

**IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON  
FOR THE COUNTY OF BAKER**

IN THE MATTER OF	)	Local Contract Review
AN ORDER ADOPTING THE	)	ORDER NO. 2026-118
BAKER COUNTY PUBLIC	)	
CONTRACTING RULES;	)	
REPEALING ALL PREVIOUS	)	
ORDERS, RESOLUTIONS AND	)	
POLICIES	)	

WHEREAS, under ORS 279A.065(6) Counties and other contracting agencies may opt out of the Attorney General Model Rules for public procurement of goods and services, and personal service contracts, adopting their own rules for public contracts; and

WHEREAS, Baker County has historically opted out of the Attorney General Model Rules, most recently adopting its own rules under Resolution 2005-1027; and

WHEREAS, the Baker County Board of Commissioners, sitting as the Local Contract Review Board, recognizes that since the adoption of Resolution 2005-1027, the contracting needs of the County have evolved, as have statutory requirements related to public procurement methods; and

WHEREAS, the attached Baker County Public Contracting Rules incorporate certain provisions of the Attorney General’s Model Rules, while also providing additional provisions relevant to the needs of Baker County.

NOW THEREFORE, the Local Contract Review Board for Baker County hereby ORDERS that,

Section 1. All prior Orders, Resolutions and Policies relating to public contracting are repealed and shall have no effect.

Section 2. Baker County Public Contracting Rules, attached to this 2026 Order as Attachment 1, are hereby adopted and shall take effect immediately upon signature.

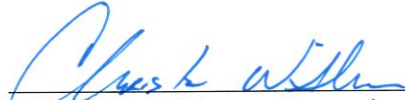
Section 3. Baker County Public Contracting Rules shall be reviewed by the Local Contract Review Board annually for compliance with legislative requirements and changing contracting needs of Baker County departments.

DONE and DATED this 15<sup>th</sup> day of April, 2026.

**BAKER COUNTY BOARD OF COMMISSIONERS**



Shane M. Alderson, Commission Chair



Christina Witham, Commissioner



Michelle Kaseberg, Commissioner

# BAKER COUNTY PUBLIC CONTRACTING RULES

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# BAKER COUNTY PUBLIC CONTRACTING RULES

## Section 1 – Purpose, Policy and Statutory Authority

- A. Purpose. The purpose of adopting these Baker County Public Contracting Rules is to implement the provisions of ORS 279, ORS 279A, ORS 279B, and ORS 279C, which may be collectively referred to herein as the Oregon Public Contracting Code.
- B. Policy. It is the policy of Baker County to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by a.) Promoting impartial and open competition; b.) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and c.) Taking full advantage of evolving procurement methods that suit the contracting needs of Baker County as they emerge within various industries.
- C. Statutory Authority. These Rules are authorized by ORS 279A.050, ORS 279A.060, ORS 279C.345(2) and ORS 279A.070.

## Section 2 – Repeal of Prior Rules; Attorney General Model Rules; Baker County Local Contract Review Board Rules

- A. Repeal of Prior Rules. As provided by the Order adopting these Rules, all previous Orders, Resolutions, Ordinances and Policies adopted by Baker County relating to public contracting are repealed and shall have no effect.
- B. Attorney General Model Rules of Public Contracting (Model Rules). The Attorney General’s Model Rules of Public Contracting, OAR 137 Divisions 46, 47, 48 and 49, as amended from time to time, shall be herein referenced as the Model Rules. As allowed by ORS 279A.065(6)(a)(B), the Model Rules shall be the rules of Baker County public contracting, except where these Baker County Contracting Rules specify otherwise.
- C. Baker County Local Contract Review Board Rules (Baker County Contracting Rules). Pursuant to ORS 279A.060, the Baker County Board of Commissioners is designated as the Local Contract Review Board (LCRB). No special procedure shall be necessary for the Board of Commissioners, otherwise meeting properly for transaction of County business, to sit as the LCRB, make decisions and findings in that capacity, and exercise all powers of the LCRB allowed by law. Where these Rules refer to the “County,” unless the context indicates a different meaning, the reference shall mean

## BAKER COUNTY PUBLIC CONTRACTING RULES

and include Baker County or the County department or service district for which the Board is the governing body.

D. These Rules shall be known as the “Baker County Public Contracting Rules,” or “Baker County Contracting Rules,” or simply “these Rules.”

### **Section 3 – Definitions**

“Award” means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the County until the contract is executed by the person and the County.

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

“Board” means the Baker County Board of County Commissioners, which act as the Local Contract Review Board.

“Competitive Sealed Bidding” means the solicitation by the County of Competitive Bids which follow the formal process for advertising, bid and bid opening, and other requirements set forth in these Rules and ORS 279B.055.

“Competitive Sealed Proposals” means the solicitation by the County of competitive Proposals through the formal Request for Proposals process as described in these Rules and ORS 279B.060.

“Competitive Process” means the procurement of Goods and Services by Competitive Sealed Bidding, Competitive Sealed Proposals, or Quotes when permitted by these Baker County Contracting Rules, state statute, or the Model Rules.

“Department Head” means the appointed head of a County Department or Office, or their Designee, or the person appointed to fill a vacancy in such a position, but does not include Commissioners.

“Disposal” means any arrangement for the transfer of personal property by the County under which the County relinquishes ownership.

“Elected Official” means the elected head of a County Office or the person appointed to fill a vacancy in such a position, including Commissioners.

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“Emergency” means circumstances that

- a. Could not have been reasonably foreseen;
- b. Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
- c. Require prompt execution of a contract to remedy the condition.

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

“Goods” includes supplies, equipment, materials, personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

“Goods and Services” or “Goods or Services” includes any combination of any of the items identified in the definition of “Goods” and the definition of “Services.”

“Informal Solicitation” means a solicitation made in accordance with these Baker County Contracting Rules, to a limited number of potential contractors in which the County attempts to obtain at least three quotes or proposals, as in Intermediate Procurement Contracts and as described in Section 4(D).

“Invitation to bid” means a publicly advertised request for competitive sealed bids.

“Personal Services Contract” means a contract with an independent contractor predominantly for services that require special training or certification, skill, technical creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment or skills, and for which the quality of the service depends on attributes that are unique to the service provider. Personal services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The Department Head or Elected Official responsible for the Solicitation or the Board shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

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“Proposal” means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A Proposal may be made in response to a Request for Proposals or under an Informal Solicitation.

“Public Improvement” means a project for construction, reconstruction, or major renovation on real property by or for the County. A Public Improvement does not include emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

“Purchasing Agent” means the Department Head, Elected Official or other authorized representative of the County that has initiated a procurement under these Rules.

“Quote” means a price offer made in response to an Informal Solicitation to provide goods, services or public improvements.

“Requirements Contract” means a contract in which the contractor agrees to supply some or all of the County’s requirements that arise for item(s) or service within a specified time period.

“Request for Proposal” means a publicly advertised request for sealed competitive proposals.

“Rules” means the local rules adopted by the Board governing all contracts or purchases entered into by the County.

“Services” means and includes all types of services (including construction labor), other than personal services.

“Solicitation” means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest with respect to a proposed project, procurement or other contracting opportunity. Solicitation also refers to the process by which the County requests, receives and evaluates potential contractors and awards public contracts.

“Solicitation Documents” means all informational materials issued by the County for a solicitation, including, but not limited to advertisements, instructions, submission requirements and schedules, award criteria, contract terms and

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specifications, and all laws, regulations and documents incorporated by reference.

“Surplus Property” means personal property owned by the County, which is no longer needed for use by the department to which such property has been assigned.

### **Section 4 – County Procedures**

- A. General Source Selection. Regardless of the selection process used, the person, committee, commission or board selecting a public contract on behalf of Baker County shall ensure that the contract will best serve the interests of the County, taking into account price as well as considerations including but not limited to product quality, contractor experience, expertise, suitability for public contracting and the contractor’s responsibility.
- B. General Procurement Procedures. Except as permitted by ORS 279B.065 through ORS 279B.085, ORS 279A.200 through 279A.225, and those contracts specified or exempted under these Rules, all contracts for the purchase of Goods and/or Services, and Personal Service Contracts, shall be based on either Competitive Sealed Proposals or Competitive Sealed Bidding. All Public Improvement Projects shall be governed by ORS 279C and the Attorney General Model Rules.
- C. Small Procurement Contracts Not to Exceed \$10,000.
- (1) When the amount of a public contract does not exceed \$10,000, the County, through the LCRB, department head or elected official, may contract without soliciting competitive quotes, bids or proposals. Department heads and elected officials may contract under this subsection without prior authorization from the Board.
  - (2) Small Procurement Contracts may be awarded under this subsection only if the total does not exceed the amount stated, above, the quality of goods or services offered by the contractor is sufficient for the County’s particular needs under the circumstances, the cost to the County is fair and reasonable under the circumstances, the award does not reflect favoritism, and the award is in all other respects in the County’s best interests.
  - (3) When awarding a public contract under this subsection, County may award the contract in any manner the County deems practical or

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convenient, including by direct selection or award.

- (4) A copy of contracts awarded under this subsection must be forwarded to the Office of the Board of Commissioners for filing with the Administrative Services Department .
- (5) A procurement may not be artificially divided or fragmented so as to constitute a Small Procurement under this Section.

### D. Intermediate Procurement Contracts Not to Exceed \$50,000; Informal Solicitation

- (1) When the amount of a public contract is over \$10,000 but does not exceed \$50,000 the County, through the LCRB, department head or elected official, may contract without soliciting competitive Bids or Proposals.
- (2) Department heads and elected officials may contract under this subsection without prior authorization from the Board, so long as the Department head or elected official use the procedures outlined in subsection (5), below.
- (3) A copy of contracts awarded under this subsection must be forwarded to the Office of the Board of Commissioners for filing with the Administrative Services Department .
- (4) A Procurement may not be artificially divided or fragmented so as to constitute an Intermediate Procurement under this Section.
- (5) When contracting under this subsection, the County shall seek Quotes from prospective contractors as follows:
  - a. **Selection Criteria.** The selection criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, contractor capacity, responsibility and similar factors.
  - b. **Request for Quotes.** Prior to the solicitation of a Quote, the County shall determine the specifications of the Goods and/or Services, including Personal Service Contracts, and shall maintain written documentation for the specifications. The County shall

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utilize written requests for Quotes whenever reasonably practicable. The County must describe substantially the same specifications to each of the prospective contractors. Written requests for Quotes shall include the selection criteria to be utilized in selecting a contractor and, if the criteria are not of equal value, their relative value or ranking.

- c. **Number of Quotes; Record Required.** The County shall seek at least three Quotes and keep a written record of the sources and amounts of the Quotes received. If three Quotes are not reasonably available, the County shall make a written record of the effort made to obtain three Quotes.
- d. **Award.** If a contract is awarded, the County shall award the Contract to the proposer whose Quote or Proposal best serves the interests of the County, taking into account price as well as considerations including but not limited to experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility under ORS 279B.110.

(6) No contractor may be awarded in the aggregate within the fiscal year, contracts in excess of \$150,000 without Competitive Sealed Bidding or Competitive Sealed Proposals. In computing the aggregate under this subsection, awards under \$10,000 shall not be included.

### E. Intermediate Procurement Contracts Not to Exceed \$150,000; ORS 279B.070

- (1) The County may award a public contract without Competitive Sealed Bidding or Competitive Sealed Proposals for the procurement of Goods and Services, including Personal Service Contracts, that are greater than \$50,000 but do not exceed \$150,000, only if the Board approves the use of Informal Solicitation.
- (2) When the Board approves the use of Informal Solicitation for contracts under this subsection, a copy of the signed contract must be forwarded to the Office of the Board of Commissioners for filing with Administrative Services Department .
- (3) When conducting an Intermediate Procurement under this subsection, the County shall seek at least three (3) Quotes from prospective contractors and follow all procedures set out in Section 5 (D)(5), above.

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- (4) Procurement may not be artificially divided or fragmented so as to constitute an Intermediate Procurement under this subsection.
- (5) No contractor may be awarded in the aggregate within the fiscal year, contracts in excess of \$150,000 without Competitive Sealed Bidding or Competitive Sealed Proposals. In computing the aggregate under this subsection, awards under \$10,000 shall not be included.

### F. Procurement Contracts Exceeding \$150,000; Competitive Bidding and Competitive Proposals

- (1) All contracts for the purchase of Goods and/or Services, and Personal Service Contracts, exceeding \$150,000 shall be based on either Competitive Sealed Proposals or Competitive Sealed Bidding, except as permitted by ORS 279B.065 through ORS 279B.085, ORS 279A.200 through 279A.225, and those contracts specified or exempted under these Rules. All Contracts awarded based on Competitive Sealed Proposals (RFP's) or Competitive Sealed Bidding (ITB) must be approved by the Board.

## Section 5 – Solicitation Documents; Public Notice

- A. Statutory Requirements. The County may solicit and award a public contract for Goods or Services, including Personal Service Contracts, or may award multiple public contracts for goods or services when specified in the Solicitation Documents. Solicitation Documents required for Competitive Sealed Bidding shall be governed by requirements outlined in these Rules and ORS 279B.055. Solicitation Documents outlining a Request for Proposals shall be governed by requirements outlined in these Rules and ORS 279B.060.
- B. Protest Procedure. Solicitation Documents for Invitations to Bid and Requests for Proposals must include a protest procedure that provides a reasonable time and manner for protests to be submitted and may not allow consideration of late protests.
- C. Notice. Public notice of Invitations to Bid or Requests for Proposals must be published at least once in at least one newspaper of general circulation in the area where the contract is to be performed, which may include a newspaper

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of general circulation like the Daily Journal of Commerce. Public notice required by this section may be published electronically (i.e., by listing on OregonBuys.gov) instead of in a newspaper of general circulation if it is likely to effectively reach a greater number of interested parties, expand competition, or be more cost-effective to do so. If it is determined that electronic notice is most effective method to give notice, it will be noted in writing in the procurement file.

### **Section 6 – Evaluation, Selection and Award**

A. Evaluation of Proposals. Written proposals for contracts estimated to exceed \$150,000 shall be evaluated based on evaluation criteria described in the written request for proposals. The evaluation criteria shall be presumed to have equal importance unless the request for proposals indicates otherwise. The evaluation criteria may be changed only by written addendum to the Request for Proposal. The County may evaluate proposals using any method allowed under ORS 279B.060(8), including Multistep Sealed Proposals. If evaluation criteria are to be changed after proposals have been opened the change must be made in accordance with ORS 279B.060.

B. Evaluation of Bids.

- (1) The County may evaluate bids using any method allowed under state law including ORS 279B.055(12), multistep Invitation to Bid.
- (2) All timely formal bids must be opened publicly at the time, date and place designated in the Invitation to Bid;
- (3) Amount of bid, name of bidder and other relevant factors must be recorded and open for public inspection;
- (4) No bid may be opened if it is received after the time and date indicated for bid opening in the invitation to bid.

C. Preference for Oregon Goods and Services.

- (1) When evaluating Bids and Proposals, preference shall be given to goods or services that have been manufactured or produced in the state of Oregon if price, fitness, availability and quality are otherwise equal.

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(2) A percent increase shall be added to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in the state in which the bidder resides.

(3) When a contract is awarded to a nonresident bidder, the County shall comply with ORS 279A.120 and require that the bidder also comply with ORS 279A.120 by reporting to the Department of Revenue the total contract price, terms of payment, length of contract and other such information as the Department of Revenue may require before the bidder may receive final payment on the contract. Forms for making such report to be provided by the Department of Revenue.

D. Notice of Intent to Award. The County shall post or notify each bidder (in the case of an Invitation to Bid) or proposer (in the case of Request for Proposal) of its intent to award five (5) days prior to awarding the contract. If it is impractical to give five (5) days' notice before awarding the contract, the reason for the impracticality must be recorded in the bid file.

E. Protests. If a proposer or bidder wishes to object to any aspect of procurement, the bidder or proposer may file a written protest as outlined in the Solicitation Documents. The protest must include all grounds for the protest and all supporting evidence in the form of documents, affidavits and the like. A protest must be filed promptly as soon as the protester knows of the grounds for the protest. Protest of any aspect of an Invitation to Bid or Request for Proposal must be filed before the solicitation closing date. The County will notify all bidders or proposers of intent to award five (5) days before a contract takes effect. All protests regarding contract award must be filed before a contract takes effect.

F. Written Decision & Appeal. The County's Purchasing Agent shall issue a written decision in response to a protest. If the protester disagrees with the written decision, the protester may appeal in writing to the Board of Commissioners. The written appeal must be received in the Commissioner's Office within five (5) business days of the protester's receipt of the written decision from the Purchasing Agent. The written appeal must include all legal arguments and all evidence in the form of physical evidence, documents, affidavits and the like. The Chair of the Board of Commissioners shall issue a written decision in response to the appeal and that written response shall be the County's final action with respect to the

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protest.

## **Section 7 – Sole Source Procurements; ORS 279B.075**

The County, through the LCRB, may award a Public Contract without competition as a Sole-Source Procurement pursuant to the requirements of ORS 279B.075, if the County has determined in writing that the goods or services or class of goods or services are available from only one source. The determination of a sole source must be based on written findings that may include:

- A. That the efficient utilization of existing goods requires acquiring compatible goods or services;
- B. That the goods or services required to exchange software or data with other public or private agencies are available from only one source;
- C. That the goods or services are for use in a pilot project; or
- D. Other findings that support the conclusion that the goods or services are available from only one source.

## **Section 8 – Emergency Procurements; ORS 279B.080 and ORS 279A.010(1)(f)**

The County may make or authorize others to make a procurement of goods or services in an emergency, as defined by ORS 279A.010(1)(f) and in accordance with ORS 279B.080. The County shall document the nature of the emergency and the method used for selection of the contractor. The nature of the emergency and method used for selection of the contractor shall be placed on the record at the next public meeting of the LCRB.

## **Section 9 - Requirements Contracts.**

The County may enter into a Requirements Contract whereby it is agreed to purchase requirements or fill an anticipated need at a predetermined price providing the following conditions are met:

- A. The contract must be obtained through the Competitive Process, which may include the method outlined in Section 4(D), regardless of contract price, except that criteria for selection must include quality of the product to be

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purchased, as well as price;

- B. Requirements Contracts may be exempt from the Competitive Process if an exemption exists under these Rules or ORS 279A or ORS 279B;
- C. The term of the contract including renewals shall not exceed five (5) years; and
- D. The contract must be subject to no less than thirty (30) days' cancellation by the County.

### **Section 10 - State Cooperative Purchasing Programs.**

The County may purchase Goods or Services from the Oregon Cooperative Procurement Program administered by the State of Oregon Department of Administrative Services without the Competitive Process.

### **Section 11 - Federal Program Contracts.**

The County may enter into a Contract without the Competitive Process under a federal program described in ORS 279A.180.

### **Section 12 - Qualified Nonprofit Agencies Contracts.**

The county may enter into a Contract for Goods or Services with qualified non-profit agencies providing employment opportunities for disabled individuals pursuant to ORS 279.835 through 279.855 without following the source selection procedures set forth in either ORS 279A.200 through 279A.225 or 279B.050 through 279B.085.

### **Section 13 - Federal or State Exemptions.**

The County may enter into a Contract for the purchase of Goods or Services, including Personal Service Contracts, without the Competitive Process, where state or federal law or regulation allows an exemption from such competitive procurement.

### **Section 14 - Price Regulated Items or Services.**

The County may enter into a Contract for the purchase of Goods or Services

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without the Competitive Process, where the rate or price for the Goods or Services being purchased is established by Federal, State or regulatory authority.

### **Section 15 – Special Procurements; ORS 279B.085**

The County may award a Contract as a Special Procurement when a written request for approval of a Special Procurement has been presented to the LCRB and all procedures and requirements of ORS 279B.085 have been observed, including public notice of the request and approval, and findings have been made by the LCRB consistent with ORS 279B.085(4).

### **Section 16 – Exemptions, Exclusions and Class Special Procurements**

The County shall select and award all Contracts for Goods or Services, including Personal Services Contracts using Competitive Sealed Bidding or Competitive Sealed Proposals except as allowed by these Rules and as described below.

#### **A. Special Procurements for Classes of Goods and/or Services:**

- (1) Advertising Contracts—the County is exempt for the Competitive Process for the purchase of advertising. This includes but is not limited to space for advertising and legal notices in newspapers and other publications, and radio and television spots.
- (2) Copyrighted materials—The County is exempt from the Competitive Process if there is only one known supplier for such Goods.
- (3) Equipment Maintenance, Repair and Overhaul—the County may enter contracts for equipment maintenance, repair or overhaul without the Competitive Process, subject to the following:
  - a. Service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing;  
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.
- (4) Election Supplies and Services—The County is exempt from the Competitive Process for the printing of official ballots, including sample and test ballots, ballot envelopes and including polling place and drop

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site signs.

- (5) Gasoline, Diesel Fuel, Heating Oil—The County is exempt from competitive bidding requirements for the purchase of gasoline, diesel fuel and heating oil if the County seeks a minimum of three (3) Quotes, makes its purchase from the least expensive source, and retains written justification from the purchase made.
- (6) Insurance Contracts—Contracts for insurance where either the annual or aggregate premium exceeds \$150,000 must be by the Competitive Process or one of the following:
  - a. Agent of Record: The County may appoint a licensed insurance agent as Agent of Record to perform insurance services in connection with more than one insurance Contract. The selection of the agent of record shall be done by the process prescribed by these Rules; or
  - b. Specific Proposals for Insurance Contracts: The County may solicit proposals from licensed insurance agents for the purpose of acquiring specific insurance Contracts.
- (7) Laboratory and Medical Supplies—The County is not required to purchase laboratory and medical supplies on the basis of a single award to the lowest possible bidder, but instead may purchase different brands of the same item by awarding contracts, after competitive bidding as outlined in these Rules, to the lowest responsible bidder for each brand.
- (8) Law Library Software and Materials—the County may purchase law library software and/or cloud-based software services and materials without the Competitive Process.
- (9) Office Supplies—the County is exempt from the Competitive Process for the purchase of office supplies
- (10) Used Vehicles—The County is exempt from the Competitive Process for the purchase of used vehicles. If the used vehicles are purchased through local dealers, the County will attempt to find vehicles from at least three (3) different vehicle dealers that meet the needs of the County before a specific vehicle is selected. A mechanical inspection of each vehicle being considered shall determine the condition of the vehicle.

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### B. Special Procurements for Classes of Personal Services Contracts

The County may purchase the following services without the Competitive Process:

- (1) Hospital, medical, behavioral health or dental services
- (2) Litigation and legal services, including attorneys, court reporters, expert analysis, surveys, expert witnesses, arbitrators, mediators, trial consultants or investigators, upon approval by the Board of Commissioners
- (3) Grant writing
- (4) Architectural, engineering, photogrammetric mapping, transportation planning or land surveyor services, if the project described in the contract consists of work that has been substantially studied or rendered in an earlier contract and the new contract is a continuation of that project.

### **Section 17 – Architectural, Engineer, Photogrammetric Mapping, Transportation Planning or Land Surveying Services**

Except as otherwise provided in Section 16, above, the County will follow ORS 279C.110(1)-(2) when selecting architectural, engineering, photogrammetric mapping, transportation planning or land surveyor services. ORS 279C.110(1)-(2) provide that pricing policies and other pricing information may only be used after the County has selected a qualified candidate as described in ORS 279C.110(3).

### **Section 18 – Signature and Spending Authority; Authority to Dispose of Surplus**

- A. County Department Heads and Elected Officials have the authority to make budgeted purchases and sign contracts for procurements up to \$50,000. All purchases and contracts for Goods and Services, including Personal Service Contracts, must be made in accordance with these Rules, regardless of whether the contract is signed by a Department Head or Elected Official, or signed by the Board.
- B. Department Heads and Elected Officials may request additional spending authority and/or signature authority at any regular meeting of the Board of

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Commissioners. At the discretion of the Board, the Board may delegate signature authority for a particular purchase or contract, for a particular project, or for a specified date-range.

- C. The following departments have additional spending and signature authority as specified:
- (1) District Attorney's Office: Budgeted spending related to evidence, witnesses, and expert services without pre- or post-action notice and without regard to dollar value.
  - (2) Sheriff's Office: Budgeted spending related to medical services for individuals in custody, expert services, and other relevant expenses without pre- or post-action notice without regard to dollar value.
  - (3) County Legal Counsel: Budgeted spending related to outside legal services and litigation-related services without pre- or post-action notice and without regard to dollar value, provided, however, that Counsel continues to discuss litigation matters with the Board of Commissioners in executive session as appropriate.

### **Section 19 – Surplus Property**

Department Heads and Elected Officials, referred to below as “Purchasing Agents,” shall dispose of Surplus Property in the following manner:

- A. Purchasing Agents may declare personal property to be Surplus Property, as defined in these Rules. If the Purchasing Agent determines that the personal property has trade-in value that will offset the cost of a subsequent Department purchase, the personal property need not be declared Surplus Property and may be incorporated into the solicitation for the subsequent purchase.
- B. Purchasing Agents shall determine whether the Surplus Property is subject to certain conditions because of grant funding requirements and disposed of property in the manner required by the grant.
- C. All other Surplus Property not described in Section 19(B), above, shall be taken to the Baker County Facilities Director.
- D. The Facilities Director shall provide all Baker County Departments with a quarterly list of all Surplus Property received by the Facilities Department.

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- E. If more than one department expresses an interest in the property on the list, then the LCRB shall decide which department will receive the property.
- F. If the Property is not claimed by any other department within one month of the property list being distributed, the Facilities Director shall have the Property appraised by the Baker County Assessor's Office. The Facilities Director may, at their discretion, use an alternate method of valuation based on a published schedule of values generally accepted by the insurance industry.
- G. For Surplus Property determined to have a value up to \$5,000, the Facilities Director shall dispose of the property as described in subsections (H)-(I), below. Disposal of Surplus Property with a value of more than \$5,000 may be disposed of after consideration by the LCRB. The Facilities Director may make a recommendation to the LCRB regarding the method of disposal.
- H. Disposal of Surplus Property with a value of less than \$200 or for which the costs of a sale are likely to exceed sale proceeds may be disposed of by any means determined by the Facilities Director to be cost-effective, including by disposal as waste. Facilities Director shall make a record of the value of the item and the method of disposal.
- I. Disposal of Surplus Property with a value of more than \$200 but less than \$5000 shall be disposed of in a method described in subsection (J), below.
- J. Surplus property may be disposed of by any of the following methods upon the determination by the Facilities Director that the method of disposal is in the best interest of the County. Factors that may be considered by the Facilities Director include costs of sale, administrative costs, and public benefits to the County. The Facilities Director shall maintain a record of the reason for the disposal method selected, the manner of disposal, including the name of the person or entity to whom the Surplus Property was transferred.
  - (1) Governments. Without competition, by transfer or sale to another County department or public agency serving Baker County residents.
  - (2) Auction. By publicly advertised auction to the highest bidder. This may include an electronic auction facilitated by a third party.

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- (3) Bids. By publicly advertised invitation to bid. This may include electronically advertised invitations to bid.
  - (4) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of Personal Services Contracts.
  - (5) Fixed Price Sale. The Facilities Director may establish a selling price based upon the appraisal of the Assessor's Office, or a published schedule of values generally accepted by the insurance industry, or any other valuation method. The Facilities Director may then schedule and advertise the sale date and sell to the first buyer meeting the sales terms.
  - (6) Trade-In. By trade-in, in conjunction with acquisition of other price-based items under Competitive Solicitation. The solicitation shall require the offeror to state the total value assigned to the surplus property to be traded.
  - (7) Donation. By donation to any organization operating within or providing a service to residents of the County which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code, as amended.
- K. The Road Master, at the Road Master's discretion, may dispose of Surplus Property no longer useful for the Road Department by any method described in Section 19(J), regardless of the dollar value of the Surplus Property. The method of disposal shall be selected taking into consideration the same factors outlined in Section 19(J), as is required of the Facilities Director. The Road Master shall maintain a record of the reason for the disposal method selected, the manner of disposal, including the name of the person to whom the Surplus Property was transferred.
- L. Proceeds from the disposal of Surplus Property valued over \$5,000 shall be deposited into the Special Fund it was purchased from, unless the property was purchased with grant funds and the grant requires the proceeds to be distributed differently.

### **Section 20 – Standard Contracting Provisions**

## BAKER COUNTY PUBLIC CONTRACTING RULES

Baker County Standard Contract Provisions, as shown below and as amended by legal counsel from time to time, shall be included expressly by reference or as an attachment to each contract for procurement of goods or services, except as otherwise provided in the Solicitation Documents and approved by the LCRB.

### STANDARD CONTRACT PROVISIONS

Except as otherwise provided in the solicitation document or otherwise approved by Baker County and its legal counsel, the following standard public contract provisions shall be included in each contract of Baker County.

1. Contractor shall make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in the contract, and shall be responsible for payment to such persons supplying labor or material to any subcontractor. ORS 279C.505
2. Contractor shall pay promptly all contributions or amounts due to the State Industrial Accident Fund (SAIF) and the State Unemployment Compensation Fund from contractor or any subcontractor in connection with the performance of the contract. ORS 279C.505
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold County harmless from any such lien or claim. ORS 279C.505
4. Contractor and any subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279C.505
5. For Public Improvement Contracts and construction contracts only, if contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the County may pay such claim to the person furnishing the labor or contractor by reason of the contract. The payment of a claim in a manner authorized here shall not relieve the contractor or its surety from the obligation with respect to any unpaid claim. If the County is unable to determine the validity of any claim for labor or services furnished, the County may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined, and the claim, if valid, is paid by the contractor or the County. There shall be no final acceptance of the work under the contract until all such claims have been resolved. ORS 279C.515
6. Contractor shall make payment promptly, as due, to any person, co-partnership, association or corporation furnishing medical, surgical, hospital or other needed care and attention, incident to sickness or injury, to the

## BAKER COUNTY PUBLIC CONTRACTING RULES

employees of contractor, of all sums which the contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing payment for such service. 279B.230, 279C.530

7. For Public Improvement Contracts, the Contractor shall demonstrate that an employee drug testing program is in place. ORS 279C.505
8. With certain exceptions listed below, contractor shall not require or permit any person to work more than 10 hours in any one day, or 40 hours in any one week except in case of necessity, emergency, or where public policy absolutely requires it, and in such cases the person shall be paid at least time and a half for:
  - a. All overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days Monday through Friday, or
  - b. All overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Thursday, and
  - c. All work performed on the day specified in ORS 279B.020 (1) for non-public improvement contracts or ORS 279C.540 (1) for public improvement contracts.

For personal service contracts as designated under ORS 279A.055, instead of (a) and (b) above, a laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 or 653.261 or under 29 USC Sections 201 to 209, from receiving overtime.

Contractor shall follow all other exceptions pursuant to ORS 279B.235 (for non-public improvement contracts) and ORS 2791C.540 (for non-public improvement contracts) including contracts involving collective bargaining agreements, contracts for services and contracts for fire prevention and suppression. This paragraph does not apply to contracts for purchase of goods or personal property.

Contractor must give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

9. For Public Works projects subject to ORS 279C.800 to 279C.870 and the

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Davis-Bacon Act (40 U.S.C. 276a): (1) If the state prevailing rate of wage is higher than the federal prevailing rate of wage, the contractor and every subcontractor on the project shall pay at least the state prevailing rate of wage as required by ORS 279C.800 to 279C.870; and (2) If the federal prevailing rate of wage is higher than the state prevailing rate of wage, the contractor and every subcontractor on the project shall pay at least the federal prevailing rate of wage as required by the Davis-Bacon Act. ORS 279C.840

10. As to public improvement and construction contracts, Contractor shall comply with all applicable federal, state and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. Entities which have enacted such laws or regulations include the following: **Federal:** Department of Agriculture, Forest Service, Soil Conservation Service, Army Corps of Engineers, Department of Energy, Federal Energy Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank, Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, Bureau of Mines, Bureau of Reclamation, Geological Survey, Minerals Management Service, U.S. Fish and Wildlife Service, Department of Labor, Mine Safety and Health Administration, Occupational Safety and Health Administration, Department of Transportation, Coast Guard, Federal Highway Administration, Water Resources Council, and Department of Homeland Security. **State:** Department of Administrative Services, Department of Agriculture, Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Forestry, Department of Geology and Mineral Industries, Department of Human Resources, Department of Land Conservation and Development, Department of Parks and Recreation, Soil and Water Conservation Commission, State Engineer, Department of Transportation, State Land Board, Water Resources Department. **Local:** City Councils, County Boards of Commissioners, County Service Districts, Sanitary Districts, Water Districts, Fire Protection Districts, Weed Districts and Planning Commissions.

If new or amended statutes, ordinances or regulations are adopted or the Contractor encounters a condition not referred to in the bid document not

## BAKER COUNTY PUBLIC CONTRACTING RULES

caused by the contractor and not discoverable by reasonable site inspection, which requires compliance with federal, state or local laws or regulations dealing with the prevention of environmental pollution or the preservation of natural resources, both the County and the Contractor shall have all the rights and obligations specified in ORS 279C.525. ORS 279C.525

11. The contract may be canceled at the election of County for any substantial breach, willful failure or refusal on the part of contractor to faithfully perform the contract according to its terms. The County may terminate the contract by written order or upon request of the contractor, if the work cannot be completed for reasons beyond the control of either the contractor or the County, or for any reason considered to be in the public interest other than a labor dispute, or by reason of any third party judicial proceeding relating to the work other than one filed in regards to a labor dispute, and when circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work. In either case, for public improvement contracts, if the work is suspended but the contract not terminated, the contractor is entitled to a reasonable time extension, costs, and overhead per ORS 297C.655. Unless otherwise stated in the contract, if the contract is terminated, the contractor shall be paid per ORS 279C.660 for a public improvement contract. ORS 279C.655, ORS 279C.660 and ORS 279C.665
12. If the County does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the contract, the contract will terminate at the end of the last fiscal year for which payments have been appropriated. The County will notify the contractor of such non-appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this subsection, the County shall have no further obligation to the contractor for payments beyond the termination date. This provision does not permit the County to terminate the contract in order to provide similar services or goods from a different contractor. ORS 294.100
13. By execution of the contract, contractor certifies, under penalty of perjury that:
  - a. To the best of contractor's knowledge, contractor is not in violation of any tax laws described in ORS 305.380(4), and
  - b. Contractor has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts.
  - c. Contractor prepared its bid or proposal related to this Agreement independently from all other bidders or proposers, and without collusion, fraud or other dishonesty.

## BAKER COUNTY PUBLIC CONTRACTING RULES

14. Contractor agrees to prefer goods or services that have been manufactured or produced in this State if price, fitness, availability or quality are otherwise equal. ORS 279A.120, ORS 279A.128
15. Contractor agrees not to assign the contract or any payments due under the contract without the proposed assignee being first approved and accepted in writing by the County. ORS 294.100
16. Contractor agrees to make all provisions of the contract with the County applicable to any subcontractor performing work under the contract.
17. The County will not be responsible for any losses or unanticipated costs suffered by contractor as a result of the contractor's failure to obtain full information in advance in regard to all conditions pertaining to the work.
18. All modifications and amendments to the contract shall be effective only if in writing and executed by both parties.
19. The contractor certifies he or she has all necessary licenses, permits, or certificates of registration (including Construction Contractor Board registration or Landscape Contractor Board license, if applicable), necessary to perform the contract and further certifies that all subcontractors shall likewise have all necessary licenses, permits or certificates before performing any work. The failure of contractor to have or maintain such licenses, permits or certificates is grounds for rejection of a bid or immediate termination of the contract.
20. Unless otherwise provided, data which originates from the contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the County. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights. Data which is delivered under the contract, but which does not originate therefrom shall be transferred to the County with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided that such license shall be limited to the extent which the contractor has a right to grant such a license. The contractor shall exert all reasonable effort to advise the County, at the time of delivery of data furnished under the contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of the contract. The County shall receive prompt written notice of each notice or claim of copyright infringement received by the contractor with respect to any data delivered under the contract. The County shall have the right to modify or remove any restrictive markings placed upon the data by the

## BAKER COUNTY PUBLIC CONTRACTING RULES

contractor.

21. If as a result of the contract, the contractor produces a report, paper publication, brochure, pamphlet or other document on paper which uses more than a total 500 pages of 8 ½" by 11" paper, the contractor shall use recycled paper with at least 25% post-consumer content which meets printing specifications and availability requirements. In all other cases Contractor shall make reasonable efforts to use recycled materials in the performance of work required under the contract. ORS 279A.125
22. As to contracts for lawn and landscape maintenance, the contractor shall salvage, recycle, compost or mulch yard waste material in an approved, site, if feasible and cost-effective.
23. When a public contract is awarded to a nonresident bidder and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract, price, terms of payment, length of contract and such other information as the department may require before the County will make final payment on the contract. ORS 279A.120
24. In the event an action, lawsuit or proceeding, including appeal therefrom, is brought for violation of or to interpret any of the terms of the contract, each party shall be responsible for their own attorney fees, expenses, costs and disbursements for said action, lawsuit, proceeding or appeal.
25. Contractor is not carrying out a function on behalf of County, and County does not have the right of direction or control of the manner in which Contractor delivers services under the Contract or exercise any control over the activities of Contractor. Contractor is not an officer, employee or agent of County as those terms are used in ORS 30.265. Contractor covenants for itself and its successors in interest and assigns that it will not claim or assert that Contractor is an officer, employee or agent of the County, as those terms are used in ORS 30.265.
26. Contractor shall adhere to and enforce a zero tolerance policy for the use of alcohol and the unlawful selling, possession or use of drugs while performing work under the Contract.
27. The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein, which would conflict with law, are deemed inoperative to that extent.
28. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders:

## BAKER COUNTY PUBLIC CONTRACTING RULES

- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
- b. Sections 503 and 504 of the Rehabilitation Act of 1973, as amended;
- c. the Americans with Disabilities Act of 1990, as amended and ORS 659A.112 through 659A.139;
- d. Executive Order 11246, as amended;
- e. the Health Insurance Portability and Accountability Act of 1996;
- f. the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended;
- g. the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended;
- h. ORS Chapter 659A, as amended;
- i. all regulations and administrative rules established pursuant to the foregoing laws; and
- j. all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

The above listed laws, regulations and executive orders and all regulations and administrative rules established pursuant to those laws are incorporated by reference herein to the extent that they are applicable to the Contract or required by law to be so incorporated.

29. Contractor and subcontractors shall comply with the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 et seq.).
30. Indemnification. To the fullest extent authorized by law, Contractor agrees to indemnify, defend, reimburse and hold harmless County, its officers, employees and agents (the "Indemnified Parties") from any and all threatened, alleged or actual claims, suits, allegations, damages, liabilities, costs, expenses, losses and judgments, including, but not limited to, those which relate to personal or real property damage, personal injury or death, attorney and expert/consultant fees and costs, and both economic and non-economic losses, to the extent caused by the negligence, breach of contract, breach of warranty (express or implied), or other improper conduct of Contractor, its employees, subcontractors, or anyone for whose acts Contractor is responsible. If claims are asserted against any Indemnified Party by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the Contractor's indemnification obligation and other obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable to the employee by or for the Contractor or subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.
31. For all Public Improvement Contracts, contractor and subcontractors must

## BAKER COUNTY PUBLIC CONTRACTING RULES

have a public works bond filed with the Construction Contractors Board before starting work on the project, unless the contractor or subcontractor is exempt under ORS 279C.836 (Public works bond) (4), (7), (8) or (9). ORS 279C.830

32. The following language will be included in all personal service contracts:

By signing this contract, I certify that I am an independent contractor as defined in ORS 670.600. Before the effective date of the contract, I agree to supply proof of my independent contractor status by giving Baker County documentation of at least three (3) of the following:

1. Proof of business location that is separate from County owned property.
2. Proof that my business bears the risk of loss related to providing the contracted services (example: proof of professional liability insurance)
3. Proof of business advertising or marketing efforts, or show that my business offers services to two or more different people within a 12-month period.
4. Proof that I make significant investments in the business such as purchasing tools or equipment necessary to provide the contracted services, paying for the premises or facilities where the services are provided, or paying for licenses, certificates or specialized training that allows me to provide the services.
5. Show that I have the authority to hire other people to assist me in providing the services, and the authority to fire those people.