

## Exhibit A

### Changes to Chapter 5.33 Goods and Services

1. Amend Subsection 5.33.020 E. as follows:
  - E. The City Council shall authorize all intergovernmental agreements by ordinance pursuant to ORS Chapter 190, except those to whom authority has been delegated pursuant to PCC Subsection 5.33.040 C.
  
2. Amend Section 5.33.040 Authority of Chief Procurement Officer as follows:
  - A. For Contracts covered by PCC Chapters 5.33 and 5.34, ~~and for revenue producing Contracts,~~ the Chief Procurement Officer is authorized to:
    1. **no change**
    2. Award and execute Contracts for the purchase or lease of Goods and Services, ~~and revenue producing services,~~ without specific authorization by ordinance of City Council whenever the Contract Amount is \$500,000 or less.
    - 3 – 4. **no changes**
    5. Advertise for Bids or Proposals for Goods and Services when the proposed purchase is not included within the current fiscal year budget when City Council approves of the purchase by Ordinance. Thereafter, the Chief Procurement Officer may award and execute a Contract if the Contract Amount is \$500,000 or less. If the Contract Amount exceeds \$500,000 the Chief Procurement Officer shall recommend the Award of a Contract by report to City Council. ~~who shall approve the Award by Ordinance.~~
    6. – 13. **no changes**
    14. ~~Award and execute Intergovernmental Agreements (IGAs) without specific authorization by ordinance of City Council provided the cost to the City does not exceed \$5,000.~~
  - B. **no change.**
  - C. In addition to the delegation of authority provided in Paragraph A above, the Chief Procurement Officer is authorized to:
    1. Award and ~~may~~ execute Intergovernmental Agreements as (IGAs) described above, without specific authorization by ~~a separate~~ ordinance of City Council provided the cost to the City does not exceed \$5,000 or as

*amended  
2-2-11*

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otherwise or only with specific authorization authorized by City Council;  
and

## 2. Award and execute Revenue Generating Contracts.

- D. Notwithstanding the grant of authority above, ~~if the Chief Procurement Officer believes that a procurement should be considered by the City Council, the Chief Procurement Officer may forward any contract or agreement~~ the proposed procurement to the City Council for approval.

## 3. Amend Subsection 5.33.050 A. as follows:

- A. The Director of Portland Parks and Recreation is authorized to execute a Contract for concessions in the parks of the City for the sale of refreshments and notions and for the performance of public service, upon such terms and conditions, and using evaluation criteria as the Director of Portland Parks and Recreation may deem to be in the public interest. Such contracts are not subject to the procurement methods otherwise provided in PCC Chapter 5.33.

## 4. Add Section 5.33.065 Authority for Stormwater Improvements.

### **5.33.065 Authority for Stormwater Improvements.**

The Director of the Bureau of Environmental services is authorized to execute contracts for stormwater improvements not to exceed \$200,000 for stormwater management improvement projects on private property when such projects are authorized as a Special Procurement. The Director of the Bureau of Environmental services is also authorized to execute amendments to these agreements, provided the amendments do not cause the contract amount to exceed \$200,000.

## 5. Amend Subsection 5.33.075 B.2. as follows

2. A business enterprise that is:
- a. Certified under ORS 200.055 as an emerging small business; and
  - b. Is located in or draws its workforce from economically distressed areas, as designated by the Oregon Economic and Community Development Department (OECD); or
  - c. Owned or controlled by a disabled veteran, as defined in ORS 408.225

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6. Amend Subsections 5.33.220 D.1. – 4. as follows:

1. **Manufacturer Direct Supplies:** The City may purchase goods directly from a manufacturer if ~~a large volume purchase is required~~ and the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s). ~~Procurements of this type are made on a Contract by Contract basis and are not Price Agreements~~
2. **Advertisements:** Except as provided by City Charter Section 8-101, the City may purchase advertising in newspapers and written publications, web-based Internet sites and other electronic formats.
3. **Copyrighted Materials:** The City may purchase copyrighted materials where there is only one known supplier available for such goods. This includes, but is not limited to, new books, workbooks, periodicals, subscriptions, curriculum materials, reference materials, audio and visual media, and non-mass marketed software from a particular publisher or its designated distributor.
4. **Financial Products:** The City may directly purchase financial products such as bond insurance, surety bonds for City bond reserves and liquidity facilities such as letters of lines of credit. The City may pay fees associated with such transactions, including, but not limited to, registrar, paying agent, and escrow agent fees and fees associated with outstanding debt issues.

8. Amend Subsection 5.33.670 B. as follows:

- B.** After Offer Opening. If the City rejects all Offers, the City will retain all such Offers as part of the City's Solicitation file. If a Request for Proposals is cancelled after Proposals are received, the City may return a Proposal to the Proposer that made ~~the Proposal provided the protest period for challenging the cancellation of the Solicitation has expired~~ submitted it. The City shall keep a list of returned Proposals in the Solicitation file.

9. Amend Subsection 5.33.700 C.3. as follows:

3. If the protest was timely filed and provides the information required by PCC Section 5.33.700 B.2., the City shall issue a decision in Writing and provide that decision to the Affected Person within ~~seven (7) business days~~ a reasonable period of time

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unless a Written determination is made by the City that circumstances exist that require a shorter time limit.

10. Amend Subsection 5.33.730 A. as follows:

- A. An Affected Person may protest the Procurement process or the Solicitation Document for Offers solicited pursuant to eCompetitive sSealed Bidding pursuant to PCC Section 5.33.200, Competitive sSealed Proposals pursuant to PCC Section 5.33.210, a sSpecial Procurement, or a eClass sSpecial Procurement pursuant to PCC Section 5.33.220. Prior to submitting a protest, an Affected Person may seek clarification of any provision of the Solicitation Document. Any clarification by the City is binding only if the City amends the Solicitation Document by Addendum.

11. Amend Subsection 5.33.740 A. as follows:

- A. An Affected Person may protest the Award of a Contract, or the intent to Award a Contract resulting from a Competitive Sealed Bid or Competitive Sealed Proposal, whichever occurs first, if:

No changes remainder of subsection A.

12. Amend Subsection 5.33.740 C.3. as follows:

- 3. If the protest was timely filed and provides the information required by PCC Section 5.33.740 B.2. above, the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time ~~within seven (7) business days~~ of the receipt of the protest ~~unless a Written determination is made by the City that circumstances exist that require a longer time limit.~~

## Exhibit B

### Changes to Chapter 5.34 Public Improvements and Construction Services

1. Amend Subsection 5.34.040 B.2.
  2. A business enterprise that is:
    - a. Certified under ORS 200.055 as an emerging small business; and
    - b. Is located in or draws its workforce from economically distressed areas, as designated by the Oregon Economic and Community Development Department (OECD); or
    - c. Owned or controlled by a disabled veteran, as defined in ORS 408.225.
2. Amend Subsection 5.34.110 B.
  - 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 Emergency declaration may exempt the Public Contract from the competitive bidding requirements of ORS 279C.335(1) and shall thereafter be kept on file as a public record.
3. Add Subsection 5.34.110 D.4.a. – b.
  - a. Following the declaration of an Emergency the Commissioner shall immediately prepare an ordinance for approval of the Emergency Contract by the City Council at its next regularly scheduled session or as soon as possible thereafter. That Contract shall be added to the regular agenda of the Commissioner without the need for approval for inclusion on the agenda by other Commissioners.
  - b. If the Council adopts the ordinance, the City will pay for the Work required by the Contract. If Council disapproves the ordinance, the City only will pay for Work performed prior to the date that the Council considered the ordinance for approval. If for any reason presentation of the ordinance to the Council is delayed, the City still will only be liable for Work performed prior to the time when the ordinance first was presented to the Council.

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4. Delete Subsection 5.34.110 E. and F. and renumber G. – M. to E. – K.:

- ~~E. Following the declaration of an Emergency the Commissioner shall immediately prepare an ordinance for approval of the emergency Contract by the City Council at its next regularly scheduled session or as soon as possible thereafter. That Contract shall be added to the regular agenda of the Commissioner without the need for approval for inclusion on the agenda by other commissioners. Any Contract Awarded under this section shall be Awarded within 60 Days, unless the City Council authorizes a longer period of time.~~
- ~~F. If the council adopts the ordinance, the City will pay for the Work required by the Contract. If Council disapproves the ordinance, the City only will pay for Work performed prior to the date that the Council considered the ordinance for approval. If for any reason presentation of the ordinance to the Council is delayed, the city still will only be liable for Work performed prior to the time when the ordinance first was presented to the Council. All documentation of Emergency Contracts shall be sent to the Chief Procurement Officer for record keeping purposes.~~

5. Amend Subsection 5.34.320 C. as follows:

- C. A “brand name or equal” Specification may be used when it is Advantageous to the City, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City’s determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, ~~t~~The use of a brand name shall mean “brand name or equal”.

6. Add Subsection 5.34.320 E. as follows:

- E. The City's use of a brand name specification is subject to protest and review only as provided in PCC Section 5.34.720.

7. Amend Subsection 5.34.510 J. as follows:

- J. Appeal. The Chief Procurement Officer may adopt rules of procedure for the hearing, shall conduct the hearing and has the authority of the City Council as provided in ORS 279C.450. The appeal shall be conducted within 30 Days or a date mutually agreed upon by both parties.

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8. Amend Subsection 5.34.730 A. as follows:

- A. An Affected Person may protest the Award ~~of a Contract~~, or the intent to Award a Contract resulting from a Competitive Sealed Bid or Competitive Sealed Proposal, whichever occurs first, if:

Remainder of Subsection is not changed.

9. Amend Subsection 5.34.730 C.3. as follows:

3. If the protest was timely filed and provides the information required by PCC Section 5.34.730 B.2., the Chief Procurement Officer shall issue a decision in Writing and provide that decision to the Affected Person within ~~seven (7) business Days unless a Written determination is made by the City that circumstances exist that require a shorter time limit~~ a reasonable time of the receipt of the protest.

10. Amend Subsection 5.34.740 C.3. as follows:

3. If the protest was timely filed and provides the information required by PCC Section 5.34.740 B.2., the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest. ~~seven (7) business Days unless a Written determination is made by the City that circumstances exist that require a longer time limit.~~

11. Amend Subsection 5.34.850 A. as follows:

- A. Generally. The use of competitive Proposals must be specifically authorized for a Public Improvement Contract under the Competitive Bidding requirement of ORS 279C.335 (1), PCC Section 5.34.~~150170~~ and PCC Sections 5.34.800 to 5.34.890. Also see ORS 279C.400 to 279C.410 for statutory requirements regarding competitive Proposals, and PCC Section 5.34.840 regarding competitive Proposal procedures.

12. Amend Subsection 5.34.860 C.2. as follows:

2. If this collaborative process is not successful, and no mutually agreeable resolution on GMP can be achieved with the Contractor, then the City shall terminate the Contract. The ~~public~~ City may then proceed to negotiate a new Contract (and GMP) with the firm that was next ranked in the original selection process, or employ other means for continuing the project under ORS Chapter 279C.

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13. Amend Section 5.34.915, as follows:

Pursuant to ORS 279C.830(32), the specifications for every Public Works Contract shall contain a provision stating that the Contractor and every subcontractor must have a Public Works bond filed with the Construction Contractors Board before starting Work on the project, unless otherwise exempt. This bond is in addition to performance bond and payment bonds requirements.

# EXHIBIT C

## PORTLAND CITY CODE CONTRACT RULES Substantive Rule Changes Proposed for PCC 5.33 (2011)

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### Changes applicable to entire division

- Corrects typographical errors where required

### PCC 5.33.020 City Council as Local Contract Review Board.

- Further clarifies the authority for which exceptions have already been provided.

### PCC 5.33.040 Authority of Chief Procurement Officer.

- Deletes redundant reference to the Chief Procurement Officer's authority regarding IGA's.
- Clarifies the authority of the Chief Procurement Officer to include IGA's up to \$5,000 and revenue producing contracts.
- Clarifies that the Chief Procurement Officer (CPO) may forward contracts and agreements to City Council even if CPO has authority to approve.

### PCC 5.33.050 Authority for Golf Concession Contracts.

- Adds provision that concession contracts are not subject to the procurement methods otherwise provided in PCC Chapter 5.33.

### PCC 5.33.065 Authority for Stormwater Improvements.

- Adds the provision that the Director of the Bureau of Environmental Services is authorized to execute contracts not to exceed \$200,000 for stormwater management improvement projects on private property consistent when procured as a Special Procurement. The Director of the Bureau of Environmental Services is authorized to execute amendments to these agreements that do not amend the agreement amount to exceed \$200,000,

### PCC 5.33.075 Affirmative Action.

- Adds new language identifying a business enterprise that is owned or controlled by a disabled veteran as defined in ORS 408.225.

### PCC 5.33.220 Special Procurements.

#### 5.33.220.D.1 Manufacturer Direct Supplies.

- Clarifies Manufacturer Direct Supplies.

#### 5.33.220.D.2 Advertisements.

- Further clarifies advertisements to include written publications.

#### 5.33.220.D.3 Copyrighted Materials.

- Includes workbooks and subscriptions as part of copyright materials.

**5.33.220.D.4 Financial Products.**

- Adds the payment of fees associated with financial products which may include, but not limited to, registrar, paying agent, and escrow agent fees and fees associated with outstanding debt issues as a Class Special Procurement. With these fees as an integral part of the already established financial products, they cannot practicably be realized by using other purchasing methods.

**PCC 5.33.670 Disposition of Offers if Solicitation Canceled.**

- Changed to eliminate the protest process for cancellation of a solicitation and to mirror the process under 5.34.

**PCC 5.33.700 Protests and Judicial Review of Special Procurements.**

- Revises the time period for the City to respond to a protest to a reasonable period of time.

**PCC.5.33.720 Protest and Judicial Review of Multi-Tiered Solicitations.**

- Revises the time period for the City to respond to a protest to a reasonable period of time.

**PCC 5.33.730 Protests and Judicial Review of Solicitation Documents and the Procurement Process.**

- Clarifies the protest process and provides code references for competitive sealed bids, competitive sealed proposals, special procurements or class special procurements.

**PCC 5.33.740 Protests and Judicial Review of contract Award.**

- Clarifies the protest process for a contract award or intent to award resulting from a competitive sealed bid or competitive sealed proposal.
- Revises the time period for the City to respond to a protest to a reasonable period of time.

**PCC.33.750 Protests of Other Violations**

- Revises the time period for the City to respond to a protest to a reasonable period of time.

**EXHIBIT D****PORTLAND CITY CODE CONTRACT RULES  
Substantive Rule Changes  
Proposed for PCC 5.34 (2011)****Changes applicable to entire division**

- Provides for “housekeeping” changes.
- Correction to Code references

**5.34.040 Affirmative Action.**

- Includes a provision for identifying a business enterprise that is owned or controlled by a disabled veteran as defined in ORS 408.225.

**PCC 5.34.110 Emergency Contracts; Bidding and bonding Exemptions.**

- Reorganized to further clarify the emergency procurement source selection method and to mirror the process under 5.33.

**PCC 5.34.320 Specifications and Brand Names.**

- Clarifies how protests and reviews will be handled for brand name specifications.

**PCC 5.34.510 Prequalification of Offerors.**

- Further defines the appeal timeline and includes the provision to have the appeal date be one of mutual agreement.

**PCC.5.34.700 Protests and Judicial Review of Individual and Class Exemptions.**

- Extends the time period for the City to respond to a protest beyond 7 days.

**PCC.5.34.710 Protests and Judicial review of Multi-Tiered Solicitations.**

- Extends the time period for the City to respond to a protest beyond 7 days.

**PCC 5.34.730 Prequalification of Offerors.**

- Clarifies the protest for award and intent to award a contract for competitive sealed bids and competitive sealed proposals.
- Extends the time period for the City to respond to a protest beyond 7 days.

**PCC 5.34.740 Protest of Other Violations.**

- Extends the time period for the City to respond to a protest beyond 7 days.

**PCC 5.34.915 RFP Pricing Mechanisms.**

- Correct reference and spelling.