

## Exhibit A

# Title 5 Revenue and Finance

## Chapter 5.10 – Public Contracting

### Sections:

- 5.10.010 Purpose and Authority.
- 5.10.020 Local Contract Review Board.
- 5.10.030 Public Notice of Solicitation for Contracts.
- 5.10.040 Prequalification of Offerors.
- 5.10.050 Sole Source Procurements.
- 5.10.060 Special Procurements.
- 5.10.070 Designation of Personal Services Contracts.
- 5.10.080 Affirmative Action.
- 5.10.090 Use of Alternative Contracting Methods.

### **5.10.010 Purpose and Authority.**

**A.** The City Administrator is authorized to adopt administrative rules, and procurement procedures and forms, as authorized by the Charter, which will be called Portland Public Contracting Rules.

**B.** Except where otherwise defined in the Portland Public Contracting Rules, terms will have the meanings assigned in ORS Chapters 279, 279A, 279B, and 279C.

**C.** In addition to responsibilities under the Charter and Code, the City Administrator is authorized to conduct procurements on the City's behalf and, through their procurement services and programs ("Procurement Services"), will oversee the administration of this Chapter.

**D.** To the extent required under ORS 279A.050, the City Administrator will exercise all of the City's procurement authority in accordance with the provisions of the State's Public Contracting Code.

### **5.10.020 Local Contract Review Board.**

The Council is the Local Contract Review Board (LCRB), unless the Council designates otherwise in accordance with ORS 279A.060. The procedural rules of the Council sitting as the LCRB are the same as those regulating Council as provided by Chapter 3.02.

### **5.10.030 Public Notice of Solicitation for Contracts.**

**A.** The City will advertise every notice of a solicitation document as follows:

- 1.** The LCRB has determined that electronically providing public notice of bids or proposals is likely to be cost-effective and authorizes public notice of bids or proposals to be published electronically instead of in a newspaper of general circulation.
- 2.** The LCRB has determined that electronic advertisements for public improvement contracts are likely to be cost-effective and authorizes advertisements for public improvement contracts to be published electronically instead of in a newspaper of general circulation.

### **5.10.040 Prequalification of Offerors.**

In accordance with ORS Chapters 279, 279A, 279B and 279C, the City Administrator may require prequalification of prospective bidders or proposers for public improvement contracts, for which the City intends to conduct a procurement.

### **5.10.050 Sole Source Procurements.**

In accordance with ORS 279B.075, the LCRB designates that the City Administrator may determine in writing that goods or services, or a class of goods or services, are available from only one source.

### **5.10.060 Special Procurements.**

**A.** The City may award a contract as a special procurement pursuant to ORS 279B.085(4). The LCRB determined the following classes of contracts meet the requirements of ORS 279B.085(4) and approves them as class special procurements:

- 1.** Advertisements. Except as provided by Charter Section 8-101, the City may award a contract for advertising in newspapers and written publications, web-based internet sites and other electronic formats.
- 2.** Amendments to contracts and price agreements. The City may execute contract amendments, as follows:
  - a.** An original valid contract exists between the parties;
  - b.** Unit prices or “add alternates” were provided in the solicitation document that established the cost basis for the additional work or product or in a lump sum contract the contractor has provided an estimate of the additional cost that has been verified by the Bureau seeking the amendment; and
  - c.** The solicitation document provided for such amendments; or

**d. Emergency:** The original contract was awarded pursuant to a declaration of emergency, in accordance with Portland City Code Title 15 or the Portland Public Contracting Rules; or

**e. Unplanned environmental cleanup:** The additional work is required by reason of existing regulations or ordinances of federal, state or local agencies, dealing with the prevention of environmental pollution and the preservation of natural resources, that affect performance of the original contract and the regulations or ordinances either were not cited in the original contract or were enacted or amended after submission of the successful bid or proposal.

**3. Copyrighted materials.** The City may award a contract for copyrighted materials where there is only one known supplier available for the goods. This includes, but is not limited to, new books, workbooks, periodicals, subscriptions, curriculum materials, reference materials, audio and visual media, and nonmass-marketed software from a particular publisher or its designated distributor.

**4. Determination of reasonable accommodation.** The City may award contracts for determining any reasonable accommodation that may be made to any job classification in the City.

**5. Employee benefit contracts.** The City may award contracts relating to employee benefits after the City obtains a consultant pursuant to the Portland Public Contracting Rules to conduct a competitive process to acquire these contractors. These contracts include administrators of employee flexible spending account administration and medical claims third party administration. The City will hire a consultant to advise it on firms available to provide the work and the consultant is authorized to solicit firms pursuant to a request for proposal process as well as assist the City in placing advertisements in specific publications likely to reach the attention of the contractors or consultants. The City may negotiate or enter into the contract that appears most advantageous to the City without further advertisement or issuance of its own request for proposals.

**6. Equipment maintenance, repair and overhaul.** The City may award a contract for equipment maintenance, repair, or overhaul without competitive bidding and without obtaining competitive quotations if the extent of repair services, parts, maintenance or overhaul is unknown and cost cannot be determined without preliminary dismantling or testing.

**7. Event sponsorship agreements.** The City may award a contract to sponsor an event, whether or not the City receives goods or services in return for its payment.

**8. Financial products.** The City may award a contract for financial products such as bond insurance, surety bonds for City bond reserves and liquidity facilities

such as letters of lines or credit. The City may pay fees associated with the transactions, including, but not limited to, registrar, paying agent, and escrow agent fees and fees associated with outstanding debt issues.

**9.** Golf course management agreements. The City may award contracts for golf course management (including concessions and club house operations) of a duration not to exceed five years for the parks under the jurisdiction of Portland Parks and Recreation.

**10.** Goods, services or equipment required by Federal Grant Agreements. The City may award a contract, without a competitive solicitation process, for goods, services or equipment when they are required to be purchased from a specific source or when a specific brand name is required and no competition is otherwise available.

**11.** Hazardous material removal and oil cleanup. The City may award a contract for services to remove or clean up hazardous material or oil from any vendor when ordered to do so by the Oregon Department of Environmental Quality (DEQ) pursuant to DEQ's authority under ORS Chapter 466. In doing so, the following conditions apply:

- a. To the extent reasonable under the circumstances, the City will encourage competition by attempting to obtain informal price quotations or proposals from potential suppliers of goods and services;
- b. The Bureau responsible for managing or coordinating the clean-up will submit a written description of the circumstances that require it and a copy of the DEQ order for the cleanup to Procurement Services together with a requisition authorizing the contract;
- c. Procurement Services will record whether there was time for competition, and, if so, the measures taken to encourage competition, the amount of the price quotations obtained, if any, and the reason for selecting the contractor to whom a contract award is made; and
- d. The City determines the timeline for cleanup does not permit the use of intermediate procurement procedures.

**12.** Honoraria. The City may award a contract to make a one-time payment or gratuity granted in recognition of a special service in which propriety or a competitive selection process is not feasible and made without the service provider recognizing themselves as having any liability or legal obligation for services.

**13.** Insurance contracts. The City may award contracts for insurance directly to an insurer after the City obtains proposals from an insurance consultant. The consultant will be selected pursuant to the Portland Public Contracting Rules. Among the services to be provided by the consultant is the securing of

competitive proposals from insurance carriers for all coverages for which the insurance consultant is given responsibility and advice to the City about the costs and benefits of the various proposals. The City may negotiate or enter into the insurance contract that appears most advantageous to the City without advertisement or issuance of its own request for proposals.

**14. Manufacturer direct supplies.** The City may award a contract to a manufacturer if the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s).

**15. Medical determination of ability to work.** The City may award contracts for physician or medical personnel to determine any prospective or current City employee's ability to work or return to work.

**16. Membership dues.** The City may award a contract, without a competitive solicitation process, for dues or memberships in professional or community organizations for the benefit of the City.

**17. Modification of intellectual property.** The City may award contracts for modifications, including updates, upgrades, and enhancements by the licensor of intellectual property licensed to the City; or an authorized provider if the licensor does not directly provide the services.

**18. Performing artists.** The City may award a contract for performance art whether vocal, instrumental, or visual required by the City to provide a paid performance of their work for an audience determined by the City.

**19. Price-regulated goods and services, utilities and utility related services.** The City may award a contract, without a competitive solicitation process, for utility services, repair, equipment and/or maintenance work, where the rate or price for the goods and services is established by federal, state, or local regulatory authority or when the services can be provided only by a specific utility.

**20. Purchase of used personal property or equipment.** The City may award a contract to purchase used personal property and equipment. Used property and used equipment is property or equipment that has been placed in use by a previous owner or user for a period of time, and that is recognized in the relevant trade or industry, if there is one, as qualifying the personal property or equipment as "used". Used personal property or equipment generally does not include property or equipment if the City was the previous user, whether under a lease, as part of a demonstration, trial or pilot project or similar arrangement.

**21. Renegotiations of existing contracts with incumbent contractors.**

**a. Authorization.** The City may renegotiate and amend existing contracts with incumbent contractors only if it is in the best interest of the City and has the approval of the City Administrator prior to negotiation.

**b. Process and criteria.** The City may renegotiate various items of the contract, including but not limited to: price, term, delivery and shipping, order size, item substitutions, warranties, discounts, on-line ordering systems, price adjustments, product availability, product quality, and reporting requirements. The City must meet the following conditions in its renegotiations with incumbent contractors:

**(1) Favorable result.** The City must determine that, with all things considered, the renegotiated contract is at least as favorable to the City as the original contract and document this determination. For example, the City and the contractor may adjust terms and conditions within the original contract to meet different needs;

**(2) Within the scope.** The goods and services provided under the renegotiated contract must be reasonably related to the original contract's solicitation. For example, the City may accept functionally equivalent substitutes for any goods and services in the original contract's solicitation;

**(3) Optional term or condition.** If a contractor offered to the City during the original solicitation a term or condition that was rejected at that time, the City may not renegotiate for a lower price based on this rejected term or condition as a mandatory term or condition in the renegotiated contract. If, however, a contractor offers a lower price pursuant to a rejected term or condition without additional consideration from the City and as only an option to the City, then the City may accept the option of a lower price under the rejected term or condition. For example, if the City initially rejected a contractor's proposed condition that the price required a minimum order, any renegotiated contract may not mandate this condition; but the City may agree to the option to order lesser amounts or receive a reduced price based upon a minimum order; and

**(4) Market.** In order to avoid encouraging favoritism or diminishing competition, the City may research the accepted competitive practices and expectations of offerors within the market for the specific contract(s) or classes of contracts to be renegotiated, thus establishing a market norm. If the City determines that a market norm exists, then the City must document its results. Based upon this information, the City will confirm that, if the City follows the market norm, favoritism is not likely to be encouraged, competition is not likely to be diminished, and substantial cost savings may be realized. Under no condition may the City accept or follow any market norm that likely encourages favoritism or diminishes competition, even if it is accepted or expected in the market.

**22. Reverse auctions.** The City may award a contract through reverse auctions

pursuant to the process established in the Portland Public Contracting Rules.

**23.** Seminar, training registration, tuition and conference fees. The City may award a contract, without a competitive solicitation process, for seminar registrations and training session fees for attendance at seminars, conferences and training courses hosted by outside entities.

**24.** Services for legal advice. The City may award contracts for the City Attorney's retention of expert witnesses and consultants to assist the City Attorney's Office in providing legal advice to the City, and for outside legal counsel.

**25.** Services related to legal advice. The City may award a contract, without a competitive solicitation process, for services related to the provision of legal advice to the City:

- a.** When a contractor or consultant, such as a court reporter or copy service, has been selected by another person and the City must bear a portion of the cost in order to receive the benefit of the contractor's work, such as deposition transcripts or photocopies; or
- b.** When the contractor or consultant, including, but not limited to a mediator, arbitrator, referee or court appointed individual, is selected either by a court, or by joint agreement between the City and another person or persons, in an effort to resolve a claim or dispute that has been or will be asserted by or against the City, regardless of whether litigation has been filed.

**26.** Software and hardware maintenance, licenses, subscriptions and upgrades. The City may award a contract or renew existing contracts for information technology hardware or software maintenance, licenses, subscriptions and upgrades without competitive solicitation where the maintenance, upgrades, subscriptions and licenses are either available from only one source or, if available from more than one provider, are obtained from the City's current provider in order to utilize the pre-existing knowledge of the vendor regarding the specifics of the City's hardware or software system. The City will document the facts that justify either that maintenance, license(s), subscriptions and upgrades were available from only one source or, if from more than one source, from the current vendor.

**27.** Stormwater improvements. The City may award a contract for stormwater improvements or watershed restoration, or both, without obtaining competitive solicitations if all or a significant portion of the improvements or restoration that the City is funding will be performed:

- a.** On private property; and
- b.** By the property owner or a contractor hired by the property owner.

**28. US Postal Service.** The City may award a contract without a competitive solicitation process, for permits and postage meters, pre-stamped postcards, establish ongoing postage accounts, etc. from the US Postal Service.

**29. Veterinary medicine.** The City may award contracts for veterinary physician, specialist or medical personnel required to determine any prospective or current City-owned service animal's ability to work or return to work, or for providing general medical upkeep to a City-owned service animal.

**30. Workers' compensation benefits.** The City may award contracts for processing of any claim for workers' compensation benefits.

#### **5.10.070 Designation of Personal Service Contracts.**

**A.** In addition to the personal services and related professional services described in ORS 279C.100, the LCRB has designated the following classes of service contracts as personal service contracts:

**1.** Contracts for personal or professional services performed by an independent consultant, excluding City employees, for the provision of services that require specialized technical, creative, expert, 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. Personal services include, but are not limited to: attorney; legal services including outside counsel; expert witness and related consultants; accounting and auditing services; information technology services including modification of intellectual property licensed to the City; workers' compensation claim processing; medical determination of employees' ability to work; determination of reasonable accommodations to job classifications; veterinary medicine for City-owned service animals; golf course management; planning and development services; artists; designers; performers; property managers and consultants.

#### **5.10.080 Affirmative Action.**

In accordance with ORS 279A.100, the City Administrator may develop and adopt administrative rules, as authorized by the Charter, to carry out an affirmative action goal, policy, or program limiting competition for a public contract.

#### **5.10.090 Use of Alternative Contracting Methods.**

**A.** In accordance with ORS 279C.335(2), the LCRB exempts the following classes of public improvement contracts from the competitive bidding requirement of ORS 279C.335(1):

**1.** The City may use a job order contracting method to award a contract for asphalt paving, repair and concrete projects estimated to cost between \$5,000 and \$1 million that limits the pool of contractors to those meeting the criteria as



established by the State of Oregon's Certification Office for Business Inclusion and Diversity (COBID) as COBID-certified businesses.

**2.** The City may use a job order contracting method to award a contract for alterations projects estimated to cost between \$5,000 and \$1 million including renovation, rehabilitation, repair and maintenance, and smaller scale new construction for clearing deferred maintenance backlog, performing emergency work, and renovating facilities, with time periods generally within 90 to 180 calendar days. The classes of work included in this exemption include:

- a. Tenant improvements and remodeling;
- b. Roofing; and
- c. HVAC.

**3.** The City may use a job order contracting method to award a contract for civil construction and building alteration projects estimated between \$5,000 and \$1million and include concrete work, paving, street improvements, ADA ramps, building renovation, rehabilitation, repair and maintenance, and smaller scale new construction for clearing deferred maintenance backlog, performing emergency work, and renovating facilities, with time periods generally within 90 to 180 calendar days. The classes of work included in this exemption include:

- a. Civil construction; and
- b. Tenant improvements and remodeling.

## **Chapter 5.20 - Property Disposition**

### **Sections:**

- 5.20.010 Surplus Property Policy.
- 5.20.020 Disposition of Surplus Property.
- 5.20.030 Disposition of Unclaimed Found Personal Property.
- 5.20.030 Sale of Buildings for Removal from City Property.

### **5.20.010 Surplus Property Disposition Policy.**

**A.** It is the policy of the City to dispose of surplus property in the most efficient and cost-effective manner possible in accordance with the guidelines, administrative rules, and policies established or amended by the City Administrator. City officials (including elected officials, employees, and volunteers), persons acting on the City official's behalf, and any business with which a City official is associated, may not purchase or receive surplus property unless offered for public sale or as may be authorized by the City Administrator.

1. The City Administrator may adopt administrative rules for implementing this Chapter as authorized by the Charter.
2. Disposition of capital asset will comply with City Accounting administrative rules regarding that type of property.
3. Disposition of property that was procured with the proceeds of bonds, short-term borrowing, or the use of any revenue derived from the disposition will comply with applicable limitations of the federal internal revenue code, state law or governing bond documents associated with these types of property and the respective borrowing.

### **5.20.020 Disposition of Surplus Property.**

**A.** For purposes of this Section, surplus property means tangible personal property owned by the City, including equipment and materials, that is no longer needed by the City. Examples include inventoried and noninventoried office furniture, specialized equipment, and items that are obsolete or overstocked.

**B.** Usable surplus property: useable surplus property may be disposed of in one of the following ways.

1. Inter-bureau transfer or sale.
2. Negotiated direct sale.
3. Public sale, including the use of an external auction service or public notice of sale.
4. Public sale through State of Oregon Surplus Property program or other similar state or federal government surplus property programs.
5. Donation to the State of Oregon Surplus Property program, other public agencies, or to charitable organizations certified under the Internal Revenue Code Section 501(c)(3).
6. Another effective or cost-efficient manner determined by the City Administrator.

**C.** Unusable surplus property: surplus property that is unusable, inoperable or not reasonably repairable, hazardous, or is of insufficient value to warrant a transfer, sale, or donation may be disposed in accordance with existing federal, state, or local disposal regulations, with effort made to recycle or otherwise dispose of property in an environmentally sound manner.

**D.** Exempt property. The following surplus property, whether usable or unusable, may not be transferred, donated, sold, or otherwise disposed of without Council approval or

as otherwise provided by City code, policy, or procedure adopted by the City Administrator

1. Contraband.
2. Firearms.
3. Intangibles.
4. Hazardous items.
5. Items of historical value.
6. Any other item deemed appropriate for exemption from this Section as determined by the City Administrator.

### **5.20.030 Disposition of Unclaimed and Found Personal Property.**

**A.** Unclaimed property: Unless directed otherwise by State law or a specific provision of this Code, all tangible personal property not owned by the City, that is under the control of a bureau and not reclaimed after notice has been sent by the bureau in possession, to all parties who reasonably appear to have an interest in such property, of their right to claim such property within a specified period of time, will become the property of the City, designated as surplus property, and, will be disposed of as provided by this Chapter.

**B.** Found property: All tangible personal property not owned by the City that is found by a bureau employee and turned in to the bureau will not become the property of the City until the requirements of the State law regarding the rights and duties of finders and owners of lost property are satisfied. After the requirements of State law are satisfied, found property will be retained by the City if the property is usable to the City. If the property is not usable by the City, the City will dispose of the property as surplus property as provided by this Chapter.

### **5.20.040 Sale of Buildings for Removal from City Property.**

Whenever the Mayor determines that a building or other structure must be removed, the Mayor may authorize the City Administrator to sell the building or other structure for removal from City land by a purchaser. The City Administrator may use any reasonable and appropriate method of sale for the public interest. The City Administrator may specify terms and conditions of sale, except that the terms will not include credit and will fix the amount of bond or cash deposit to be given by the purchaser to guarantee removal of the building or structure and clearance of debris from City land.

## **Chapter 5.30 Economic Development Projects**

### **5.30.010 Purpose.**

The purpose of this Chapter is to provide necessary procedures and standards to carry out the powers granted to the City by Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485) as amended. This Chapter will be liberally construed in order to carry out this purpose.

### **5.30.020 Definitions.**

As used in this Chapter unless the context requires otherwise:

**A. Economic development project** includes any properties, real or personal, used or useful in connection with a revenue producing enterprise. Economic development project does not include any facility or facilities designed primarily for the operation, transmission, sale, or distribution of electrical energy. Economic development project also includes multiple unit residential housing development on land having an assessed valuation of \$8 per square foot or more on September 13, 1975, land within a designated urban renewal or redevelopment area formed pursuant to ORS Chapter 457, land within an area designated as a Housing and Community Development target neighborhood pursuant to the Housing and Community Development Act of 1974, or projects that benefit low or moderate income tenants, or address slum and blight as defined by the 1974 Housing and Community Development Act.

**B. Eligible project** means an economic development project found by the City to meet standards adopted pursuant to this Chapter. Eligible project includes multiple unit residential housing development that increases available housing units through new construction, rehabilitation of nonresidential buildings, or provides for rehabilitation of residential buildings.

**C. Costs** as applied to any project must conform to all applicable Internal Revenue Service regulations and may include:

1. The cost of construction and reconstruction.
2. The cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved and the cost of site improvements.
3. The cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.
4. The cost of eligible machinery and equipment and related financing charges.
5. The cost of engineering and architectural surveys, plans and specifications.
6. The cost of financing charges and interest prior to and during construction, and if deemed advisable by the City for a period not exceeding one year after completion of construction.

7. The cost of consultant and legal services, other expenses necessary or incident to determining the feasibility or practicability of constructing a project, administrative and other expenses necessary to or incident to the construction of the project, including, but not limited to, costs of relocation and moving expenses according to a project plan developed by the City, and the financing of the construction of the project thereof, including reimbursement to any state or other governmental agency or any lessee of the project for the expenditures made with the approval of the City that would be costs of the project under this Chapter had they been made directly by the City, and any costs incurred after bond issuance by the City for audits or monitoring.

**D. Qualified historic project** means a project that includes the restoration or rehabilitation of a structure designated as a City of Portland Historic Landmark. The rehabilitation or restoration requires the approval of the City of Portland Landmarks Commission to ensure conformance with the Secretary of the Interior's standards for historic preservation projects.

### **5.30.030 Economic Development Applications.**

**A.** Prosper Portland is responsible for receipt of applications and review and processing thereof. Applications must be in a form established by Prosper Portland and must include, in addition to other information deemed necessary by Prosper Portland:

1. Company/applicant information.
2. Project information.
3. Description of labor force at existing and proposed locations.
4. Financial information.
5. Environmental control information.
6. Any information required by law or otherwise that is reasonable and necessary to effectuate the purposes of this Chapter.
7. An agreement to indemnify and hold Prosper Portland, the City, and their officers and employees harmless from any and all liability for loss or damage to the company or any third person or entity arising from or alleged to have arisen from the processing of this application or any error or omission in any official statement or representation related to the contemplated financing.

**B.** The applicant must certify by letter that the issuance of revenue bonds is an inducement to locate, retain, or expand the project in Portland.

**C.** The requirements of this Section are considered to be minimums, and Prosper Portland and the City reserve the right to add additional requirements on a case-by-case basis. Likewise, the requirements of this Section pertain only to the

Prosper Portland Commission and the City and are not exclusive. Qualified bond counsel or the original purchaser may make additional requirements.

### **5.30.040 Economic Development Initial Review, Standards.**

**A.** Upon receipt of an application, Prosper Portland will review the application to determine whether the application should be further processed. In reaching a determination, Prosper Portland staff may request additional information from the applicant as well as assemble any and all data deemed relevant to the decision.

**B.** Prosper Portland will consider the following:

1. Economic feasibility and general benefits to the City of the proposed project.
2. Density of use and potential impact in the area affected by the proposed project.
3. Land use, transit, and transportation facilities in the vicinity of the proposed project.
4. City's ability to supply or support other needed services resulting from the Economic Development Project.
5. Effect of proposed project on balanced economic development of the City.
6. Employment and property tax income from the project.
7. Employment opportunities. The City and Prosper Portland will use employment agreements when and where appropriate.
8. Suitability of proposed area of Portland for the particular type of proposed development project.
9. Conformance with Internal Revenue Service regulations and the Oregon Revised Statutes.

**C.** No application will be recommended for Council approval unless Prosper Portland determines that the proposed project will not conflict with adopted City plans and policies and conforms to the following uses:

1. Manufacturing or other industrial production.
2. Agricultural development or food processing.
3. Transportation or freight facilities.
4. Warehousing or distribution.
5. A project for the primary purpose of reducing air, water, or solid waste

pollution.

6. Other activities that represent new technology or types of economic enterprise that the City determines are needed to diversify the economic base of the community.

7. Parking in close proximity to the Portland Performing Arts Center. A parking facility may include space for retail and commercial uses in addition to parking.

8. Commercial uses when a part of a qualified historic project or publicly initiated urban development project.

### **5.30.050 Housing - Applications.**

A. Prosper Portland is responsible for receipt of applications and review and processing thereof, including, but not limited to, advice of bond counsel and legal advice.

Applications must be in a form established by Prosper Portland and must include, in addition to other information deemed necessary by Prosper Portland:

1. The applicant's name, address and telephone number.
2. A brief description of the applicant's company history and past relevant performance.
3. A legal description of the property upon which the project will be located.
4. A detailed description of the project including the number, size and type of dwelling units; dimensions of structures; parcel size, proposed lot coverage with buildings, and amount of open space; type of construction; public and private access; parking and circulation plans; water, sewer, and other utility plans; landscaping; expected uses; and economic feasibility studies and market information including rent levels proposed.
5. A description of the existing use of the property including a proposed relocation plan for any persons who would be displaced from existing housing by the project; and for any businesses that would be displaced.
6. A site plan and supporting maps that show in detail the development plan of the entire project, showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and dimension of structures; use of the land and structure; major landscaping features; design of structures; and existing and proposed utility systems including sanitary sewers, storm sewers, water, electric, gas and telephone lines.
7. Any other information required by law or otherwise that is reasonable and necessary to effectuate the purposes of this Chapter.
8. The approximate amount of bond proceeds and allocation to eligible costs.

9. An agreement to indemnify and hold Prosper Portland, the City, and their officers and employees harmless from any and all liability for loss or damage to the company or any third person or entity arising from or alleged to have arisen from the processing of this application or any error or omission in any official statement or representation related to the contemplated financing.

### **5.30.060 Housing - Initial Review, Standards.**

**A.** Upon receipt of an application, Prosper Portland will review the application to determine whether the application should be further processed. In reaching a determination, Prosper Portland may request additional information from the applicant as well as assemble any and all data deemed relevant to the decision.

**B.** Prosper Portland will, after review and comment by all relevant City bureaus, recommend approval, approval with conditions, or denial of the application, after consideration of the following:

1. The economic feasibility of the project, with and without the use of revenue bonds.
2. The need for housing resulting from the project.
3. The general benefits to the City of the proposed project.
4. The City's ability to supply or support other needed services required by the project.
5. Employment and property tax income from the project.
6. Suitability of the project as proposed in the specific proposed location.
7. Projects applying for permanent financing must be determined to provide housing at rent or price levels 85 percent of which must be affordable by households with incomes up to 150 percent of the area median income.
8. Projects in the downtown, particularly the RX Zone, designated urban renewal or redevelopment areas will receive highest priority.
9. Conformance with Internal Revenue Service Regulations and the Oregon Revised Statutes.
10. No application will be recommended for approval unless Prosper Portland, after review and comment by all relevant City bureaus, determines that the project does not conflict with adopted City plans and policies.
11. Projects applying for construction financing may be at rent or price levels up to 150 percent of median income, but must have available a firm commitment for long-term project financing.



**C.** No project may be approved that would result in the conversion of existing occupied residential rental units to condominium or cooperative projects.

**D.** The applicant, to be eligible for financing assistance under this program, must agree not to discriminate against any purchaser or tenant who is a parent or legal guardian with whom a child resides or is expected to reside, except in projects designed exclusively for households, the heads of whom are 62 years of age or older; or in projects designed for households, the heads of whom are 55 years of age or older, if the project meets the requirements of the applicable federal law.

**E.** Revenue bonds may be issued secured by revenues from mortgage payments from individual owners of condominium and cooperative units within multiple unit housing projects that are newly constructed, rehabilitated from other uses or rehabilitated in abandoned residential buildings. Applications for these projects will be considered by Prosper Portland if:

1. No individual or company may have more than one loan outstanding at any one time under this program for individual condominium or cooperative units.
2. No mortgage loan funds under this program may be used for refinancing by existing owners, and no loans may be assumed by persons not eligible for condominium or cooperative units.

**F.** The applicant must submit a relocation plan for any households, individuals, or businesses that may be displaced by the proposed project. Prosper Portland will be responsible for analysis of that proposal and recommendation of that plan, that plan with amendments, or an alternative plan. The relocation plan must ensure that households, individuals, or businesses are relocated to affordable housing of comparable or better quality.

### **5.30.070 Initial Determination of Eligibility, Final Approval, Appeals.**

**A.** Prosper Portland staff, within 60 days after a complete application is filed with Prosper Portland, will prepare a written recommendation of approval, approval with conditions or denial of the application.

**B.** If Prosper Portland staff recommends approval or approval with conditions of the application, Prosper Portland will, within 60 days of receipt of the application and recommendation, recommend by resolution that Council approve, approve with conditions, or deny the application. The resolution will include consideration of any required relocation plan. The Council may, by resolution, approve, approve with conditions, or deny the application. Council approval or conditional approval of an application will authorize Prosper Portland to process the application and to execute a letter of intent with the applicant.

**C.** Final approval will take place after receipt and review by Prosper Portland of all requested and required final documents. All documents to be approved by Prosper Portland must be received in final form and received by Prosper Portland 14 days prior

to a scheduled meeting of Prosper Portland's board of commissioners. If Prosper Portland determines that the documents comply with the rules and policies established within this Chapter, Prosper Portland may, by resolution, recommend issuance of the bonds in accordance with those final documents and further recommend that Council adopt an ordinance authorizing issuance of the bonds in accordance with those documents.

**D.** If Prosper Portland staff recommends denial of the application, they will notify the applicant in writing. The applicant may appeal by filing written notice thereof with Prosper Portland staff within 14 days of receipt of the notice of rejection. Upon receipt of the appeal, Prosper Portland will, within 45 days, recommend by resolution, approval, approval with conditions or denial of the appeal.

### **5.30.080 General Conditions; Document Preparation and Review.**

**A.** The following general conditions apply to the issuance of all industrial development revenue bonds:

- 1.** City economic development revenue bonds may be sold at public or private sale, and the bonds may mature at any time or times within the useful life of the project. For public sales, special approval may be required.
- 2.** Any bond authorized under this Chapter that is to be sold by public sale must be rated by a nationally-recognized rating agency as Investment Grade.
- 3.** Bonds sold through a private sale do not require a rating. For purposes of this Chapter, private sale means a sale of all of the bonds to persons or entities that qualify as "accredited investors" under 15 USC Section 77b (15) (I) or 17 CFR Section 230.215. The purchasers must also certify, in a manner satisfactory to the City, that they have the financial sophistication, knowledge and experience in financial matters to evaluate the investment in the bonds and the appropriateness of that investment for them, and that they have received all the information required to make an informed judgement about the purchase of the bonds. Bonds that are sold through a private sale may be resold or transferred only to persons or entities that qualify as accredited investors and that provide the certification described in the preceding sentence.
- 4.** The City does not guarantee the bonds and is not subject to any liability for their repayment.
- 5.** The terms and conditions of the issuance and purchase of an industrial revenue bond issue are to be agreed upon by the applicant and bond purchaser with the concurrence of Prosper Portland (acting on behalf of the City.)
- 6.** Where residential rental property is assisted under this Chapter, construction of the project must begin within nine months from the date of bond issuance.

7. The applicant must keep Prosper Portland advised of the schedule for document preparation and approval and provide drafts of documents to Prosper Portland upon its request.

**B.** The following general conditions prevail regarding the preparation of all bond documents:

1. Bond counsel will be designated by Prosper Portland. Procedures for selecting bond counsel established in this Code or procurement administrative rules do not apply to projects initiated pursuant to this Chapter. The applicant must submit their recommendation of bond counsel.

2. Bond counsel will advise Prosper Portland of all federal and state procedural requirements as they apply to issuance of the bonds.

3. Bond counsel must be an Oregon law firm or other mutually acceptable bond counsel recognized in the Bond Buyers Directory of Municipal Bond Dealers of the United States.

4. The trustee chosen by the applicant, and approved by the Commission, must be a bank or trust company doing business in the State of Oregon with trust powers.

5. All documents to be approved by Prosper Portland must be in final form and received by Prosper Portland 14 days before the meeting of Prosper Portland's board at which the documents will be considered.

### **5.30.090 Application Processing, Financial Considerations.**

**A.** Upon receipt of a resolution approving the application, Prosper Portland will consider:

1. The bond market for the types of bonds proposed for issuance.

2. The terms and conditions of the proposed issue.

3. Whether the applicant is financially responsible and fully capable and willing to fulfill its obligations under the agreement of lease, or contract, including the obligation to pay rent in the amounts and at the times required, the obligation to operate, repair and maintain at its own expense the project leased, or sold, and to serve the purposes of this Chapter and other responsibilities as may be imposed under the lease or contract. In determining financial responsibility of the applicant consideration will be given to the lessee's or purchaser's ratio of current assets to current liabilities, net worth, earning trends, coverage of all fixed charges, the nature of the industry or business involved, its inherent stability, any guarantee of the obligations by some other financially responsible corporation, firm or person, and other factors determinative of the capability of the lessee or purchaser, financially and otherwise, to fulfill its obligations consistently with the purposes of this Chapter and ORS 280.410 to 280.485.

**4.** Other relevant factors as Prosper Portland considers necessary to protect the financial integrity of the City.

If Prosper Portland determines that a bond issue is financially feasible it will designate the underwriter, trustee and bond counsel and will enter into appropriate agreements with each to carry out the provisions of this Chapter and ORS 280.410 to 280.485 subject to the approval of the Council pursuant to Section 5.30.110 of this Chapter. In reaching its determination, Prosper Portland may appoint a Bond Review Committee to assist it in its deliberations, and may set administrative procedures from time to time as necessary.

### **5.30.100 Administrative Fees.**

**A.** The applicant agrees to pay all applicable City and Prosper Portland fees and expenses associated with the application whether or not the bonds are issued. A minimum application fee of \$500 will be assessed to all projects at the time of filing the formal application with Prosper Portland. In addition, Prosper Portland must be reimbursed in full for all direct and indirect costs incurred in the project. The fees will be paid as follows:

1. \$500 at the time of filing a formal application with Prosper Portland.
2. The balance at the time of closing of the bond issue. If the financing is not completed, costs incurred by Prosper Portland will be subject to immediate reimbursement.

**B.** Upon issuance of the bond, the applicant must pay Prosper Portland a one-time issuance fee equal to \$7 per \$1,000 of the face amount of the bonds for ongoing administration of the bonds.

1. For refunding bonds issued under ORS Chapter 280 for economic development projects, if the one-time issuance fee has been paid in accordance with Subsection B. for the bonds being refunded, and Prosper Portland determines the refunding will not generate additional ongoing administration costs, the fee or an equitable portion thereof may be waived. Nothing in this Subsection 1., however, should be construed to eliminate or limit the applicant's responsibility to pay all fees and expenses of the City and Prosper Portland described in Subsection A. of this Section in connection with issuing the refunding bonds.

### **5.30.110 Bond Issuance.**

Upon receipt of the recommendation of Prosper Portland, the Council may by ordinance authorize the issuance of bonds in an amount equal to the costs of the proposed project, pursuant to ORS Chapter 280, if it determines that the proposed issue meets the requirements ORS Chapter 280 and this Chapter.

### **5.30.120 Reporting Requirements.**

**A.** Beginning no later than 12 months following the issuance of bonds by the City, and continuing annually for a period as long as the bonds are outstanding, Prosper Portland will require each project owner of the assisted project to submit a written report that describes:

1. Number of current employees by job category.
2. Total assessed value and property taxes paid during the most recent period for the assisted facility or facilities.

**B.** In addition to the foregoing, owners of multi-family projects assisted under this Chapter are required to report annually the number of residential units occupied by individuals or families who, at the date of reporting, have low or moderate incomes.

## **Chapter 5.40 Public Art**

5.40.010 Purpose.

5.40.020 Definitions.

5.40.030 Dedication.

5.40.040 Public Art Trust Fund.

5.40.045 Funds for Creative Space.

5.40.050 Siting.

5.40.060 Reserved.

5.40.070 Ownership.

5.40.080 Decisions.

5.40.085 Public Monuments Review Criteria.

5.40.090 Implementation.

### **5.40.010 Purpose.**

It is the purpose of this Chapter and the policy of the City to promote and acquire public art and to dedicate two percent of the total eligible costs or two percent of the total eligible funds of all improvement projects (whichever is less) to public art. Public art contributes to experiences that enrich the social, physical and cultural environment of Portland and promotes dialogue among people of all ages and backgrounds. This Chapter will be implemented in a manner that benefits all Portlanders, including historically underserved communities and neighborhoods.

### **5.40.020 Definitions.**

As used in this Chapter:

**A. Improvement project** means any project paid for wholly or in part by a participating bureau in which the participating bureau's contribution of eligible funds equals \$50,000 or more for the construction, rehabilitation, remodeling, improvement or purchase for a public use of any building, structure, park, public utility, street, sidewalk or parking

facility or any portion thereof within the limits of the City.

1. Maintenance and repair does not constitute an improvement project.
2. Improvement projects that are developed privately and leased back to the City are not exempt from the provisions of this Chapter.
3. The purchase of improved or unimproved property by Prosper Portland solely for resale or redevelopment, in which property is not otherwise to be put to a governmental use, does not constitute an improvement project subject to the provisions of this Chapter.

**B. Artist-in-residence** means an artist in any discipline who explores new working methods to develop socially engaging, interactive art experiences with City bureaus through either permanent or temporary artworks.

**C. Creative space** means a physical location or a mobile location like a truck that is owned, leased, rented by, donated to, or otherwise made available to the City that has the exclusive purpose of facilitating the creation or display of visual, performing, cultural or other artworks.

**D. Eligible costs** means the participating bureau's capitalized costs for completion of an improvement project, including costs for capitalized tenant improvements. Eligible costs do not include costs for: administration, fees and permits, building demolition, relocation of tenants, environmental testing, environmental remediation, non-construction contingency or indirect costs, such as interest during construction, advertising and legal fees. When an improvement project involves the acquisition of real property, costs attributable to land acquisition are not eligible costs, while costs attributable to improvements on the real property are eligible costs.

**E. Eligible funds** means a participating bureau's monetary contribution to an Improvement Project. The following are not eligible funds: private development revenue, federal and state grants that preclude public art as an object for expenditure, Local Improvement District revenue, Water Operating Fund revenue, Water Construction Fund revenue, Sewer Systems Operating Fund revenue, Sewer Systems Construction Fund revenue and revenue from any other funding source subject to legal restrictions that preclude public art as an object for expenditure.

**F. Office of Arts & Culture** means the City's internal program and its staff who work with City bureaus, Council offices, and external partners to support the City's vibrant arts and culture ecosystem.

**G. Public art** means original creative work that is accessible to the public and/or public employees and that has been approved as public art by the Office of Arts & Culture. This definition must be liberally construed to support this Chapter's purpose, including but not limited to physical art works, artists-in-residence and creative space.

**H. Public monuments** refers to three-dimensional works of art or structures that are

publicly displayed with the purpose of memorializing or honoring a specific person, place, or event. In the context of this policy, Public monuments are distinct from other forms of public art, such as two-dimensional murals or three-dimensional plaques located in parks, which are primarily designed to provoke conversation and provide education. Unlike these other art forms, public monuments specifically serve as commemorative structures, often carrying historical, cultural, or social significance.

**I. Participating bureau** means a City bureau or commission that funds an improvement project within the meaning of this Chapter.

**J. Selection panel** means a group responsible for reviewing proposed public art. The selection panel will make a recommendation on the selection of public art to the Office of Arts & Culture. Selection panels must include a representative of the participating bureau, the improvement project architect or engineer, one or more artist(s), and one or more Portland resident.

#### **5.40.030 Dedication.**

Any City official or employee acting on behalf of a participating bureau who authorizes or appropriates expenditures for an improvement project will include in the capital improvement program of the City's capital budget, and except as provided in this Chapter for funds used to generate creative space, disburse to the Office of Arts & Culture, a monetary contribution for public art equal to two percent of the total eligible costs or two percent of the total eligible funds of the improvement project, whichever is less.

**A.** The participating bureau representative will authorize using the contribution of eligible costs or eligible funds for:

1. Public art sited in, on or about the subject improvement project; or
2. Public art on another property owned, leased, rented by, donated to or otherwise made available to the City; or
3. Artists-in-residence; or
4. Creative space; or
5. Any combination of Subsections 1. through 4.

**B.** The City Administrator may adopt administrative rules and procedures to implement this Section that, to the greatest extent practicable, will set forth the same procedures to be followed by all participating bureaus.

**C.** The Office of Arts & Culture or designee will develop project plans for eligible costs or eligible funds that take into account the views of the participating bureau, with final approval of the project plans from the City Administrator.

#### **5.40.040 Public Art Trust Fund.**

The Office of Arts & Culture will maintain a special fund called the Public Art Trust Fund into which funds dedicated to public art, excluding creative space, pursuant to Section 5.40.030 will be deposited.

**A.** The funds will be deposited into the Public Art Trust Fund, and allocated as follows:

**1.** For all public art that is not creative space, as follows:

- a.** 63 percent will be used for costs associated with acquisition and production of public art including, but not limited to the procurement, creation, fabrication, and installation of public art.
- b.** 27 percent will be used for costs of administration and management associated with public art, including, but not limited to costs of selection, project management, community education and registration of public art.
- c.** 10 percent will be used for the maintenance, conservation and deaccessioning of public art.

**B.** The funds will be deposited in separate accounts within the Public Art Trust Fund if separate accounting is required by law.

**C.** Disbursements from the Public Art Trust Fund will be made by the Office of Arts & Culture.

**1.** Disbursements will be made according to the terms of this Chapter and any guidelines adopted it.

**2.** If an improvement project is funded by revenue sources whose expenditure is restricted by the City Charter or other law, the Office of Arts & Culture or its designee, prior to making a disbursement for public art from that restricted account in the Public Art Trust Fund, will adopt written findings demonstrating that the proposed disbursement complies with all applicable restrictions.

#### **5.40.045 Funds for Creative Space.**

Participating bureaus wishing to dedicate eligible costs or eligible funds towards the creation or improvement of creative space must obtain written approval from the City Administrator. Requests must be submitted to the Office of Arts & Culture. Funds may not be used for programming or staffing.

Bureaus are responsible for operations and maintenance of creative space generated through this program and must submit an operations plan, five-year programming plan, estimated annual budget and equity statement for the creative space.

If any part of an improvement project is a creative space, the participating bureau may,



after obtaining written approval from the City Administrator, opt to dedicate its eligible costs or eligible funds for future maintenance of the creative space.

The City Administrator may adopt administrative rules and procedures to implement this Section that, to the greatest extent practicable, will set forth the same procedures to be followed by all participating bureaus.

#### **5.40.050 Siting.**

Public art selected pursuant to this Chapter may be sited in, on or about any improvement project or other property owned, leased, or rented by, donated to, or otherwise made available to the City in accordance with any restrictions placed on siting by the participating bureau.

#### **5.40.060 Reserved.**

#### **5.40.070 Ownership.**

All public art acquired pursuant to this Chapter will be acquired in the name of the City, and title will vest in the City.

#### **5.40.080 Decisions.**

Except as limited by other Sections of this Chapter, the Office of Arts & Culture will make decisions as to the management and registration of public art, and disbursement of the Public Art Trust Fund.

#### **5.40.085 Public Monuments Review Criteria.**

**A.** A public monument may be considered for review based on one or more of the following reasons:

- 1.** There is sustained and significant adverse public reaction or reasonable large-scale community opposition to the public monument.
- 2.** The artist, donor, or subject of the public monument, or their descendants, provides a written request to the City seeking removal of the monument from public display.
- 3.** Community members most affected by the monument's historical and cultural context have expressed a negative impact on community wellbeing.
- 4.** The subject or impact of a public monument is significantly at odds with the City's values of anti-racism, equity, transparency, communication, collaboration, and fiscal responsibility.
- 5.** The public monument is damaged or requires restoration in gross excess of its value or is in a deteriorated state that restoration is either not feasible or

impractical.

**6.** The public monument interferes with the practical use of the site or significant changes in the use or character of design of the site affect the integrity of the monument.

**7.** The location of a site-specific public monument provides an environmental risk or is so severely altered that the work's installation is no longer physically possible or conceptually relevant, or no suitable site for the monument is available.

**8.** The monument requires excessive repair or unreasonable maintenance or has physical faults in design or workmanship.

**9.** The work does not fit within the mission, goals, and objectives for the City's public art program.

**B.** If a public monument meets one or more of the criteria outlined in Subsection A., and is subsequently identified by the Office of Arts & Culture or its designee as requiring further review, the Office of Arts & Culture or its designee may provide a report to City Council and Historic Landmarks Commission detailing the nature of the issues raised. The report may include the following recommendations:

**1.** A recommendation for the Office of Arts & Culture, or its designee, to review the public monument in question and provide a report and recommendations to the City Council. If review is initiated by the public, the recommendation must include the following elements:

**a.** Addition of historical context or information related to the public monument designed to enhance public understanding and awareness;

**b.** Community engagement meetings such as town halls, public forums, and conversations;

**c.** Evaluation of both historical and current community feedback, utilizing quantitative and qualitative measures as feasible;

**d.** An analysis of the subject of the public monument in relation to the City's core values;

**e.** Review of the public monument subject, the donor of the piece, the artist, and historical acquisition of the monument;

**f.** Assessment of the public monument as an ongoing rally point for gatherings centered on racist or bigoted ideology; and

**g.** Examination of any legal considerations related to the disposition of the public monument.

2. A recommendation to appoint a Monuments Advisory Commission, with a primary purpose of evaluating the public monument(s) in question and providing recommendations to the Mayor and City Council. The commission will, to the extent possible:

a. Represent a diverse body of at least six public members, including a minimum of two artists, one historian, one subject matter expert, and two community members most affected by the artwork's historical and cultural context.

b. Produce a report to the City Council, or designee, and include the following engagement activities:

(1) A series of virtual and/or in-person community forums, listening sessions and town halls.

(2) A minimum six-month public engagement process with artists and community members most affected by the public monument and develop creative responses or engagement activities in response to the public monument in question.

C. If the public monument does meet criteria outlined in Subsection A., but is not considered for further review, the Office of Arts & Culture or designee will issue a response to the complainant within 90 days.

#### **5.40.090 Implementation.**

The Office of Arts & Culture, or its designee, will implement the provisions of this Chapter, in cooperation with all participating bureaus.

## **Chapter 5.50 - Claims Under ORS Chapters 195 and 197**

### **Sections:**

- 5.50.010 Purpose.
- 5.50.020 Definitions.
- 5.50.030 Filing a New Claim.
- 5.50.040 Review of New Claim by Program Manager.
- 5.50.050 Hearing on New Claim by Council.
- 5.50.060 Claim Processing Fee.

### **5.50.010 Purpose.**

The purpose of this Chapter is to establish a procedure by which owners of private real property located within Portland may file claims pursuant to Chapters 195 and 197 of the Oregon Revised Statutes as amended by Ballot Measure 49 (November 6, 2007)

(referred to in this chapter as "Measure 49") and to provide for consideration of claims by the Council.

### **5.50.020 Definitions.**

**A. Appraisal.** A written statement prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989.

**B. Approved Measure 37 Claim.** A claim filed under ORS 195.305 and approved by the Council before December 6, 2007.

**C. Department.** The Oregon Department of Land Conservation and Development.

**D. Land use regulation.** A provision of the City comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use.

**E. Measure 37.** A ballot measure adopted by the voters of the State of Oregon and effective on November 6, 2004 that was codified as Oregon Revised Statutes (ORS) 195.305 and that required, under certain circumstances, the payment of just compensation to landowners if a government land use regulation restricted the use or property and reduced its value, or, in the alternative, authorized the government to remove, modify, or not apply one or more challenged regulations.

**F. Owner.** A person who is:

1. The owner of fee title to the property as shown in the deed records of the county where the property is located;
2. The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
3. If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

**G. Program Manager.** The person authorized by the City Administrator to administer and oversee the processing of claims under this Chapter.

**H. Protection of public health and safety.** A law, rule, ordinance, order, policy or permit or other governmental authorization that restricts a use of property in order to reduce the risk or consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural or human disaster or threat to persons or property including, but not limited to, building and fire codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control regulations.

**I. Reduction in value.** A decrease in fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after enactment, plus interest, adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703.

**J. Waiver.** Action by the Council to modify, remove or not apply one or more land use regulations found to have caused a reduction in value.

### **5.50.030 Filing a New Claim.**

**A.** A person may file a claim and will qualify for compensation or waiver, if:

1. The claimant is an owner of the property and all owners of the property have consented in writing to filing of the claim;
2. The claimant's desired use of the property is a residential use;
3. The claimant's desired use of the property is restricted by a land use regulation enacted after January 1, 2007;
4. The enactment of the land use regulation has reduced the fair market value of the property; and
5. The highest and best use of the property was residential use at the time the land use regulation was enacted.

**B.** A person filing a claim under this Section must submit the fee for processing the claim prescribed in Section 5.50.060 and the following information:

1. The name, street address and telephone number of the claimant and all other owners of the property;
2. A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property; the deed registry of the instrument by which the claimant acquired the property; the location and street address and township, range, section and tax lot number(s) of the property; the date on which the owner acquired the property interest; and any exceptions and encumbrances to title;
3. A written statement signed by all owners of the property consenting to the filing of the claim;
4. A citation to the land use regulation the claimant believes is restricting the claimant's desired use of the property;

5. A description of the specific single-family residential use of the property that the claimant desires to carry out, but cannot because of the land use regulations;
6. An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;
7. If the property is or has been enrolled in one or more of the special assessment programs listed in Measure 49, Section 9(6), information regarding taxes not paid as a result of the program or programs; and
8. A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.

**C.** A person filing a claim under this Section must file the claim within five years after the challenged land use regulation was enacted.

#### **5.50.040 Review of New Claim by Program Manager.**

**A.** The Program Manager will review the claim to ensure that it provides the information required by Section 5.50.030. If the Program Manager determines that the claim is incomplete, the Program Manager will, within 60 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the Program Manager does not notify the owner that the claim is incomplete within the prescribed 60 days, the claim will be considered complete on the date it was filed with the Program Manager.

**B.** A claim filed under this Section will not be considered complete until the claimant has submitted the information required by this Section. If the claimant fails to submit a complete claim within 60 days after the notice prescribed in Subsection A., the claim will be deemed withdrawn.

**C.** The Program Manager will conduct a preliminary review of a claim to determine whether it satisfies all of the following prerequisites for full evaluation of the claim:

1. The property lies within the City's jurisdictional boundary;
2. The land use regulation that is the basis for the claim is a provision of a city land use regulation; and
3. The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.

**D.** If the claim fails to satisfy one or more of the prerequisites in Subsection C. of this section, the Program Manager will prepare a report to that effect and recommend to the Council that it dismiss the claim following a public hearing under Section 5.50.050.

**E.** If the claim satisfies each of the prerequisites in Subsection C. of this section, the Program Manager will complete the review of the claim to determine whether it satisfies the criteria in Section 5.50.030.

**F.** The Program Manager may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ORS 197.305 and to assist in the development of a recommendation regarding appropriate relief for a valid claim.

**G.** The Program Manager will prepare a written report with the determinations required by Subsection E. of this Section and the reasoning to support the determination. The report will include a recommendation to the Council on the validity of the claim and, if valid, whether the City should compensate the claimant for the reduction of value or waive the regulation. If the Program Manager recommends compensation or waiver, the report will recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the City's comprehensive plan. If the Program Manager recommends waiver, the report will recommend the specific number of single-family dwellings the City should authorize commensurate to the reduction in fair market value of the property.

**H.** The Program Manager will provide the report to the Council, the claimant, Metro, and other persons who request a copy.

### **5.50.050 Hearing on New Claim by Council.**

**A.** The Council will hold a public hearing on a claim prior to its final determination. The Program Manager will schedule the hearing for a date within 180 days after the filing of a completed claim.

**B.** The Program Manager will provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, the Department, Metro, and Multnomah County. The notice will indicate that:

- 1.** A copy of the Program Manager's recommendation is available upon request;
- 2.** Judicial review of the City's final determination is limited to the written evidence and arguments submitted to the City prior to or at the public hearing; and
- 3.** Judicial review is available only for issues that are raised with sufficient specificity to afford the City an opportunity to respond in its final determination.

**D.** After the close of the public hearing the Council will make its final determination on the claim and enter an order with findings of fact and conclusions of law, based upon the record made before the City, that explain the determination. The Program Manager will mail a copy of the final determination to the claimant, Multnomah County, and any person who submitted written or oral testimony prior to the close of the public hearing.

E. The Council will make its final determination within 180 days of the date the claim is complete.

### **5.50.060 Claim Processing Fee.**

A claimant must pay a fee to file a claim under Section 5.50.030 of this Chapter. The fee will be determined by the City Administrator in an amount not to exceed the actual and reasonable cost for review. A claim will not be considered complete until the fee is paid. For any claims submitted on or after December 2, 2004, for which a fee was not paid at the time of claim submittal, the Program Manager may bill the owner for the fee at any time during the claim review process and prior to a final decision on the claim.

## **Chapter 5.60 - Miscellaneous Charges**

### **Sections:**

- 5.60.010 Driving City Cars to and from Work.
- 5.60.020 Lien Accounting System Access.

### **5.60.010 Driving City Cars to and from Work.**

A. Employees authorized to drive City vehicles to and from their places of residence will pay to the City a rental charge for each accounting period of use.

1. If there is more than one employee commuting in the same vehicle, the charge to the passenger will be equal to that of the driver. It will be the responsibility of the supervising bureaus or offices to report to the City Administrator's Revenue and Financial Services division the vehicles used as commuting vehicles.

2. Payroll deductions for rental charges will be made from the employee's second payroll check of the month, unless the City Administrator establishes otherwise. Submission of a "Personal Use of City Vehicle" or similar form is required upon vehicle assignment, cancellation, or when reduction is requested by Friday of the payroll submission week, unless the City Administrator determines otherwise.

B. Credit will be given when total consecutive working days of nonuse exceed working days.

C. Requests for authorization to drive City vehicles to and from work must be approved by the employee's manager and the City Administrator.

D. The City Administrator may adopt administrative rules for implementing this Section, as authorized by the Charter.



**5.60.020 Lien Accounting System Access.**

Access to the City's automated Lien Accounting System will be provided by internet access. Fees for use of the system by internet will be assessed on a per-search basis or as the City Administrator establishes. Agencies and individuals not affiliated with the City will be billed for searches on the system. The City Administrator may adopt administrative rules for implementing this Section as authorized by the Charter.