhaul is expected to exceed threshold amounts for Small and Intermediate Procurements as these are defined in Section 300, the College will competitively procure, or if that is not practical or cost effective, declare an emergency or obtain a specific exemption from the president of the College or the president's designee, with notification to the LCRB to proceed with the purchase of the needed repair or overhaul.

Conclusion of Compliance with Law

It is unlikely that this Special Procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition and is reasonably expected to result in substantial cost savings to the College for such contracts as required by ORS 279B.085(4), because the dollar amount of the exempted purchase (i.e., Special Procurement), may not exceed the thresholds established in Section 300 for Intermediate Procurements without additional notification and/or approval from the LCRB and/or the College president or the president's designee. Where it is practical, the College will competitively procure equipment repair, maintenance agreements, and overhaul of equipment; where it is impractical, written justification, provided by the department, will become part of the public record of the contract.

The awarding of public contracts pursuant to this exemption is reasonably expected to result in a cost savings to the College, as required by ORS 279B.085(4)(b)(A), because the College incurs direct and indirect costs from the moment equipment breaks down or becomes unusable. This Special Procurement only applies to equipment already owned by the College. Time is of the essence in contracts for equipment repair, maintenance agreements, and equipment overhaul. The College must be able to purchase necessary services and parts as quickly as possible in order to minimize equipment down time and provide uninterrupted levels of service to support the College's educational initiatives.

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Federal Contracts, Purchases under

CCR.210

When the price of goods and services has been established by a contract with the federal government pursuant to a federal contract award, the College may purchase the goods and services in accordance with the federal contract. In exercising this authority under this class special procurement, the College must:

- (1) Include in the contract file a memorandum confirming the federal official who granted permission to the College to purchase under the federal contract; and
- (2) Include documentation in the contract file showing the cost savings to be gained from anticipated purchases from the federal contract.

Findings of Fact

1. Federal contracts for goods and/or services are established by federal agencies with private vendors through competitive processes, which meet the standards of the Public Contracting Code. These processes include open competitive bidding, to which all interested vendors are invited to participate. No Oregon company is excluded from, or disadvantaged in, participation in bidding on federal contracts. Thus the class special procurement has the public benefit of supporting a competitive selection process, while providing the operational and budgetary benefits to the College by avoiding the cost and delay of replicating the solicitation process.
2. The prices or rates for goods and services under federal contracts are based upon competitive bids or proposals. This rule requires the College to document the cost savings to be gained from the anticipated purchase(s) from the federal contract. Documentation might include competitive comparison of previous bid prices obtained from other sources, including local Oregon businesses.
3. This rule requires that the College obtain the permission of both the federal agency and the federal vendor to use the federal contract.

Conclusions of Compliance with the Law:

This class special procurement will not encourage favoritism or substantially diminish competition in the awarding of College contracts. All vendors, including Oregon businesses, are able to compete for the initial federal contract. Also, the College will not use a federal contract without agency and vendor permission.

This special procurement will result in substantial cost savings to the College. Federal contracts are based on competitive bidding, which result in the most advantageous price to the federal agency. Before it makes a purchase from a federal contract, the College will document the cost savings it will achieve by using the contract. These two facts will ensure that the College purchases the desired goods or services at the best price available. Further, by being able to take advantage of a competitive federal procurement, the College saves the cost of needlessly duplicating the solicitation process.

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Intellectual Property (Periodicals, Library Books, Proprietary Software Licenses, Art, and Other Products of the Creative Process)

CCR.212

If the contract is for the purchase of Intellectual Property, which shall include, but not be limited to, Periodicals, Library Books, Subscription Services, Proprietary Software Licenses, Art, and Other Products of the Creative Process, the College may contract for the purchase of the product(s) without competitive procurement, regardless of dollar amount when the product(s) are protected under copyright law or there is only one known supplier (e.g., manufacturer, copyright holder), available for such products.

Examples of copyrighted materials typically covered by this Special Procurement include, but are not limited to: magazines and other periodicals; textbooks; workbooks; curriculum kits; reference materials; audio tapes; video tapes; calculators such as those used for aircraft navigation; and most software and products of the visual, aural and written arts. It should be noted that if there is more than one supplier of copyrighted materials (especially software), and the product(s) are not being purchased directly from the writer, manufacturer or other original source, every attempt should be made to establish a competitive selection process in order to achieve the greatest economy.

Findings of Fact

1. By design, Intellectual Property is protected for the use of a single owner. Copyrighted products may not be duplicated by others without the express permission or license of the copyright holder.
2. Instructional initiatives define the various materials, which the college will purchase for use in its educational programs, and it is not uncommon for Intellectual Property to be produced by only one supplier (i.e., sole source), who may be the copyright holder or licensee.

Conclusion of Compliance with Law

This rule will not encourage favoritism or substantially diminish competition in the awarding of public contracts. The production and distribution of Intellectual Property is controlled by the copyright holder/owner, and may only be permitted through a sole source. This rule provides additional parameters for consideration that are complementary to the Public Contracting Code where competition does exist. It is not intended to diminish the College's ability to consider other factors or limit fair and open competition when arriving at best value. It is the policy of the State of Oregon that public contracting activities should provide effective outcomes that represent optimal value to the contracting agency, and to the greatest extent feasible, be consistent with market practices (ORS 279B.010(1)).

Additionally, pursuant to ORS 279A.025(2)(h), the Public Contracting Code does not apply to contracts for the procurement or distribution of textbooks; consequently, findings otherwise required by law are unnecessary when the procurement or distribution of Intellectual Property is specifically for textbooks—a subcategory of Intellectual Property.

* * * * *

Life Cycle Costing/Best Value

CCR.216

- (1) In determining the lowest bid or best proposal, in the award of a contract, the College may use the concept of life cycle costing if it complies with section (2) of this rule:

- (2) (a) At the time of writing specifications for the product, the College shall identify those factors which will have cost implications over the life of the product, and which, for evaluation purposes, will be used to adjust the bid or proposal price of the product;
- (b) The solicitation document shall set out clearly the factors and methodology to be used in life cycle cost adjustments; and
- (c) The results of life cycle costing adjustments shall be applied to the bid or proposal price of the product(s) offered, and the bid or proposal that results in the lowest overall ownership cost or “best value” as it is determined by ORS 279A.015(5), taking into account the life cycle costing adjustments, and other aspects of service and product quality, as well as pricing.

Conclusion of Compliance with Law

This rule provides additional parameters for consideration that are complementary to the Public Contracting Code while supporting impartial and open competition. It is not intended to diminish the College’s ability to consider other factors when arriving at best value. As such, it is not an exemption or Special Procurement to the competitive bidding requirements of law. It is the policy of the State of Oregon that public contracting activities should provide effective outcomes that represent optimal value to the contracting agency, and to the greatest extent feasible, be consistent with market practices (ORS 279B.010(1)). Consequently, findings otherwise required by law are unnecessary here.

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Perishables (Chemicals, Food, Laboratory Supplies)

CCR.218

Competitive procurement need not be used for the procurement of perishables under this Special Procurement provided that the perishability and commensurate quality is of greater importance than the cost to the College.

Comment

If longevity is not an issue and multiple sources exist, standard procurement practices shall be utilized.

Findings of Fact

This rule permits such items as foodstuffs and scientific supplies, which have definitive shelf lives, and associated attributes such as quality and longevity, to be purchased without strict competitive processes based upon price. Shelf life and the associated attributes may be the determining factors.

The rule enables the buyer to decide on a source based upon time since manufactured, remaining shelf life, and interim quality, since various states of decay can affect the product.

Conclusion of Compliance with Law

It is unlikely that this Special Procurement will result in favoritism in the awarding of public contracts or substantially diminish competition, since all vendors, including Oregon businesses, are able to compete, it is reasonably expected to result in substantial cost savings to the College (ORS 279B.085(4)(b)(A)), and it will enable the College to otherwise substantially promote the public interest (ORS 279B.085(4)(b)(B)), through expediting its procurement processes without compromising integrity for cost.

* * * * *

Personal Property, Used (Purchase of)

CCR.220

Competitive procurement need not be used for the procurement of Used Personal Property if the College has determined that the purchase will result in cost savings and will not diminish competition or encourage favoritism.

For purchases of used personal property or equipment costing \$25,000 or more, or an amount otherwise indicated in Section 300, the College shall, where feasible, obtain three competitive quotations, unless such comparisons are highly impractical

to obtain. Procurement files pertaining to Used Personal Property shall contain documentation of price comparisons and attempts to secure competitive pricing as much as is practical.

When the value of any such purchase exceeds the threshold for Intermediate Procurements as that threshold is defined herein, Section 300, Supplementary Provisions of the Community College Rules of Procurement, such purchases shall be authorized and/or delegated only by the College President, who shall notify the LCRB of such purchases at the next regularly scheduled meeting of the LCRB.

Comment

Used Personal Property is property which has been placed in use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used,” at the time of purchase. Used Personal Property generally does not include property or equipment of which the College was the previous or current user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement.

Findings of Fact

The additional liberty for purchasing used personal property is essential for those who participate in auctions or other spot sales, where it is impractical to utilize conservative procedures because of the necessities of the selling process.

Conclusion of Compliance with Law

This rule provides additional parameters for consideration that are complementary to the Public Contracting Code while supporting impartial and open competition as much as is practical. It is the policy of the State of Oregon that public contracting activities should provide effective outcomes that represent optimal value to the contracting agency, and to the greatest extent feasible, be consistent with market practices (ORS 279B.010(1)). Pursuant to ORS 279B.075(1) Used Personal Property may be considered a sole-source procurement, if it is available from only one source; written findings supporting this determination and conclusion shall be made by the College. Findings otherwise required by law to support this Special Procurement are unnecessary here.

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Price Regulated Items (Including Gas, Diesel Fuel, Heating Oil, Lubricants, Asphalts, Distilled Alcohol, Postage, and Certain Utilities)

CCR.222

The College may, without competitive bidding, contract for the direct purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority (ORS 279A.025(2)(g) and ORS 279A.025(2)(j)). Regardless of whether fuel is price regulated, it may be procured via *spot purchases*, and such purchases may be combined on a single, written agreement such as an open purchase order between the supplier and the College, in an effort to reduce administrative costs to the College. Spot purchases are defined as one-time purchases occasioned by a small requirement (for example, one vehicle’s tankful of gasoline), where the purchase is taking advantage of availability and the most favorable market conditions.

Comment

If competition exists and it is practical to solicit quotations, bids, or proposals for Price Regulated Items, then these procurement methods should be utilized in an effort to obtain best value.

Conclusion of Compliance with Law

Competition is not generally a relevant issue in the procurement of goods or services where the provider’s rate or price of the goods or services being purchased is established by federal, state, or local regulatory authority, and the goods or services are provided through a sole source. Examples include: Postage, Sewer/Water Service, Garbage Service, Electricity, Etcetera. Since there is virtually no competition available within these price regulated items, and/or the amount of the non-regulated fuel acquisitions are *spot purchases* and are subject to market forces and availability, it is unlikely that this exemption will

encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts. Consequently, findings otherwise required by law are unnecessary here.

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Requirements Contracts

CCR.226

- (1) Requirements contracts, for the purposes of this Rule, mean price agreements, services agreements, and sales that may be established for the purposes of minimizing paper work, achieving continuity of product, securing a source of supply, reducing inventory, combining college requirements for volume discounts, standardization among agencies, and reducing lead time for ordering. The College may enter into requirements contracts whereby it is agreed to purchase supplies and/or services for an anticipated need at a predetermined price provided the contract is let by a competitive procurement process pursuant to the requirements of ORS 279A,B,C and these Rules or is a contract for the procurement of products or services from a qualified nonprofit agency for individuals with disabilities pursuant to ORS 279.850.
- (2) The College may purchase the supplies and/or services from a contractor awarded a requirements contract without first undertaking additional competitive solicitation.
- (3) The term of the contract including renewals, must not exceed the maximum term stated in the original solicitation.

Conclusion of Compliance with Law

This rule provides additional parameters for consideration that are complementary to the Public Contracting Code while supporting impartial and open competition as much as is practical. It is the policy of the State of Oregon that public contracting activities should provide effective outcomes that represent optimal value to the contracting agency, and to the greatest extent feasible, be consistent with market practices (ORS 279B.010(1)). Pursuant to ORS 279A.065(5)(a) and ORS 279A.070, a contracting agency may, in the exercise of authority granted under ORS 279A.050, adopt rules necessary to carry out the provisions of the Public Contracting Code; consequently, findings otherwise required by law are unnecessary when the College has determined it is in its best interests to purchase supplies and/or services utilizing a competitively procured requirements contract or price agreement.

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Resale—Items for

CCR.228

Competitive procurement processes need not be used for the procurement of product or services being purchased strictly for resale. This Special Procurement applies to products or services that are specifically for resale as opposed to internal use or consumption.

Findings of Fact

1. College Enterprise, Auxiliary Fund, and/or General Fund operations that compete in the open market need to be able to purchase products or services for resale without undue restrictions.
2. In order to compete in the open market, these operations must be knowledgeable, proactive, and stay abreast of current trends, consumer wants, tastes and desires, and be able to meet those needs in their offerings. Additionally, fund operators must be free to purchase products or services for resale that the consumers want even if it means having a limiting factor such as brand, functionality, price, or quality.
3. These operations must work as efficiently as possible to hold down their own costs as well as to present the goods or services to the public at a fair market price. Thus, they will be looking for the goods for resale at the most competitive prices and highest quality within their parameters.
4. In awarding contracts, these operations must ensure the appropriate amount of the product or service will be in stock or be readily available, received, or provided at the appropriate time. Ensuring that the products or services

are available and of the proper freshness and quality may prevent the operation from conducting timely competitive buying.

Conclusion of Compliance with Law

It is unlikely that this exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition, and it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)). Additionally, this Special Procurement will substantially promote the public interest as required by ORS 279B.085(4)(b)(B), in a manner that could not practically be realized under the requirements of ORS 279B.050, 279B.055, 279B.060, 279B.065, 279B.070 (Methods of Source Selection).

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Telecommunications Services

CCR.230

- (1) In determining the appropriate procurement method for telecommunications services, the College must determine whether competition exists. The College may consider the following factors:
 - (a) The extent to which alternative providers exist in the relevant geographic and service market. The relevant market will vary with the geographic area and from service category to service category, depending on changes in the regulatory environment and competitive marketplace. Thus, the relevant market will depend on the facts and circumstances of each case. For example, an alternative local access service or private line provider might offer services in Portland, but not in Salem or the rest of the state;
 - (b) The extent to which alternative services offered are comparable or substitutable in technology, service provided, and performance. (For example, if the College requires digital services, analog services are not comparable or substitutable, or if the College requires fiber optic technology, then copper, microwave, or satellite transmission technology may not be comparable or substitutable);
 - (c) The extent to which alternative providers can respond to the College's interests in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management, and limiting College liability. For example, to be considered as the College's telephone long distance provider, any long distance service vendor must be able to meet, support, and interface with the College's centralized automated billing requirements. The College must document for the record the findings on these factors or any other factors used in determining whether competition exists. In developing its findings, the College may solicit the information either through informal telephone or written contacts or through a formal request for information.
- (2) Upon determining that competition does not exist for the relevant service and geographical area, the College may proceed to secure the service on a sole source basis, as described in these Rules.

Findings of Fact

1. In some cases, the use of competitive procurement processes is either not practicable, advantageous, or in the College's best interest due to unforeseen circumstances, unreasonable costs, difficulty in locating vendors even after extensive searches, or where time constraints occur that are due to circumstances beyond reasonable control.
2. All practical measures will be taken to encourage competition when possible.

Conclusion of Compliance with Law

It is unlikely that this exemption from competitive procurement processes will encourage favoritism in the awarding of public contracts or substantially diminish competition, and it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)), since it would be an Exception, and would be due to extenuating circumstances. Additionally, this Special Procurement will substantially promote the public interest in a manner that could not practically be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, or 279B.070 or under any rules adopted thereunder. (Stat. Auth: ORS 279B.075 and 279B.085, Sole-Source Procurements and Special Procurements, respectively.)

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PERSONAL SERVICES CONTRACTING RULES

Personal Services Contracts

CCR.250

I. General

- (1) A Contract for "Personal Services" is a Public Contract that calls for specialized skills, knowledge, and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment. Qualifications and performance history, expertise, knowledge and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a Personal Services Contractor, with price being secondary.
 - (a) Contracts for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, Land Surveying Services, or Related Services are designated as a special class of Personal Services Contracts, defined in ORS 279C.100 (5), and that definition applies only to ORS 279C.100 to 279C.125. Contracts for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, Land Surveying Services, or Related Services are not subject to the provisions of rule CCR.250 of the Community College Rules of Procurement, but are, instead, subject to the provisions of Division 48 of the *Oregon Attorney General's Model Public Contract Rules* as adopted by the College, and the Community College Rules of Procurement adopted by the College, excluding rule CCR.250.
- (2) The College may waive the requirement for a competitive selection process and directly negotiate a Personal Services Contract, if the Contract Price is not more than the Minimum Threshold as this threshold is defined in Section 300- Supplementary Provisions. Regardless of the dollar value of the contract, the College may, at its discretion, enter into a Personal Services Contract without complying with formal or informal solicitation requirements if an Emergency, as defined in CCR. 207 exists.
 - (a) Unless there are compelling reasons not to do so, competitive selection processes for Personal Services contractors should take place at intervals not greater than five years after initial completion and acceptance of services.
 - (b) The screening and selection procedures for the award of Personal Services Contracts are governed by ORS 279A.055 and are subject to the competitive procurement provisions of the Personal Services Contracting rules and procedures adopted herein. Every contract for Personal Services shall be based upon these screening and selection procedures developed by the College. Personal Services Contracts are considered "public contracts" as defined in ORS 279A.010.
- (3) The College may enter into Personal Services Contracts with an independent contractor when:
 - (a) The work to be performed requires specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment;
 - (b) The College will not control the means or manner of the contractor's performance, but must rely on the Contractor's specialized skills, knowledge and expertise to accomplish the work. Note: The College's reservation of the right to determine and modify the delivery schedule, evaluate the quality of completed performance, and accept or reject the completed performance does not mean that the College will control the means and manner of performance; and
 - (c) Selecting a Contractor primarily on the basis of qualifications, rather than price, in accordance with the provisions of the Personal Services Contracting Rules and Procedures adopted herein would most likely meet the College's needs and result in obtaining satisfactory contract performance and optimal value for the College.
- (4) Pursuant to ORS 279A.055(2), the College has the authority to designate certain service contracts or classes of service contracts as Personal Services Contracts. Personal Services Contracts may include, but are not limited to, contracts for services performed in a professional capacity such as:
 - (a) Contracts for the services of an accountant;
 - (b) Contracts for the services of an attorney;

- (c) Contracts for the services of a physician or dentist,
 - (d) Contracts for the services of an information technology consultant,
 - (e) Contracts for the services of a broadcaster;
 - (f) Contracts for services as an artist in the performing or fine arts including, but not limited to, any person identified as a photographer, filmmaker, painter, weaver, or sculptor;
 - (g) Contracts for services that are specialized, creative and research-oriented;
 - (h) Contracts for services as a consultant;
 - (i) Contracts for educational services;
 - (j) Contracts for investment services;
 - (k) Contracts for travel services;
 - (l) Contracts for banking services;
 - (m) Contracts for auditing services;
 - (n) Contracts for student loan and college receivables;
 - (o) Contracts for real estate services (ORS 279A.025(2)(f));
 - (p) Contracts for property management;
 - (q) Contracts for employee benefit insurance (ORS 279A.025(2)(r));
 - (r) Contracts for investments (ORS 279A.025(2)(q)(C));
 - (s) Contracts for energy savings performance contracts (ORS 279C.335(1)(f));
 - (t) Contracts for agents of record (examples where agents of record may be used are advertising, general insurance, sales of surplus property, workers compensation insurance, etcetera);
 - (u) Contracts for speakers, lecturers, and performers;
 - (v) Contracts for human custodial care services;
 - (w) Contracts for food service management;
 - (x) Contracts for telecourse providers;
 - (y) Contracts for actuarial services;
 - (z) Contracts for web design services;
 - (aa) Contracts for branding services;
 - (bb) Contracts for process improvement services;
 - (cc) Contracts for student retention services; and
 - (dd) Contract for Title IX, accessibility, sexual harassment compliance review services.
- (5) Personal Services Contracts do not include:
- (a) Contracts, even though in a professional capacity, if primarily for equipment, supplies or materials, e.g., a contract to supply all hardware and standard software is not a Personal Services Contract, but a contract with a technology consultant to design or develop a new computer system is a Personal Services Contract;
 - (b) Contracts with a temporary service or personnel agency to supply labor, which is of a type that can generally be done by any skilled worker (e.g., janitorial, security guard, crop spraying, laundry, and landscape maintenance service contracts)
 - (c) Contracts for services of a trade-related activity, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

II. Screening and Selection Procedures and Assistance

These rules set forth procedures for the College to follow when entering into Personal Services Contracts.

- (1) The policy of the College is to select Contractors based on demonstrated qualifications and competence to perform the required services, encourage competition, discourage favoritism and obtain services at a fair and reasonable price. The purpose of this rule is to specify the College's policies and procedures for screening and selection of Contractors to perform Personal Services.
- (2) The College shall comply with the procedures set out in these rules for screening and selecting Contractors to perform

Personal Services Contracts.

- (3) The College shall provide Evidence of Competition for all Public Contracts where competition exists or justify entering into contracts by direct negotiation if an exemption from the screening and selection process is utilized. While qualifications are the primary criteria, whenever the College determines that the services offered by two or more individuals or firms are equally able to meet the College's needs and are of equal value, the College shall award the contract to the individual or firm offering the service at the lowest price.
- (4) The College may procure Personal Services from Contractors who are under contract with another governmental entity pursuant to a Cooperative Agreement as permitted and subject to ORS 279A.200 to 279A.225, if such action is Expressly permitted under the original contract and if the administering agency's solicitation and award process for the original contract is an open and impartial competitive process and uses source selection methods substantially equivalent to those specified in ORS 279B.055, 279B.060 or uses a competitive bidding process substantially equivalent to the competitive bidding process in ORS chapter 279C.

Conclusion of Compliance with Law

The requirements of this rule ensure that competition will be carefully addressed and protected, if the College finds it is in the public's best interest to competitively procure Personal Services. This rule satisfies the requirements of Oregon Revised Statute ORS 279A.055 wherein the College may enter into Personal Services contracts, subsequent to the Local Contract Review Board's designation of certain service contracts or classes of service contracts as personal services contracts. Consequently, findings otherwise required under ORS 279B.030 are unnecessary here.

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Solicitation Requirements

CCR.260

A. General

- (1) All formal solicitations must satisfy the requirements of this rule. Request for Proposals and Request for Qualifications must be in writing and must be advertised in accordance with the following procedures:
 - (a) All advertisements for a formal solicitation shall be placed in at least one publication of general circulation and in as many additional issues and publications as may be necessary or desirable to achieve adequate competition. At the option of the College, the College may publish its public notices electronically instead of, or in addition to, a publication of general circulation. The advertisement(s) for a formal solicitation shall be first published and appear at least once, no fewer than fourteen (14) calendar days before close of the solicitation, unless the governing body of the College, its President, or another officer authorized by the College declares in writing that a shorter period is deemed necessary in the public interest for a particular procurement. Conversely, the College shall broaden and extend public notice if deemed necessary to serve the public's interest for a particular procurement; and
 - (b) All advertisement(s) shall describe, at a minimum, a brief summary of the proposed contract, the services sought, where copies of the solicitation may be obtained, and the deadline for submitting a proposal.
- (2) The Solicitation Document must provide that the College may, at any time during the solicitation process, reject any or all proposals or cancel the solicitation without liability if it is in the public interest to do so.
- (3) Unless compensation is expressly provided for in the Solicitation Document, the Request for Proposals or Request for Qualifications must provide that the College is not responsible for any costs of any Offeror incurred while submitting Offers and that all Offerors who respond to solicitations do so solely at their own expense
- (4) The Solicitation Document must:
 - (a) Notify proposers of potential Solicitation Document addenda. Failure to provide such notice in any solicitation may prevent addenda from being incorporated into any resulting contract, and include protest procedures for all formal solicitation and selection.

B. Formal Selection Procedures

The College shall use a formal selection procedure whenever the cost of the services is estimated or anticipated to be equal to or more than the Intermediate Threshold for Personal Services contracts as this threshold is defined in Section 300-- Supplementary Provisions. Under these formal procedures, Requests for Proposals (RFP) or Requests for

Qualifications must be advertised in at least one publication of general circulation or through electronic means as indicated in Section 200, Rule 202, and in as many other issues or electronic procurement systems and publications as may be necessary or desirable to achieve adequate competition.

- (1) Request for Qualifications. A Request for Qualifications may be used to determine whether competition exists to perform the needed services or to establish a list of qualified Contractors prior to issuing an RFP (Note: It is not mandatory that the College issue a Request for Qualifications; it may elect to forego using a Request for Qualifications before issuing an RFP.)
 - (a) At a minimum, the Request for Qualifications shall describe the particular specialty desired, the qualifications the Contractor(s) must have in order to be considered, and the evaluation factors and their relative importance. The Request for Qualifications may require information including, but not limited to: the Contractor's particular capability to perform the required services; the number of experienced staff available to perform the required services, including specific qualifications and experience of personnel; a list of similar services the Contractor has completed, with references concerning past performance; and any other information necessary to evaluate Contractor qualifications.
 - (b) A qualifications pre-submission meeting (voluntary or mandatory) may be held for all interested Contractors to discuss the proposed services. If the meeting is mandatory, the Request for Qualifications shall include the date, time and place of the meeting(s). Unless the Request for Qualifications establishes that competition does not exist or unless the solicitation process is canceled or all qualification statements rejected, all respondents (who met the published qualifications) shall receive a notice (or other materials as appropriate) of any required services and have an opportunity to submit an Offer in response to the College's subsequent RFP.
- (2) Request for Proposals. The RFP is used as a formal competitive solicitation that describes specific services to be performed within a defined period of time. The solicitation sets forth criteria and methods for screening, selecting and ranking the best proposal(s). The RFP may result in contracts with more than one provider.
 - (a) The RFP must either describe the situation and background for which Offers are being requested and state the outcome(s) desired, or propose a Statement of Work. The RFP must describe any conditions affecting the delivery of the services and the time period in which the services are to be completed. The RFP must, at a minimum, address the following information:
 - (i.) Minimum standards and qualifications required to be met by the Offeror(s) to be eligible to provide the services;
 - (ii.) The evaluation process and criteria to be used to select the Contractor(s), including the weight or points applicable to each criterion. Information must include the manner in which the Offeror's cost and pricing proposal will be evaluated;
 - (iii.) A requirement to provide a list of similar services completed by the proposer(s) with references concerning past performance;
 - (iv.) The closing date and time of the solicitation and the delivery location(s) for proposals;
 - (v.) Reservation of the right to seek clarifications of each proposal, and the right to negotiate the Statement of Work within the scope of work described in the RFP;
 - (vi.) Reservation of the right to reject any or all Proposals, if such rejection would be in the public interest;
 - (vii.) Reservation of the right to cancel the solicitation, if such cancellation would be in the public interest;
 - (viii.) Contractual provisions that will be contained in the resulting contract;
 - (ix.) The possibility of interviews; and
 - (x.) Any other information to be used to evaluate, rank and select the best proposer(s). This should include, but is not limited to: anticipated contract award date, and at the College's discretion, funding information and budget requirements.
 - (b) A pre-proposal meeting (voluntary or mandatory) may be held for all prospective Contractors to discuss the proposed services, solicitation provisions and contract requirements. The RFP shall include the date, time and place of the meeting(s).

- (c) An evaluation committee shall evaluate Proposals. The College's Purchasing Department shall provide the evaluation committee with guidelines for completing evaluations consistent with the process described in the RFP. The evaluation committee may consist of College employees and, if desired, members of the community with experience in related services. Evaluators shall be selected on the basis of their ability to provide an objective, impartial evaluation of the proposals. If there is a conflict of interest, the evaluator shall declare this in writing and shall be excluded from participating in the evaluation.
- (d) The proposal evaluation committee shall review, score and rank all responsive proposals according to the evaluation criteria in the RFP, which may include, but are not limited to, the following:
 - (i.) Availability and capability to perform the work;
 - (ii.) Experience of key staff on comparable projects, or in performing comparable services;
 - (iii.) Demonstrated ability to successfully complete similar projects or perform similar services on time and within budget;
 - (iv.) References from past clients, public and private;
 - (v.) Performance history in meeting deadlines, submitting accurate estimates, producing quality work, and meeting financial obligations;
 - (vi.) Status and quality of any required licensing or certification;
 - (vii.) Knowledge and understanding of the required services as shown through the proposed approach to staffing and scheduling needs
 - (viii.) Fees or costs;
 - (ix.) Results from oral interviews, if conducted;
 - (x.) Availability of any specific required resources or equipment;
 - (xi.) Geographic proximity to the project or the area where the services will be performed;
 - (xii.) Identity of proposed subcontractors and their qualifications; and
 - (xiii.) Any other criteria deemed relevant to the provision of services.
- (e) Final ranking will be based on the evaluation criteria consistent with the process described in the RFP. Price will be considered, but will not necessarily govern selection of the Contractor(s).
- (f) Contracts entered into under the formal selection procedure may be amended, provided the original contract allows for the particular amendment and the services to be provided under the amendment are included within, or directly related to, the scope of the project or the scope of the services described in the solicitation document.

C. Informal Selection Procedures

The College may use an informal selection process to obtain services if the estimated fee or Contract Price is less than the Minimum Threshold for Personal Services Contracts, and the College shall use an informal selection process to obtain services if the estimated fee or Contract Price is more than the Minimum Threshold but less than the Intermediate Threshold for Personal Services Contracts as this threshold is defined in Section 300-Supplementary Provision, unless otherwise exempted.

- (1) The informal selection process shall solicit Offers from at least three qualified contractors offering the required services. Prospective contractors may be drawn from the ORPIN System and/or from the certified list of the Advocate for Minority, Women and Emerging Small Business or its list of Contractors. The College may place the solicitation on the ORPIN System and/or use the system-generated potential Offer list to meet the three (3) responses/proposals requirement for informal solicitations.
- (2) The informal selection process shall be competitive. The selection and ranking may be based on criteria including, but not limited to, each Offeror's:
 - (a) Particular capability to perform the services required;
 - (b) Experienced staff available to perform the services required, including each Offeror's recent, current, and projected workloads;
 - (c) Performance history
 - (d) Approach and philosophy used in providing services;
 - (e) Fees or costs;

- (f) Geographic proximity to the project or the area where the services are to be performed; an
 - (g) Work volume previously awarded by the College, with the object of effecting an equitable distribution of contracts among qualified Contractors, provided such distribution does not violate the policy of selecting the most highly-qualified Contractor to perform the services at a fair and reasonable price.
- (3) All proposals received shall be reviewed and documented and the most qualified Contractor(s) selected.
 - (4) If the scope of the services is revised to the extent that the estimated cost of the services is considered to be equal to or more than the Minimum Threshold as this threshold is defined in Section 300-Supplementary Provisions, and the services are still required, the College shall either (a) terminate the contract and issue a new solicitation using the formal selection procedures or procedures allowed by subsequent rules set forth in this Section, unless waived under the provisions of Section CCR.250 (I)(2), or (b) seek approval by the College's Local Contract Review Board for contract amendment.

D. Selection by Negotiation

- (1) The College may procure Personal Services with Contractors directly through negotiation if the Contract Price is less than the Minimum Threshold as this threshold is defined in Section 300-Supplementary Provisions.
- (2) If the scope of the services is revised to the extent that the estimated cost of the services is equal to or more than the Minimum Threshold as this threshold is defined in Section 300-Supplementary Provisions, the College shall solicit for a new Contractor(s) using applicable selection procedures under these rules.

Conclusion of Compliance with Law

This rule satisfies the requirements of Oregon Administrative Rule 137 chapter 047 wherein the College shall adhere to the informal and formal solicitation requirements. Consequently, findings otherwise required by law are unnecessary here.

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PUBLIC IMPROVEMENT CONTRACTS EXCEPTIONS AND EXEMPTIONS

Alternative Contracting Methods

CCR.280

The College may, at its discretion, exempt public improvement contracts from competitive bidding requirements utilizing Alternative Contracting Methods (ORS 279C.335(2)). These innovative contracting methods shall take into account market realities and modern practices that are consistent with the public policy of encouraging competition. Examples of Alternative Contracting Methods are Construction Manager/General Contractor Services (CM/GC), and Design-Build, Energy Savings Performance Contracts and other developing methods including but not limited to "performance contracting", "cost plus time" contracting, and "qualification plus project approach" contracting. .

The College shall adhere to ORS 279C.337 regarding the CM/GC contracting requirements as stated in OAR 137-049-0690.

The College shall prepare written findings that support the use of this exemption from competitive bidding and obtain approval from its Local Contract Review Board. A public hearing shall be held before final adoption (ORS 279C.335(5)) of the exemption. The findings must show compliance with ORS 279C.330, and shall include, but not be limited to, information regarding:

- (a) Operational, budget and financial data;
- (b) Public benefits;
- (c) Value engineering;
- (d) Specialized expertise required;
- (e) Public safety;
- (f) Market conditions;
- (g) Technical complexity; and
- (h) Funding sources but shall not be based solely on funding sources, such as a particular bond fund, or by the method of procurement.

Conclusion of Compliance with Law

The College must demonstrate that the use of this exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts and will likely result in substantial cost savings to the College or the public (ORS 279C.335(2)). The requirements of this rule ensure that competition will be carefully addressed and protected, if the College’s Local Contract Review Board finds it is in the public’s best interest to use an Alternative Contracting Method. Consequently, findings otherwise required by law are unnecessary here except with regard to those related to CM/GC contracts as required under ORS 279C.337.

* * * * *

Donated Public Improvements

CCR.281

The College may authorize a Person to construct a public improvement without competitive bidding or other competitive process regardless of dollar amount, if:

- (1) The Person has agreed to donate all of the labor, materials and services necessary to construct the public improvement and perform the work; and
- (2) The Person enters into a license or agreement with the College whereby the Person agrees to comply with the public contract requirements applicable to the particular project, requirements of the Public Contracting Code, and any requirements that the College deems necessary or beneficial to protect the College.

Findings of Fact

- 1. Students, staff, contractors, and other community groups from time to time offer to donate all or a portion of their professional skilled services and/or materials, to help the College meet its facilities’ and/or educational needs. The ability to take advantage of such donated materials and/or services enables the College to use its limited funds in other areas, and frequently results in improvements or services that the College would not otherwise be able to afford. This class special procurement thus has budgetary, operational, and public benefits.
- 2. This exemption enables the College to take advantage of these offers, while continuing to ensure that the requirements of the Public Contracting Code continue to be met.
- 3. ORS 279A.010 excludes projects for which no funds of a public entity are used from the definition of Public Improvement subject to the Code. This exemption will allow the College to take advantage of donated materials and/or services, where all or part of the project or funds used for the project are donated.

Conclusion of Compliance with Law

It is unlikely that this exemption will encourage favoritism in the award of College Contracts or substantially diminish competition for College Contracts because it will only apply when a Person donates all or part of the materials and/or services. Charitable donations are outside of the competitive market for construction services. In many instances, the donations will enable the College to construct or complete projects that it otherwise would not be able to afford to do, and thus will not displace what would otherwise be a competitively bid project.

The use of this class special procurement will result in substantial cost savings to the College because the College is not required to pay for the goods and/or services if they are donated.

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First-Tier Subcontractors; Disclosure and Substitution

CCR.282

This rule amends (i.e., additions are indicated by *italics* and deletions are indicated by a line drawn through the word(s) that has been stricken.), Appendix A of these Community College Rules of Procurement (i.e., State of Oregon, Department of Justice, Model Public Contract Rules effective January 1, 2010, Division 49), as follows:

OAR 137-049-0360(2)(b) shall be replaced with:

“(b) The College may, at its discretion, Open Bids publicly immediately after the Bid Closing; ~~and~~ or it may open Bids publicly immediately following the deadline for submission of the first-tier subcontractor disclosure forms, or some other time as permitted or not prohibited by Oregon Revised Statutes.”

Conclusion of Compliance with Law

As this amendment to the Attorney General’s Public Contract Rules is not a Special Procurement or exemption from the competitive procurement requirements of law, the College has determined that findings of fact are not required.

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Limited Negotiations with Bidder

CCR.283

I. Definitions

For purposes of this rule, the terms below shall be defined, as follows:

“College’s Cost Estimate” shall mean the fixed limit of construction cost that has been agreed upon by the College and the College’s consultant.

“Value Engineering and Other Options” refers to a process agreed upon by the College, which involves the lowest responsive, responsible bidder and may include other consultants to identify deletions or adjustments to the project to reduce the cost of such work.

“Significantly Changed” with reference to the scope of the project, shall mean deletion or adjustment of components of the project or elements of the work, which in the aggregate are estimated to cost in excess of twenty-five percent of the College’s Cost Estimate as originally designed.

II. Limited Negotiations and College’s Cost Estimate

- (1) If a project is competitively bid and all the responsive bids from responsible bidders exceed the College’s Cost Estimate, the College may, prior to award, negotiate with the Lowest Responsible Bidder utilizing Value Engineering and Other Options to bring the contract price within the College’s Cost Estimate.
- (2) The College’s negotiation with the Lowest Responsible Bidder shall not result in award of the contract to such bidder if the scope of the project is Significantly Changed from that specified in the Invitation to Bid at the time of bidding.
- (3) If the College elects to use the negotiation process under this rule, the College will not produce for public inspection prior to award or termination of the negotiation process, any records of the Lowest Responsible Bidder. After award of the contract or termination of the negotiation process, the College will make available for public inspection such records as are subject to inspection under any other provision of law.

III. Negotiation and Award Process

- (1) If the Lowest Responsible Bidder’s Bid exceeds the College’s Cost Estimate, the College may, but shall not be required to, negotiate with the Lowest Responsible Bidder to bring the cost of the project within the College’s Cost Estimate.
- (2) If the College elects to negotiate with the Lowest Responsible Bidder, the College shall give written notice to the Lowest Responsible Bidder of its intent, within ten (10) days of bid Opening. The notice shall include disclosure to the Lowest Responsible Bidder of the College’s Cost Estimate.

- (3) During any such negotiations, the Lowest Responsible Bidder's bid shall remain firm for the period prescribed in the Bid. At all times until such expiration of the Bid, and notwithstanding the occurrence of negotiations under this rule, the College shall have the right to accept the original Bid.
- (4) Upon and within five (5) days of receipt of the College's notice of intent to negotiate, the Lowest Responsible Bidder and the College's representative shall meet and present to each other, in writing, any proposals either may have for Value Engineering and Other Options to bring the project within the College's Cost Estimate.
- (5) The College and the Lowest Responsible Bidder shall negotiate in good faith regarding value engineering and other options, exerting their best efforts to bring the cost of the project within the College's Cost Estimate.
- (6) If the College and the Lowest Responsible Bidder are able to reach agreement through value engineering and other options to identify measures which bring the project within the college's Cost Estimate, but do not Significantly Change the scope of the project, such value engineering and other options shall be reduced to writing and signed by the Lowest Responsible Bidder as an amendment to its bid and will be incorporated into the Contract at the time of award.
- (7) Upon award, the terms and conditions of the amendment to the Bid shall be made public.
- (8) Any protest of this negotiation process shall be subject to the Protest Process specified in the Invitation to Bid.

Conclusion of Compliance with Law

This rule satisfies the requirements of Oregon Revised Statute 279C.340 wherein the College may negotiate with the lowest responsive, responsible bidder in accordance with rules adopted by the College. Consequently, findings otherwise required by law are unnecessary here.

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**SECTION 300 SUPPLEMENTARY PROVISIONS – CONTRACTING
RULES**

These Community College Rules of Procurement were drafted by participating statewide community college representatives with the intent that Sections 100 and 200 be adopted in their entirety and remain unchanged by their respective institutions unless modified by participating committee members at a later date and subsequently and unanimously ratified by their Local Contract Review Boards. Section 300 has been specifically set aside to address the unique philosophies, cultures, and/or concerns of the various community colleges, voting districts, and contract review boards. In the event of conflict between rules or sections within these Community College Rules of Procurement, the rules in Section 300 shall take precedence over the Appendices in Section 300, and the rules in Sections 100 and/or 200 except as otherwise expressly provided.

* * * * *

Authority to Approve College Contracts; Delegation of Authority to President

CCR.300

- (1) The College is the Contracting Agency within the meaning of the Public Contracting Code.
- (2) Except as otherwise provided in these Rules, the powers and duties of the Local Contract Review Board under these Rules shall be exercised and performed by the College Board of Directors, and the powers and duties of the College under the Rules shall be exercised and performed by the President.
- (3) Except as provided in Section (4) of this Rule or as otherwise expressly authorized in these Rules, the College Board must approve all College Contracts.
- (4) Pursuant to ORS 279A.075, and except as expressly limited by other Board Policy, the Board delegates to the President the authority to enter into and approve payment on College Contracts in the following circumstances:
 - (a) The College Contract is within appropriations made by the Board; and
 - (b) In any of the following circumstances:
 - (i) The total amount payable by the College under the individual College Contract does not exceed \$150,000;
 - (ii) The College Contract is for routine and customary expenditures, including but not limited to payroll, payroll taxes and benefits, utility bills, and postage;
 - (iii) Advance authorization has been given by the Board for the President to execute a particular College Contract or class of College Contracts;
 - (iv) The College Contract is an Emergency Procurement;
 - (v) The College Contract is a Change Order or Contract amendment to a prior-approved Contract authorized under these Rules;
 - (vi) An offer of judgment made in the course of litigation in which the College is a party when the President and general counsel determine that such an offer is in the best interest of the College or is to the College's tactical advantage; or
 - (vii) These Rules otherwise expressly authorize the President to approve the Contract.
- (5) The President may designate in writing any College employee or employees to exercise all or a portion of the President's powers and duties under these Rules.
- (6) No College employee or official shall authorize and no contractor shall undertake any work under a College contract prior to full execution of the contract by all authorized signatories. Notwithstanding the forgoing, the President may authorize work to begin under a contract prior to full execution in the following circumstances:
 - (a) The contract is an intergovernmental agreement pursuant to ORS Chapter 190, the parties have agreed in principal to the terms of the contract, and the only remaining step is circulation of the Contract for approval; or
 - (b) The contract is an amendment that is subject to approval of the Board because it will increase the cost of the contract above the President's contract approval authority, but the Board approval process will cause a delay in work completion that will prevent timely delivery of essential services. For the purposes of this exception, "essential services" means goods, services, personal services, or construction services necessary for a school to open on time, a class to start on time, a class or program to complete on time, to comply with conditions of grant that is otherwise at risk of loss, or other services critical to timely and complete education of College students. The President will only authorize such work in cases where the delay is caused by factors outside of the College's control and that could not have been identified when the contract was first negotiated.

Conclusion of Compliance with Law

As the delegation of authority is not an exemption from the competitive procurement requirements of law, the College has determined that findings of fact are not required.

* * * * *

Bid Security and Bond Requirements, Waiver of

CCR.305

This rule replaces and amends Personal Services Contracts Rule CCR.204(1) to read:

- (1) If the contract is for a public improvement or a public work and the amount of the contract does not exceed \$100,000, and the contractor has filed a public works bond with the State of Oregon Construction Contractors Board;

Conclusion of Compliance with Law

It is unlikely that this Special Procurement will result in favoritism in the awarding of public contracts or substantially diminish competition since all vendors, including Oregon businesses, are able to compete, it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)(b)(A)), and it will enable the College to otherwise substantially promote the public interest (ORS 279B.085(4)(b)(B)), by reducing costs of bidding and maximizing participation from Emerging Small Businesses.

This rule satisfies the requirements of ORS 279C.390 and ORS 279.380(b)(5) wherein a Local Contract Review Board may exempt certain contracts or classes of contracts from all or a portion of the requirement for bid security and from all or a portion of the requirement that good and sufficient bonds be furnished to ensure performance of the contract and payment of obligations incurred in the performance. Consequently, findings otherwise required by law are unnecessary here.

* * * * *

Consultant Selection: Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors, and Providers of Related Services Contracts

CCR.310

This rule amends (i.e., additions are indicated by *italics* and deletions are indicated by a line drawn through the word(s) that has been stricken.), Appendix A of these Community College Rules of Procurement (i.e., Oregon Attorney General Model Public Contract Rules Division 48, as amended from time to time), as follows:

OAR 137-048-0210(2)(b) is replaced with: "Provide a Request for Proposals to a minimum of *three (3)* prospective Consultants drawn from:

- (A) Contracting Agency's list of Consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants: Performance Record);
- (B) Another Contracting Agency's list of Consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants; Performance Record); or
- (C) All Consultants that the Contracting Agency reasonably can locate that offer the desired Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, or any combination of the foregoing."

Conclusion of Compliance with Law

As this amendment to the Attorney General Model Public Contract Rules is not a Special Procurement or exemption from the competitive procurement requirements of law, the College has determined that findings of fact are not required. The requirements of this rule ensure that competition will be carefully addressed and protected, if the College finds it is in the public's best interest to competitively procure Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Contracts. This rule satisfies the requirements of Oregon Revised Statute ORS 279A.055 wherein the College may enter into Personal Services contracts, subsequent to the Local Contract Review Board's designation of certain service contracts or classes of service contracts as personal services contracts, and ORS

279C.105 wherein a Local Contract Review Board shall adopt procedures for the screening and selection of persons to perform those services under ORS 279C.110 or ORS 279C.120. Consequently, findings otherwise required by law are unnecessary here.

* * * * *

Contract Reinstatements

CCR.315

The “Reinstatement of Expired Contracts” means the action of reinstatement of an expired Contract that was previously properly executed containing all the required approval signatures and following all required procurement processes. The College may approve reinstatement of an expired Contract if the following conditions are met:

- (1) The College determines concisely, in writing, that the failure to extend or renew the Contract in a timely manner was due to unforeseen or unavoidable conditions;
- (2) The written reinstatement justification is presented to Purchasing for approval within ninety (90) days after expiration of the original Contract; and
- (3) The reinstatement is exclusively for the purpose of permitting completion of the work or services for no additional compensation; or
 - (a) When the services are of a continuing or repetitive nature, which are compensated at an hourly, daily, or similar periodic rate, the reinstatement either:
 - (i) Does not increase the rate of compensation; or
 - (ii) Does not increase the rate of compensation so as to exceed the rate of the increase determined by comparing the Portland, Oregon Metropolitan Area Consumer Price Index (all items), published immediately prior to the date the original contract was established with the same Index published immediately prior to the date of the reinstatement and extension.
- (4) When a Contract is reinstated pursuant to this Rule, the College may compensate the Contractor, at the rate of compensation established in the original Contract, for work performed in the interim between the expiration of the original Contract and the execution and approval(s) of the extension or amendment.
- (5) If the reinstatement of a Contract pursuant to this rule raises the aggregate amount of compensation to a level that requires approval by the Local Contract Review Board, the College must obtain such approval before the extension becomes binding and before any services may be performed under the reinstated contract.
- (6) Once a Contract is reinstated, it is in full force and effect, as if it had not expired.

Conclusion of Compliance with Law

Contracts are living entities. The work they represent is subject to change at any moment; As the contract reinstatement process is not an exemption from the competitive procurement requirements of law, the College has determined that findings of fact are not required. It is unlikely that this process will encourage favoritism in the awarding of public contracts or substantially diminish competition, and is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B(4)). Consequently, findings otherwise required by law are unnecessary here.

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Energy Management Controls Systems

CCR.320

Competitive procurement need not be used for Energy Management Controls Systems provided the hardware or software is required to match or be specifically compatible with existing equipment (*see Brand Names or Marks, “or Equal,” Single Seller and Sole Source*), or that the items are available from only one source and the College has determined that competition does not exist.

In determining the appropriate procurement method for Energy Management Controls Systems or whether competition exists, the College may consider the following factors: the extent to which alternative services offered are comparable or substitutable in technology; service provided; performance; the extent to which latest upgrades and options are offered by the manufacturer; and downward compatibility; and the extent to which alternative providers can respond to the College’s

interests in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management, and limiting College liability.

Conclusion of Compliance with Law

This rule will not encourage favoritism or substantially diminish competition in the awarding of public contracts. An energy management controls system is essentially a system of data processors, input/output devices, field devices (thermostats, terminal control units, etc.), and software that result in energy-saving strategies. This rule provides additional parameters for consideration that are complementary to the Public Contracting Code where competition does exist. It is not intended to diminish the College's ability to consider other factors or limit fair and open competition when arriving at best value. It is the policy of the State of Oregon that public contracting activities should provide effective outcomes that represent optimal value to the contracting agency, and to the greatest extent feasible, be consistent with market practices (ORS 279B.010(1)).

* * * * *

Exception (Including Sole Source)

CCR.325

Purchases of Goods or Services through competitive procurement processes need not be used for the procurement of goods or services when the College makes a determination, based on written findings subject to ORS 279B.075(2), that the goods or services, or class of goods or services, are available from only one source, and the award of the Contract is approved, in writing, by the College's Purchasing Manager with such determination of sole source being placed on file in the Purchasing office or other designated official location; notification shall subsequently be given to the college's Local Contract Review Board, if the amount of the contract exceeds \$150,000. The College is entitled to negotiate with any sole source Contractor to obtain a favorable price, terms, and/or conditions. This exception may be used for either a Contract or class of goods or services resulting in a series of Contracts, subject to these written findings, without submitting written findings for each subsequent request for a Contract, for no longer than five years, and is to be used infrequently and only when deemed by the College Purchasing Manager to be in the best interest of the College.

Findings of Fact

1. In some cases, the use of competitive procurement processes is either not practicable, advantageous, or in the College's best interest due to unforeseen circumstances, unreasonable costs, difficulty in locating vendors even after extensive searches, or where time constraints occur that are due to circumstances beyond reasonable control.
2. All practical measures will be taken to encourage competition when possible.
3. The College Purchasing Manager or designee will report to the Local Contract Review Board the reason(s) that competitive procurement processes were deemed to be impracticable and what steps, where possible, were taken to encourage competition if the acquisition exceeds a limit prescribed by these Rules. A copy of the waiver shall be placed on file in the Purchasing office or other designated official location.

Conclusion of Compliance with Law

It is unlikely that this exemption from competitive procurement processes will encourage favoritism in the awarding of public contracts or substantially diminish competition, and it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)), since it would be an Exception, and would be due to extenuating circumstances. Additionally, this Special Procurement will substantially promote the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, or 279B.070 or under any rules adopted thereunder. (Stat. Auth.: ORS 279B.075 and 279B.085, Sole-Source Procurements and Special Procurements, respectively.)

* * * * *

Personal Property, Used (Purchase of)

CCR.330

Competitive procurement need not be used for the procurement of Used Personal Property if the College has determined that the purchase will result in cost savings and will not diminish competition or encourage favoritism.

For purchases of used personal property or equipment costing \$25,000 or more, the College shall, where feasible, obtain three competitive quotations, unless such comparisons are highly impractical to obtain. Procurement files pertaining to Used Personal Property shall contain documentation of price comparisons and attempts to secure competitive pricing as much as is practical.

When the value of any such purchase exceeds the threshold for Intermediate Procurements, such purchases shall be authorized and/or delegated only by the College Vice President of Finance & Operations.

Comment

Used Personal Property is property which has been placed in use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used,” at the time of purchase.

Used Personal Property generally does not include property or equipment of which the College was the previous or current user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement.

Findings of Fact

The additional liberty for purchasing used personal property is essential for those who participate in auctions or other spot sales, where it is impractical to utilize conservative procedures because of the necessities of the selling process.

Conclusion of Compliance with Law

This rule provides additional parameters for consideration that are complementary to the Public Contracting Code while supporting impartial and open competition as much as is practical. It is the policy of the State of Oregon that public contracting activities should provide effective outcomes that represent optimal value to the contracting agency, and to the greatest extent feasible, be consistent with market practices (ORS 279B.010(1)). Pursuant to ORS 279B.075(1) Used Personal Property may be considered a sole source procurement, if it is available from only one source; written findings supporting this determination and conclusion shall be made by the College. Findings otherwise required by law to support this Special Procurement are unnecessary here.

* * * * *

Personal Services Contracts (CCR.250 Amended)

CCR.335

This rule replaces and amends Personal Services Contracts Rule CCR.250(I.) (2) to read:

- (2) The College may waive the requirement for a competitive selection process and directly negotiate a Personal Services Contract, if the Contract Price is not more than the Minimum Threshold as this threshold is defined in this Section. “Minimum Threshold” means \$75,000; “Intermediate Threshold” means \$150,000. Regardless of the dollar value of the Contract, the College may, at its discretion, enter into a Personal Services Contract without complying with formal or informal solicitation requirements if an Emergency, as defined in CCR.207 exists.
 - (a) Unless there are compelling reasons not to do so, competitive selection processes for Personal Services contractors should take place at intervals not greater than five years
 - (b) The screening and selection procedures for the award of Personal Services Contracts are governed by ORS 279A.055 and are subject to the competitive procurement provisions of the Personal Services Contracting rules and procedures adopted herein. Every contract for Personal Services shall be based upon these screening and selection procedures developed by the College. Personal Services Contracts are considered “Public Contracts” as defined in ORS 279A.010. Pursuant to ORS 279A.010(kk).
 - (c) Contracts less than or equal to the Minimum Threshold, may be direct awarded or utilize the Informal or Formal Selection Procedure.
 - (d) Informal Selection Procedures shall be used for contracts estimated or anticipated to be more than the Minimum Threshold, and which are not estimated or anticipated to be more than the Intermediate Threshold.

- (e) Formal Selection Procedures shall be used for contracts estimated or anticipated to be more than the Intermediate Threshold, but may be used for contracts of any estimated dollar value if it is deemed to be in the College’s best interest.
- (f) Personal services as designated under ORS 279A.055 are excepted from the definition of “Services” and are, therefore, not subject to the Cost Analysis or feasibility determination requirements of ORS 279B.030, ORS 279B.033, or ORS 279B.036.

This rule replaces and amends Personal Services Contracts Rule CCR.250(I.)(5) to read:

- (5) Personal Services Contracts do not include:
 - (a) Contracts, even though in a professional capacity, if primarily for equipment, supplies or materials, e.g., a contract to supply all hardware and standard software is not a Personal Services Contract, but a contract with a technology consultant to design or develop a new computer system is a Personal Services Contract;
 - (b) Contracts with a temporary service or personnel agency to supply labor, which is of a type that can generally be done by any skilled worker;
 - (c) Contracts for services of a trade-related activity, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures;
 - (d) Employees or leased employees, except for those professional/managerial, leased employees retained under contract with the College’s preferred provider, Northwest Innovations, Incorporated.

This rule adds Personal Services Contracts Rule CCR.250(I.)(6) to read:

- (6) If the procurement is grant-funded, “Minimum Threshold” means the amount as identified by the grant-funding agency, if the grant-funding agency’s threshold requirements are more restrictive than the College’s. The College will follow the provisions of Personal Services contracting rules of the grant-funding agency and/or those of the College, or a combination thereof, as identified by the grantor.

Conclusion of Compliance with Law

The definition of Personal Services Contracts as it is written in CCR.250 excludes employees or leased employees. With the increased number of managerial/professional staff retirements, the College has lost a body of specialized knowledge and has developed an ongoing need for a provider of managerial/professional services in order to provide uninterrupted services to the College. These services are not typically available from other staffing agencies; however, it is desirable to the College to retain this body of experience that would otherwise be lost through retirements. Northwest Innovations, Incorporated (NWI), is uniquely capable of providing short-term professional/managerial employment services to the College, because of its access to a unique pool of managerial/professional employees.

Conclusion of Compliance with Law

The requirements of Rule CCR.250 and its subsequent amendment, CCR.312, ensure that competition will be carefully addressed and protected, if the College finds it is in the public’s best interest to competitively procure Personal Services. This rule satisfies the requirements of Oregon Revised Statute ORS 279A.055 wherein the College may enter into Personal Services contracts, subsequent to the Local Contract Review Board’s designation of certain service contracts or classes of service contracts as Personal Services Contracts. Consequently, findings otherwise required by law are unnecessary here.

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Purchasing Manual

CCR.340

Additional clarification of these rules and specific procurement and contracting procedures are delineated in the Purchasing Manual which is maintained and updated by the College Purchasing Manager.

Conclusion of Compliance with Law

As the Purchasing Manual is not an exemption from the competitive procurement requirements of law, the College has determined that findings of fact are not required. Consequently, findings otherwise required by law are unnecessary here.

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Solicitation Requirements

CCR.345

This rule clarifies the definition of College Purchasing Department when used in CCR.260 B. to mean both the College Procurement and Contract Services Department and the Planning and Capital Construction Purchasing Department.

Conclusion of Compliance with Law

This rule is intended to clarify the language in the indicated CCR. Consequently, additional findings are unnecessary here.

* * * * *

Source Selection

CCR.350

This rule amends Appendix B of these Community College Rules of Procurement as follows: OAR 137-047-0250(2) shall be replaced with:

- (2) Written Cost Analysis for Contracts for Services. Before conducting the Procurement of a Contract for Services that is subject to sections 2 to 4 of Oregon Laws 2009, chapter 880, the College must, in the absence of a determination under section 34 of that enactment that performing the services with the College’s own personnel and resources is not feasible, conduct a Written cost analysis.
 - (a) This rule applies to a procurement for services—other than personal services designated under ORS 279A.055—that the College estimates will result in one or more Contracts with a value that exceeds \$250,000 for the estimated term of the Contract(s)Value, including incidental costs related to the services, and anticipated amendments, but not unanticipated amendments;
 - (i) If a procurement is conducted in accordance with these rules, an Award is made, and one or more unanticipated amendments then increase the estimated Contract Value over \$250,000, a Cost Analysis is not required at that time.

Findings of Fact The College has specifically opted out of the model rules adopted by the Attorney General and adopted its own rules of procedure for Public Contracting pursuant to 279A.065 in the exercise of its own contracting authority and is not subject to these model rules, except for those portions of the model rules that the College has prescribed for its own use for Public Contracting.

Conclusion of Compliance with Law As this amendment to the Attorney General’s Public Contract Rules is not a Special Procurement or exemption from the competitive procurement requirements of law, the College has determined that findings of fact are not required.

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Space Rentals (hotels, conferences, temporary offices, etc.)

CCR.355

Competitive procurement need not be used for the rental of real estate, floor space or other short- or long-term rentals of physical space.

Findings of Fact Many space rental transactions must, of necessity, take place in private in order to ensure that public disclosure will not have negative effects upon price or other contractual considerations. Additionally, rentals are subject to considerable personal judgment in the selection of the space, its availability, its surrounds, its geographical location, the landlord, and the contract terms. Many of these items are not subject to negotiation or are extremely difficult to compare objectively. Moreover, many such rentals must be finalized in extremely short periods, occasionally within minutes, or the arrangement may be lost to another offeror. It is not in the best interest of the public to disadvantage the College by necessitating an arduous selection process for rentals of space, which, of necessity, are highly subjective activities.

Conclusion of Compliance with Law

It is unlikely that this Special Procurement will result in favoritism in the awarding of public contracts or substantially diminish competition since all vendors, including Oregon businesses, are able to compete, and it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)), or otherwise substantially promote the public interest (ORS 279B(4)(b)(B)), through expediting its procurement processes without compromising integrity for cost.

* * * * *

Special Risk Insurance Policies

CCR.360

Types of Special Risk Insurance Policies shall include, but not be limited to, policy/policies for: Accidental Death and Dismemberment for Board of Education Travel; Student Athletic Accident and Injury; College Volunteers; Day Care Students; optional Medical coverage for Students; and International Student (federally mandated), coverage. The College may, at its discretion, exempt Special Risk Insurance Policies from competitive bidding requirements, subject to the following conditions:

The College shall take into consideration market realities and determine:

- (1) Whether comparable benefits/services at competitive prices are available;
- (2) Contractor’s ability to assure continuous quality delivery of services;
- (3) If it is cost effective for the College to contract for the direct right for the insurer or the insurer’s agent; and
- (4) If applicable, whether Contractor’s past performance has been satisfactory.

Findings of Fact

- 1. In some cases, the use of a competitive procurement process is either not practicable, advantageous, or in the College’s best interest due to unforeseen circumstances, unreasonable costs, economies of scale, or difficulty in contracting for Special Risk Insurance Policies through the College’s competitively procured Insurance Agent of Record;
- 2. In some cases, the College selects the Contractor and makes available Special Risk Insurance Policies as a courtesy to staff/students, but the insurer/insured relationship is between the staff/student and the Contractor--not the College;
- 3. If competition exists and it is practical and cost effective to solicit quotations, bids, or proposals for Special Risk Insurance Policies, then these procurement methods should be utilized in an effort to obtain best value.

It is unlikely that this Special Procurement will result in favoritism in the awarding of public contracts or substantially diminish competition, and it is reasonably expected to result in substantial cost savings to the College or to the public (ORS 279B.085(4)), since multiple contract awards to independent brokers/agents may result, and it will enable the College to otherwise substantially promote the public interest (ORS 279B.085(4)(b)(B)), by minimizing administrative costs, expediting procurement processes, and maximizing efficiencies. The requirements of this rule ensure that competition will be carefully considered, if the College finds it is in the public’s best interest to competitively procure Special Risk Insurance Policies.

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Board of Directors Goals 2019-2020

Diversity, Equity and Inclusion

Strategic Goal: Ensure that the Board of Directors and the President both advance Diversity, Equity and Inclusion in measurable and strategic ways.

- PCC increases the recruitment, hiring and retention of employees of color.
- PCC increases the awarding of contracts to MWESB companies.
- The PCC Board of Directors will establish and implement a way of including DE & I into the policy making process and other key board functions.

Equitable Student Success

Strategic Goal: The board holds itself and the college president accountable for improving equitable student success.

- PCC improves access, retention, and completion rates for all students and reduces and then eliminates disparities in these rates for low-income students and students of color.
- Board members utilize personal and professional networks to establish new strategic partnerships that bring new resources to the goal of improving outcomes for students (e.g., resources that address student housing and food insecurity, the PCC Campaign for Opportunity, etc.)

Mission Fulfillment

Strategic Goal: Through the development of policy, a strong relationship with the college president and effective public advocacy, ensure that Portland Community College is well positioned to meet the current and future needs of the communities it serves:

- Engage, at the board level, in the PCC Strategic Planning Process and prepare for the board role in the next accreditation visit.
- Continue to engage in coordinated, strategic advocacy with city, county, regional, state and federal governments.
- Continue strategic oversight of critical college performance through the Audit Committee, dashboard review, budget presentations, evaluation of the president, etc.
- Evaluate the PCC President relative to his work plan.

The PCC Board of Directors met for a retreat on July 26, 2019. From that meeting a working agreement was established. This is that agreement:

- Treat each other with respect
- Listen with an empathic mind and heart
- Be honest, act with integrity
- Call in/Call out
- Conduct effective meetings
- Stay engaged
- Start/Stop on time
- Plan agenda thoughtfully
- Be prepared
- Create a positive working environment
- Be aware of impact as well as intent
- Stay true to board goals
- Reference Legacy Goals in meetings

The College prohibits unlawful discrimination based on race, color, religion, national origin, sex, marital status, disability, veteran status, age, sexual orientation, or any other status protected by federal, state, or local law in any area, activity or operation of the College. The College also prohibits retaliation against an individual for engaging in activity protected under this policy, and interfering with rights or privileges granted under anti-discrimination laws. In addition, the College complies with applicable provisions of the Civil Rights Act of 1964 (as amended), related Executive Orders 11246 and 11375, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 (as amended), Uniformed Services Employment and Reemployment Rights Act ("USERRA"), and all local and state civil rights laws. Under this policy, equal opportunity for employment, admission, and participation in the College's programs, services, and activities will be extended to all persons, and the College will promote equal opportunity and treatment through application of this policy and other College efforts designed for that purpose.