

EXHIBIT A

CHAPTER 5.33 - GOODS AND SERVICES

5.33.130 Emergency Procurements.

(Amended by Ordinance Nos. 181547, 183445 and 189878, effective March 4, 2020.)

- A.** The City may Award a Contract as an Emergency Procurement without the use of competitive sealed Bidding or competitive sealed Proposals as authorized by ORS 279B.050(2) when the requirements of ORS 279B.080 and this rule are met.
- B.** The Council, or person authorizing the Emergency Procurement, shall document the nature of the Emergency and describe the method used for the selection of the particular Contractor. The City shall encourage competition for Emergency Procurements to the extent reasonable under the circumstances.
- C.** The Chief Procurement Officer may award, execute, amend, and terminate an Emergency Procurement Contract with authorization from the Commissioner-in-Charge of the City Office, Bureau or Department.
- D.** If the Chief Procurement Officer or person to whom the powers of the Chief Procurement Officer have been delegated is unable to perform the duties of the Chief Procurement Officer position, the director of a City Office, Bureau or Department may award, execute, amend, and terminate an Emergency Procurement Contract with authorization from the Commissioner-in-Charge of the City Office, Bureau or Department.
- E.** For all Emergency Procurement Contracts exceeding \$150,000, the Commissioner-in-Charge shall immediately prepare an ordinance for City Council approval of the Emergency Procurement Contract at its next regularly scheduled session or as soon as possible thereafter.
- F.** If City Council adopts the ordinance, the City will pay for the Work required by the Emergency Procurement Contract. If City Council disapproves the ordinance, the City only will pay for Work performed prior to the date that City Council considered the ordinance for approval. If presentation of the ordinance to City Council is delayed, the City will pay for Work performed prior to the time when the ordinance first was presented to City Council.
- G.** All documentation of Emergency Procurements shall be sent to the Chief Procurement Officer for record keeping purposes.
- H.** Emergency Procurement Contracts, whether or not signed by the Contractor, shall be deemed to contain a termination for convenience clause permitting the City to

immediately terminate the Contract at its discretion and, unless the Contract was void, the City may pay the Contractor only for Work performed prior to the date of termination and the Contractor's unavoidable costs incurred as a result of the termination. The City shall not be liable for Contractor's anticipated lost profits or consequential damages as a result of the termination.

- I.** For an emergency procurement of construction services that are not public improvements, the City official authorized to execute an Emergency Procurement Contract under this section shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the emergency circumstances. In conducting the procurement, the City official authorized to execute an Emergency Procurement Contract under this section shall set a solicitation time period that the City determines to be reasonable under the emergency circumstances and may issue written or oral requests for offers or make direct appointments without competition in case of extreme necessity.

- J.** Notwithstanding the conditions and limitations of Subsections 5.33.130 E. and 5.33.130 F., the Chief Procurement Officer may award, execute, amend, and terminate Emergency Procurement Contracts for Goods that do not exceed \$500,000 when authorized by the Director or Commissioner-in-Charge of the City Office, Bureau or Department requesting an Emergency Procurement Contract. On and after June 30, 2023, this Subsection 5.33.130 J. is repealed.