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ARTICLE XI Public Contracting and Purchasing

SECTION 1. All lease-purchase programs, all district loan requests, all expenditures **exceeding five thousand dollars (\$5000.00)**, and all sales of district equipment shall require prior board approval.

SECTION 2. All normally non-expendable items such as trucks, tools, certain clothing items, computers, copy machines and other emergency operating or departmental equipment, land, building, etc., that exceeds **five thousand dollars (\$5,000.00)** in true cash value, shall be deemed "capital expenditures."

SECTION 3. Public Contracts

A. **Short Title.** The provisions of this section and all rules adopted under this section may be cited as the Charleston Rural Fire Protection District's Public Contracting Regulations.

B. **Purpose of Public Contracting Regulations.** It is the policy of the Charleston Rural Fire Protection District in adopting the Public Contracting Regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

- (1) Promoting impartial and open competition;
- (2) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
- (3) Taking full advantage of evolving procurement methods that suit the contracting needs of the Charleston Rural Fire Protection District as they emerge within various industries.

C. **Interpretation of Public Contracting Rules.** In furtherance of the purpose of the objectives set forth in subsection B, it is the Charleston Rural Fire Protection District's intent that the Charleston Rural Fire Protection District Public Contracting Regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.

SECTION 4. Application of Public Contracting Regulations

In accordance with ORS 279A.025, the Charleston Rural Fire Protection District's public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts.

A. **Between Governments.** Contracts between the Charleston Rural Fire Protection District and a public body or agency of the State of Oregon or its political subdivisions, or between the Charleston Rural Fire Protection District and an agency of the federal government.

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- B. **Grants.** A grant contract is an agreement under which the Charleston Rural Fire Protection District is either a grantee or a grantor of moneys, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions.

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The making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code; however, any grant made by Charleston Rural Fire Protection District for the purpose of constructing a public improvement or public works project shall impose conditions on the grantee that ensure that expenditures of the grant to design or construct the public improvement or public works project are made in accordance with the Oregon Public Contracting Code and these regulations.

- C. **Legal Witnesses and Consultants.** Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the Charleston Rural Fire Protection District is or may become interested.
- D. **Real Property.** Acquisitions or disposals of real property or interests in real property.
- A. **Oregon Corrections Enterprises.** Procurements from an Oregon corrections enterprises program.
- F. **Finance.** Contracts, agreements or other documents entered into, issued or established in connection with:
 - (1) The incurring of debt by the Charleston Rural Fire Protection District, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;
 - (2) The making of program loans and similar extensions or advances of funds, aid or assistance by the Charleston Rural Fire Protection District to a public or private Person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
 - (3) The investment of funds by the Charleston Rural Fire Protection District as authorized by law, or
 - (4) Banking, money management or other predominantly financial transactions of the Charleston Rural Fire Protection District that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon findings.
- G. **Exempt Under State Laws.** Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law.
- H. **Federal Law.** Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any

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provision of the Oregon Public Contracting Code or these regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.

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SECTION 5. Competitive Bids; Exemptions

- A. No bids, either formal or informal, are required for District purchases less **than \$25,000.00.**
- B. For District purchases between \$_____ approval to make the purchase shall be required from the Board prior to the purchase with competitive quotes.
- C. For District purchases between **\$25,000.00 and \$250,000.00** and with prior board approval the Fire Chief shall obtain no less than three (3) informal bids. An informal bid is defined as ascertaining by correspondence, telephone calls or direct contact, a reliable vendor's quote for the service or item involved. The Fire Chief shall tabulate the informal bids and submit them to the Board for action. The Fire Chief as required by Oregon Law shall maintain all records of informal bids. Annual adoption of the budget indicates approval to seek bids for items budgeted.
- D. **Mandatory Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify its Model Rules, the District shall review the Public Contracting Regulations, other than the Model Rules, and recommend any modifications.

SECTION 6. **Public Contracts – Definitions.** The following terms used in these regulations shall have the meanings set forth below.

Award means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the Charleston Rural Fire Protection District until the contract is executed and delivered by the Charleston Rural Fire Protection District.

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

Contract Price means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

Contract Review Board or Local Contract Review Board means the Charleston Rural Fire Protection District.

Cooperative Procurement means a procurement conducted by or on behalf of one or more contracting agencies.

Disposal means any arrangement for the transfer of property by the Charleston Rural Fire Protection District under which the Charleston Rural Fire Protection District relinquishes ownership.

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Emergency means circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

Energy Savings Performance Contract means a contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.

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

Goods means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

Informal Solicitation means a solicitation made in accordance with the Charleston Rural Fire Protection District's Public Contracting Regulations to a limited number of potential contractors in which the District attempts to obtain at least three written quotes or proposals.

Invitation to Bid means a publicly advertised request for competitive sealed bids.

Model Rules means the public contracting rules adopted by the Attorney General under ORS 279A.065.

Offeror means a person who submits a bid, quote or proposal to enter into a public contract with the Charleston Rural Fire Protection District.

Oregon Public Contracting Code means ORS chapters 279A, 279B and 279C.

Person means a natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

Proposal means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A Proposal may be made in response to a request for proposals or under an informal solicitation.

Personal Services Contract means a contract with an independent contractor predominantly for services that require special training or certification, skill,

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technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The District shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

Public Improvement means a project for construction, reconstruction or major renovation on real property by or for the Charleston Rural Fire Protection District. "Public improvement" does not include:

- (1) Projects for which no funds of the Charleston Rural Fire Protection District are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
- (2) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

Qualified Pool means a pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

Quote means a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

Request for Proposals means a publicly advertised request for sealed competitive proposals.

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

Surplus Property means personal property owned by the Charleston Rural Fire Protection District which is no longer needed for use by the department to which such property has been assigned.

SECTION 7. Public Contracts - Classes of Contracts.

A. Personal Services Contracts.

- (1) **Any Personal Services Contract.** Personal services **contracts in any amount** may be awarded under a publicly advertised request for competitive sealed proposals.

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- (2) **Personal Service Contracts Not Exceeding \$25,000.** Contracts for personal services for which the estimated contract price does not exceed \$25,000 may be awarded using an informal solicitation for proposals.

B. Contracts Subject to Award at District's Discretion. The following classes of contracts may be awarded in any manner which the District deems appropriate to the Charleston Rural Fire Protection District's needs, including by direct appointment or purchase. Except where otherwise provided the District shall make a record of the method of award.

- (1) **Advertising.** Contracts for the placing of notice or advertisements in any medium.
- (2) **Amendments.** Contract amendments shall not be considered to be separate contracts if made in accordance with the Public Contracting Regulations.
- (3) **Contracts Up to \$5,000.** Contracts of any type for which the contract price does not exceed \$5,000.
- (4) **Equipment Repair.** Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.
- (5) **Government Regulated Items.** Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
- (6) **Insurance.** Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.
- (7) **Non-Owned Property.** Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the Charleston Rural Fire Protection District.
- (8) **Sole Source Contracts.** Contracts for goods or services which are available from a single source may be awarded without competition.
- (9) **Sponsor Agreements.** Sponsorship agreements, under which the Charleston Rural Fire Protection District receives a gift or donation in exchange for recognition of the donor.
- (10) **Structures.** Contracts for the disposal of structures located on Charleston Rural Fire Protection District-owned property.

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- (11)**Renewals.** Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.
- (12)**Temporary Extensions or Renewals.** Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
- (13)**Utilities.** Contracts for the purchase of **steam**, power, heat, water, telecommunications services, and other utilities.

C. **Contracts Required by Emergency Circumstances.**

- (1) **In General.** When the Charleston Rural Fire Protection District determines that immediate execution of a contract within the Charleston Rural Fire Protection District's authority is necessary to prevent substantial damage or injury to persons or property, the District may execute the contract without competitive selection and award or District approval, but, where time permits, the District shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.
- (2) **Reporting.** The Charleston Rural Fire Protection District shall, as soon as possible, in light of the emergency circumstances, (1) document the nature of the emergency; the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the Charleston Rural Fire Protection District and the public.
- (3) **Emergency Public Improvement Contracts.** A public improvement contract may only be awarded under emergency circumstances if the Charleston Rural Fire Protection District has made a written declaration of emergency. Any Public Improvement Contract award under emergency conditions must be awarded within 60 Days following the declaration of an emergency unless the Charleston Rural Fire Protection District grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the Charleston Rural Fire Protection District may waive the requirement for all or a portion of required performance and payment bonds.

D. **Cooperative Procurement Contracts.** Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.

E. **Surplus Property.**

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- (1) **General Methods.** Surplus property may be disposed of by any of the following methods upon a determination by the District that the method of disposal is in the best interest of the Charleston Rural Fire Protection District. Factors that may be considered by the District include costs of sale, administrative costs, and public benefits to the Charleston Rural Fire Protection District. The District shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred.
 - (a) **Governments.** Without competition, by transfer or sale to another Charleston Rural Fire Protection District department or public agency.
 - (b) **Auction.** By publicly advertised auction to the highest bidder.
 - (c) **Bids.** By public advertised invitation to bid.

- (2) **Disposal of Property with Minimal Value.** Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.