

**IN THE CITY COUNCIL  
FOR THE CITY OF HOOD RIVER, OREGON**

**ORDINANCE NO. 2060**

An Ordinance amending Title 2 (Administration and Personnel) Chapter 32.02 (Public Contracting), Section 2.32.060 (Personal Services Contracts) of the Hood River Municipal Code, to make the City's procurement procedures for Personal Services Contracts consistent with current state law.

The Hood River City Council finds as follows:

**WHEREAS** ORS Chapters 279A, 279B and 279C provide basic procedural requirements and minimum limitations for all public procurement and contracting throughout the state, and Hood River has codified this authority in Chapter 2.32 of the Hood River Municipal Code; and

**WHEREAS**, the City's public procurement procedures, when adopted and as amended from time to time, are intended to keep pace with changes in state law and it has been several years since the City's public contracting requirements were amended to reflect increased minimum dollar value limitations in state law; and

**WHEREAS** state law provides fewer requirements for personal and professional service requirements because state law intends that the award of personal and professional services contracts be based first on qualifications and that cost be a secondary consideration; and

**WHEREAS** the 2019 Oregon Legislature enacted several statutory changes to ORS 279C.110(2), that stream-lined and simplified the process and established higher value thresholds for awarding personal and professional service contracts, especially contracts for architectural, engineering, photogrammetric, transportation planning or land surveying services; and

**WHEREAS** the City Council desires to stream-line and make less cumbersome the procedures for the solicitation and award of personal and professional service contracts, while maintaining value based competition among comparable service providers, discouraging favoritism and maximizing value for public fund expenditures, consistent with ORS 279C.110; and

**WHEREAS** the City Council considered an amendment to HRMC 2.32.060 (Personal Services Contracts) to implement new procedures and limitations adopted by the 2019 Oregon Legislature in ORS 279C.110(2) at its regular meeting on January 11, 2021, at which time it accepted testimony and comment on the proposal set forth in Exhibit A, attached hereto and incorporated herein by this reference.

**NOW, THEREFORE**, based on the foregoing findings, which are incorporated herein by this reference, the Hood River City Council Ordains as follows:

**Section 1 – Repeal.** Title 2 (Administration and Personnel) Chapter 32.02 (Public Contracting), Section 2.32.060 (Personal Services Contracts) of the Hood River Municipal Code is hereby repealed in its entirety.

**Section 2 – Adoption and Amendment.** Title 2 (Administration and Personnel) Chapter 32.02 (Public Contracting) of the Hood River Municipal Code is hereby amended by the adoption of a new Section 2.32.060 (Personal Services Contracts) set forth in Exhibit A, attached hereto and incorporated herein by this reference.

**Section 3 – Severability.** If any portion of this ordinance or the amendment to HRMC Chapter 32.02 adopted herein is determined to be invalid or unenforceable for any reason, that finding shall not affect the validity or enforceability of any other provision of this ordinance or the HRMC.

**Read for the First Time** on January 11, 2021.

**Read for the Second Time** and approved on \_\_\_\_\_, 2021.

This Ordinance shall take effect on the 31<sup>st</sup> day following the second reading.

AYES: \_\_\_\_\_  
NAYS: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Kate McBride, Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Jennifer Gray, City Recorder

\_\_\_\_\_  
Daniel Kearns, City Attorney

## EXHIBIT A

### 2.32.060 Personal Services Contracts.

A. Consistent with ORS 279C.110(2), the following procedures shall apply to the award of personal services contracts, including contracts for architectural, engineering, photogrammetric, transportation planning or land surveying services:

1. *Personal Service Contracts up to \$10,000.* Personal services contracts involving an anticipated cost not exceeding \$10,000 may be directly awarded by the City Manager to a suitably qualified consultant that can perform the needed services.
2. *Personal Service Contracts between \$10,000 and \$50,000.* Personal services contracts involving an anticipated cost between \$10,000 and \$50,000 may be awarded by the City Manager following a verbal or electronic solicitation of offers from up to three suitably qualified consultants. Selection of a contractor under this subsection shall be based upon an evaluation of the criteria in Subsection B.
3. *Personal Service Contracts greater than \$50,000.* Personal services contracts involving an anticipated cost greater than \$50,000 may be awarded by the City Council following solicitation of at least three written competitive offers or proposals. Selection of a contractor under this subsection shall be based upon an evaluation of the criteria in Subsection B.
4. Notwithstanding the foregoing, during an emergency declared by the City Manager or Mayor, personal services contracts may be awarded directly by the City Manager to a suitably qualified consultant that can perform the needed services. Amendments to and annual renewals or extensions of existing contracts may be awarded by the contracting agency without a new solicitation or evaluation process. No personal services contract shall be artificially divided or fragmented to qualify for a different procedure as provided in this subsection.

B. All or any of following criteria may be considered in the evaluation and selection of a personal services contractor where a competitive process and evaluation is required by this Section 2.32.060. Pricing policies, proposals or other pricing information may not be used as an evaluation criterion except under Subsection C. The criteria listed in this Subsection B are not listed in order of preference or importance, and nothing contained herein precludes the use of other or additional criteria:

1. Specialized experience, capabilities and technical competence, which the prospective consultant may demonstrate with the prospective consultant's proposed approach and methodology to meet the project requirements;
2. Resources committed to perform the services and the proportion of the time that the prospective consultant's staff would spend to perform services for the contracting agency, including time for specialized services, within the applicable time limits;
3. Record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;
4. Ownership status and employment practices regarding disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own, emerging small businesses or historically underutilized businesses;
5. The contractor's proximity to the project locale;

6. Familiarity with the project locale;
7. Proposed project management techniques;
8. Timeliness of delivery of services;
9. References from successfully completed projects managed by the contractor;
10. Utilization of locally procured goods, services, or personnel;
11. Other services provided by the contractor not specifically listed in the Request for Proposal;
12. The contractor's ability to meet the agency's total, not to exceed budget for the project or services;
13. Other criteria specially listed in the solicitation document on a case by case basis.

C. Notwithstanding the prohibition in Subsection A precluding the solicitation or use of pricing policies, proposals or other pricing information until after the City has selected a consultant, consistent with ORS 279C.110(5), the City may use pricing policies, proposals or other pricing information as part of its screening and selection of prospective consultants if the City:

1. States in solicitation procurement documents:
  - a. That the City will screen and select prospective consultants as provided in this subsection;
  - b. How the City will rank proposals from prospective consultants, with a specific focus on:
    - (i) Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and
    - (ii) The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;
  - c. An estimate of the cost of professional services the City requires for the procurement; and
  - d. A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.
2. Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement. The City may use the criteria set forth in Subsection B of this section to conduct the evaluation.
3. Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph 2 of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (1)(d) of this subsection from each of the top-ranked consultants. The pricing proposal:
  - a. Must consist of:
    - (i) A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the City

requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

(ii) A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement; and

b. May include, at the City's request, additional pricing information that is limited to:

(i) A description of each task that the prospective consultant understands as comprising the professional services;

(ii) A list of each individual or labor classification that will perform each task, together with the hourly rate that applies to the individual or labor classification; and

(iii) A list of expenses, including travel expenses, that the prospective consultant expects to incur in connection with providing the professional services.

4. Permits a prospective consultant identified as qualified under paragraph 3 of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.

5. Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph 4 of this subsection, giving not more than 15% of the weight in the evaluation to each prospective consultant's price proposal.

D. By Resolution, the City Council may exempt a personal services contract or a class of personal services contracts from the requirements of Subsection A if doing so would:

1. Be unlikely to encourage favoritism or to diminish competition;

2. Result in cost savings to the City; or

3. Otherwise promote the best interests of the City or the public.

E. Personal service contracts for legal counsel, legal services, expert witnesses, court-appointed attorneys, stenographers and other legal services are exempt from the competitive procurement requirements of this section and may be entered into based upon the judgment of the City Attorney. The City Attorney shall obtain City Council approval of any expenditure for legal services paid to a single legal services provider that is expected to exceed \$10,000 prior to entering into the contract. Except for legal counsel hired by the City to provide legal services to indigent criminal defendants prosecuted by the City, the City Attorney shall select and retain all outside legal counsel hired by the City subject to the approval of the City Council.