

**Title 3**

**REVENUE AND FINANCE**

**Chapters:**

- 3.10 Assessment in Addition to Bail/Fine**
- 3.15 Recording Municipal Liens**
- 3.20 Public Contracting Procedures**



**Chapter 3.10****ASSESSMENT IN ADDITION TO BAIL/FINE**

## Sections:

- 3.10.010 Assessment.
- 3.10.020 Assessment – Deposit with bail.
- 3.10.030 Assessment – Forfeiture.

**3.10.010 Assessment.**

Whenever the Philomath municipal court imposes a fine or orders a bail forfeiture, as a penalty for violating a Philomath ordinance relating to traffic or criminal offenses, except an ordinance relating to cars unlawfully left or parked, an assessment in addition to such fine or bail forfeiture, and in addition to any assessment that may be required under state law, shall be collected and credited to the land, building and equipment capital fund for the purchase of equipment for use by the police department. The amount of the assessment shall be as follows:

- A. When fine or forfeiture \$100.00 or less, \$10.00;
- B. When fine or forfeiture is over \$100.00, \$25.00. [Ord. 694, 2000; Ord. 498 § 1, 1983.]

**3.10.020 Assessment – Deposit with bail.**

When any deposit of bail is made for an offense to which this chapter applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in PMC 3.10.010. [Ord. 498 § 2, 1983.]

**3.10.030 Assessment – Forfeiture.**

If bail is forfeited, the assessment prescribed in this chapter shall be collected for credit to the land, building and equipment capital fund pursuant to this chapter. If bail is returned, the assessment made thereon shall also be returned. [Ord. 694, 2000; Ord. 498 § 3, 1983.]

**Chapter 3.15****RECORDING MUNICIPAL LIENS**

## Sections:

- 3.15.010 Purpose.
- 3.15.020 Definitions.
- 3.15.030 Recording of city lien docket in the county clerk lien record.

**3.15.010 Purpose.**

The purpose of this chapter is to accomplish the following regarding municipal liens: to comply with state law, to provide additional notice of the existence of municipal liens for potential purchasers of property within the city limits of Philomath, and to provide additional security for sums loaned, or advanced, or charges deferred, by the city of Philomath. [Ord. 703 § 1, 2002.]

**3.15.020 Definitions.**

For purposes of this chapter the following definitions apply:

A. **Municipal Lien.** Any lien granted by a borrower, program participant, person deferring charges, or incurred or imposed as the result of an assessment, whether or not related to the issuance of municipal bonds. A municipal lien may be voluntary or involuntary depending upon the program and the ordinance authorizing the lien. Municipal liens include liens for system development charge deferrals, rehabilitation loans, liens securing assessments related to the installation or repair of streets and/or sidewalks, and/or other public infrastructure, and liens imposed by order of the municipal court. Any lien imposed under the authority of a city ordinance is a municipal lien.

B. **Municipal Lien Docket.** For purposes of any city ordinance referring to a “municipal lien docket” or “city lien docket,” any entry in the financial records or books of the city which shows the initial amount owed to the city under any order, program, ordinance or resolution imposing a municipal lien, along with any records showing payments, credits, charges, and interest accrued as a result of the assessment loan or deferral which caused the lien, shall be considered the “municipal lien docket.”

C. **County Clerk Lien Record.** Those records authorized under ORS 205.130, as may be

amended from time to time, kept by the county clerk or county recorder. [Ord. 703 § 2, 2002.]

**3.15.030 Recording of city lien docket in the county clerk lien record.**

The city manager and/or the city manager's designee may record any municipal lien authorized by ordinance or resolution in the county clerk lien record.

A. The city manager and/or the city manager's designee may choose, taking into account the best interest of the city, to provide an on-line electronic lien record consistent with ORS 93.643(2)(c)(B) in lieu of recording municipal liens in the county clerk lien record.

B. Notwithstanding the requirements of any other ordinance, the city manager and/or the city manager's designee may make an entry in the city lien record indicating that all future entries or records related to that specific lien will only be maintained in the county clerk lien record or on the electronic medium accessible on-line. In such a case where any city ordinance refers to the municipal lien record or the municipal lien docket, the county clerk lien record shall be the lien docket required by that ordinance.

C. Notwithstanding any other provisions in any city ordinance or resolution, the cost of recording a municipal lien in the county court lien record shall be included as part of the amount required to satisfy the lien. [Ord. 703 § 3, 2002.]

**Chapter 3.20**

**PUBLIC CONTRACTING PROCEDURES**

Sections:

- 3.20.010 Contract review board.
- 3.20.020 Definitions.
- 3.20.030 Public contracts for goods and services.
- 3.20.040 Public improvement contracts.
- 3.20.050 Offeror disqualification.
- 3.20.060 Personal services contracts.
- 3.20.070 Disposition of personal property.
- 3.20.080 Adoption of code and rules.

**3.20.010 Contract review board.**

The city council is designated as the local contract review board of the city and shall have all of the rights, powers and authority to carry out the provisions of ORS Chapters 279A, 279B, and 279C (the "Public Contracting Code"). Except as otherwise provided in this chapter, the city manager, or the designated purchasing agent, is designated as the city's contracting agency for purposes of contracting powers and duties assigned to the city as a contracting agency under the Public Contracting Code. [Ord. 730 § 1, 2005.]

**3.20.020 Definitions.**

As used in this chapter, the following words and phrases shall have the following meanings. All words or phrases not defined in this section shall have the meanings ascribed to them in the Public Contracting Code or the Model Rules adopted by the Oregon Attorney General thereunder ("Model Rules"):

"Formal quote" means procedure pursuant to which written offers are solicited by advertising or other writing stating the quantity and quality of goods or services to be acquired, and which offers are received by the contracting agency on or before a stated date. In soliciting formal quotes, the contracting agency shall seek quotes from a sufficiently large number of potential offerors to ensure sufficient competition to meet the best interests of the city. An award based on less than three formal quotes may be made provided the contracting agency makes a written record of the effort to obtain quotes.

“Informal quote” means procedure pursuant to which written or verbal offers are gathered by correspondence, telephone or personal contact stating the quantity and quality of goods or services to be acquired. In soliciting informal quotes, the contracting agency shall seek quotes from a sufficiently large number of potential offerors to ensure sufficient competition to meet the best interests of the city. An award based on less than three formal quotes may be made provided the contracting agency makes a written record of the effort to obtain quotes.

“Personal services contract” means a contract to retain the services of an independent contractor whose services require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment, and for which the quality of the service depends on attributes that are unique to the service provider. Such services shall include, but are not limited to: architects; engineers; surveyors; attorneys; accountants; auditors; computer programmers; artists; designers; performers; and consultants. The contracting agency shall have the authority to determine whether a particular service is a “personal service” under this definition. [Ord. 730 § 2, 2005.]

### **3.20.030 Public contracts for goods and services.**

This section applies to public contracts that are not contracts for public improvements or contracts for personal services. A public contract shall not be artificially divided or fragmented to qualify for a different award procedure than that provided by this section.

A. The following classes of public contracts and respective award procedures are created:

1. A public contract for an amount which is valued at \$5,000 or more, but less than \$10,000, shall be awarded by the contracting agency based on informal quotes. Amendments to public contracts under this section may not cause the contract price to exceed an amount that is 25 percent over the original contract price.

2. A public contract for an amount which is valued at \$10,000 or more, but less than \$75,000, shall be awarded by the contracting agency based on formal quotes. Amendments to public contracts under this section may not cause the contract price

to exceed an amount that is 25 percent over the original contract price.

3. A public contract for an amount which is valued at \$75,000 or more shall be awarded by the city council based on competitive sealed bidding or competitive sealed proposals pursuant to the Public Contracting Code.

B. Amendments. Subject to the limits in subsection (A) of this section, amendments to public contracts shall comply with the Public Contracting Code.

C. Exemptions.

1. The requirements of subsection (A) of this section do not apply to the following classes of public contracts:

- a. Equipment repair and overhaul;
- b. Purchases through federal programs;
- c. Additions to developer constructed public improvements; and
- d. Contracts for products or supplies under \$5,000.

2. For public contracts predominantly for services, one extension not exceeding the original term of the contract or annual renewals, if provided in the contract, is permitted without going through competitive procurement requirements.

3. Amendments to contracts exceeding the limits in subsection (A) of this section shall be exempt if the city council determines that it is not reasonably feasible to require additional competitive procurement to complete the purpose of the contract; otherwise the amendment shall comply with subsection (B) of this section or the city council shall direct additional competitive procurement and the competitive procurement procedure required for the amendment.

4. By resolution, the city council may exempt other public contracts or classes of public contracts from the requirements of subsection (A) of this section pursuant to ORS 279B.085.

D. Notice of solicitation documents may be published electronically, in lieu of publication in a newspaper of general circulation, if it results in a sufficiently large number of potential offerors to ensure sufficient competition to meet the best interests of the city. [Ord. 730 § 3, 2005.]

### **3.20.040 Public improvement contracts.**

A public improvement contract is defined pursuant to the Public Contracting Code and does not

include contracts for minor alterations, ordinary repair and maintenance of public improvements, contracts for projects for which no funds of the city are directly or indirectly used except for participation that is incidental or related primarily to project design or inspection, and does not include any other construction contract that is not defined as a public improvement under the Public Contracting Code. A public improvement contract shall not be artificially divided to qualify for a different award procedure than that provided by this section.

A. All public improvement contracts shall be awarded by the city council based on competitive sealed bids pursuant to the Public Contracting Code, except as stated hereinafter.

B. Exemptions. The requirements of subsection (A) of this section, and the procedures applicable to the award of those contracts, do not apply to the following classes of public improvement contracts:

1. Public improvement contracts valued at less than \$5,000.

2. Public improvement contracts valued at \$5,000 or more, but less than \$25,000, shall be awarded by the contracting agency based on formal quotes.

3. Public improvement contracts valued at \$25,000 or more shall be awarded by the city council based on competitive sealed bidding or competitive sealed proposals pursuant to the Public Contracting Code.

4. Emergency public improvement contracts may be exempted from competitive bidding if the contracting agency determines that an emergency exists and that conditions require the prompt execution of a contract. Emergency public improvement contracts shall be awarded in accordance with the Public Contracting Code. The contracting agency shall provide the city council with a written statement indicating the nature of the emergency and stating with particularity the emergency conditions and why they pose an imminent threat to the public health, safety or welfare. The contracting agency shall not declare the same emergency more than two times in any 90-day period.

5. By resolution, the city council may exempt from competitive bidding a public improvement contract or class of public improvement contracts not otherwise exempt under this section pursuant to ORS 279C.335.

6. When an exemption allows for award of the contract through competitive proposals, the provisions of ORS 279C.400 through 279C.410 shall apply.

C. Amendments to public improvement contracts shall comply with the Public Contracting Code.

D. The performance and payment bonds requirements and exceptions of the Public Contracting Code shall apply to all public improvement contracts.

E. Notice of solicitation documents may be published electronically, in lieu of publication in a newspaper of general circulation, if it results in a sufficiently large number of potential offerors to ensure sufficient competition to meet the best interests of the city.

F. The city may undertake to construct a public improvement using its own equipment and personnel if doing so will result in the least cost to the city or public, in accordance with ORS 279C.305.

G. If all responsive offers on a public improvement contract exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the budget under the following procedures:

1. Negotiations shall start with the lowest responsive, responsible offeror. If negotiations are not successful, then the contracting agency may negotiate with the second lowest responsive, responsible offeror, and so on.

2. Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.

3. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation documents.

4. The records of an offeror used in contract negotiations under this section are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated.

H. The use of brand name, mark or manufacturer specifications in public improvement contracts shall be made in accordance with ORS 279B.125. [Ord. 730 § 4, 2005.]

**3.20.050 Offeror disqualification.**

A. The city council or contracting agency, whoever is awarding a public contract, may disqualify any person as an offeror on a contract if:

1. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
2. The person does not have available equipment to perform the contract;
3. The person does not have key personnel of sufficient experience to perform the contract; or
4. The person has breached previous contractual obligations.

B. The provisions of the Public Contracting Code regarding disqualification of persons shall apply in addition to this section with respect to public improvement contracts.

C. A person who has been disqualified as an offeror may appeal the disqualification to the city council in accordance with the procedures in Chapter 279C of the Public Contracting Code. [Ord. 730 § 5, 2005.]

**3.20.060 Personal services contracts.**

A. The following procedures shall apply to the award of personal services contracts:

1. Personal services contracts involving an anticipated annual fee of \$5,000 or more, but less than \$25,000, shall be awarded by the contracting agency following solicitation of offers for personal services by written invitation or advertisement in sufficient number to provide a choice for the city from among qualified service providers. The contracting agency shall determine the selection criteria to be included in the written invitation or advertisement and shall have authority to negotiate and enter into the contract.
2. Personal services contracts having an anticipated annual fee of \$25,000 or more shall be awarded by the city council following solicitation of offers based on the procedure and selection criteria adopted by the city council before offers are solicited.
3. Except as otherwise provided in the Public Contracting Code, for all other personal services contracts, including amendments to and annual renewals or extensions of existing contracts and emergencies, the contracting agency may enter into

the contract without a solicitation of offers. A personal services contract shall not be artificially divided or fragmented to qualify for the award procedures provided by this subsection.

B. The following criteria shall be considered in the evaluation and selection of a personal services contractor. The criteria are not listed in order of preference or importance. This section does not preclude the use of other additional criteria:

1. Timeliness of delivery of services;
2. Expertise of the contractor in the area of specialty called for;
3. References from successfully completed projects managed by the contractor;
4. Utilization of locally procured goods, services, or personnel;
5. Other services provided by the contractor not specifically listed in the request for proposal;
6. Total cost to the agency for delivery of services; and
7. Other criteria specially listed in the solicitation document on a case by case basis. [Ord. 730 § 6, 2005.]

**3.20.070 Disposition of personal property.**

A. The city manager shall have the authority to determine when personal property owned by the city with an expected market value of less than \$1,000 is surplus.

B. The city council shall determine when all other property is to be considered surplus.

C. When property is determined to be surplus, the city manager shall select the method of disposal which maximizes the value the city will realize from disposal of the surplus property. Surplus personal property shall be disposed of as follows:

1. If valued at less than \$500.00 by the city manager, donated to a public or nonprofit service agency serving the Philomath area; or, sold to the first qualified buyer meeting the sale terms;
2. If valued at \$500.00 or more by the city manager, any such item can be donated by the city council to a public or nonprofit agency serving the Philomath area, or sold to the highest qualified buyer meeting the sale terms and after the sale has been advertised at least once in a city newsletter of general circulation or in a newspaper of general circulation in the Philomath area not less than one week prior to the sale;

3. Traded in on the purchase of replacement equipment or supplies;

4. Sold at public auction advertised at least once in a newspaper of general circulation in the Philomath area not less than one week prior to the auction, or sold in an on-line Internet auction. The published notice shall specify the time, place and terms upon which the property shall be offered and a general description of the property to be sold; or

5. Sold at a fixed-price retail sale if doing so will result in substantially greater net revenue to the city.

D. All personal property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind. [Ord. 730 § 7, 2005.]

**3.20.080 Adoption of code and rules.**

A. Except as specifically provided in this chapter, public contracts shall be awarded, administered and governed according to the Public Contracting Code and the Model Rules, as they now exist and may be amended in the future.

B. In the event of a conflict between any provisions of this chapter and the Public Contracting Code or Model Rules, the provisions of this chapter shall prevail. [Ord. 730 § 8, 2005.]