



Internet Service Agreement

Vol.9.3.1 - QUO-01456-IH77D - V.2 – 2/10/10

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Agreement between Hunter Communications (Hunter) and Customer named below for Hunter's ("Data Services") on Hunter's telecommunications system through its fiber optic network (the "network" or "system").

Customer Name: City of Ashland (Ashland Fiber Network) Key Billing Contact: Michael Ainsworth
Billing Address: City of Ashland, 20 E. Main St., Ashland, OR, 97520 Phone: 541.552.2314 Email Address: ainswm@ashland.or.us
Premises Address (if different): 90 N. Mountain Avenue, Ashland, OR, 97520
Service Address (if different):
Branch Address (if different): _____ _____ _____ _____

does not provide a uninterruptible power source, Hunter will provide one for the price listed below.

1. Services. Customer shall purchase and Hunter Communications (Hunter) shall provide to Customer:

1.1. Data Services. Data Services permit access by Customer to Hunter's telecommunications system at the point of delivery located in the Customer's premises described above. The point of delivery is that location where the network and Customer's system are interconnected.

1.2. Installation Services. Installation services consist of coordinating with Customer the necessary engineering, site survey, system configuration and other services necessary to provide Customer Data Services. These services shall be provided up to the date that the service testing is completed based on Hunter's customary testing procedures and the service is available to the Customer ("the service acceptance date").

In addition, Hunter will provide the equipment (collectively referred to as "Hunter facilities") necessary to connect Customer's facilities to the network.

2. Terms. This agreement will be effective on February 10, 2010, and shall continue for **6 months**, unless sooner terminated as provided in this agreement. In the event written notice is not given by either party to terminate this agreement at least 30 days prior to the termination date, this agreement shall automatically revert to a month-to-month service agreement basis on the same terms and conditions except for the rate specified in Section 3. The rate for each extension period shall be the rate then in effect, as published by Hunter, at least 45 days prior to termination date.

3. Charges. Hunter agrees to provide to Customer two (redundant) local loop connections—150 Mbit capacity per link—to the internet. The redundant multimegabit local loop connections will be from local internet point of presence (POP) to the Ashland Headend located at 90 N. Mountain Avenue, Ashland, OR, 97520. Customer agrees to pay for these services on a sliding fee scale based on monthly usage. This usage is to be calculated by a 95th percentile equation. A detailed usage report will be included with the monthly statement. Bandwidth usage is to be billed based on the rate chart below (With a minimum usage of 50 megabits and maximum usage of 300 Mbps):

Total monthly usage based on 95th percentile calculation (All rates in megabits)

	Per Mb Rate
50 Mbps	\$145.00
51-75 Mbps	\$120.00
76-100 Mbps	\$95.00
101-150 Mbps	\$85.00
151-200 Mbps	\$80.00
201-250 Mbps	\$75.00
251-300 Mbps	\$70.00

Initial _____ Date _____

3.1. Data Services Rate. From the service start-up date, Customer shall pay the rate specified above for each unit of bandwidth. If the service does not begin on the first day of a billing cycle, then payments for the first month shall be prorated on a daily basis. All accounts will be invoiced on the first day of each month, and all sums shall be paid within 20 days after the date of the monthly billing for services (the "due date"). Hunter requests that these payments be made via Electronic Fund Transfer. Please complete Addendum "B", Authorization for EFT.

3.2. Installation Services Charge. Customer shall pay the installation charge specified below for the installation services provided by Hunter which charges shall be due and payable upon onsite installation of the fiber terminating hardware and therefore establishing the due date of the installation charges and any prorated data services for the start-up period.

- Hardware and fiber installation: *Applicable installation fees have been waived.*

3.2.1. Uninterruptible Power Supply. Customer shall provide a form of uninterruptible power for the fiber termination hardware and any Hunter facilities or equipment at the Customers location. If the Customer

- APC Uninterruptible Power Supply: \$200.00 (one needed for each location)

3.3. Late Payment, Deposit, Electronic Billing. Payments received after the due date may be subjected to a charge of 1½% per month on the unpaid balance at the discretion of Hunter. Hunter may require Customer to pay a deposit in advance of the provision of any service. Hunter shall hold any such deposit in a non-interest bearing account and used to satisfy (in whole or in part) any obligation of Customer under this agreement. All invoices will be sent via electronic mail. If Customer requests paper invoicing, a \$5.00 monthly processing fee will be assessed to Customer's account.

3.4. Taxes, Fees, Government Charges. Customer agrees to pay any applicable taxes, franchise fees or other governmental charges imposed upon Hunter Communications by governing body with jurisdictional authority over this service or for use of public right of ways and easements.

4. Service Levels. See Addendum "A" - *Hunter Communications Service Level Agreement R1.15*

5. Hunter Facilities and Equipment. Any Hunter facilities and/or equipment installed on Customer's premises shall be and remain the property of Hunter and may be repaired or replaced at any time and removed at the termination of service, and may be used to supply other customers of Hunter whether or not on the same premises. No rent or other charge shall be made by Customer on Hunter for placing or maintaining its facilities or equipment upon Customer's premises. Hunter shall be entitled, at any time, to affix to Hunter facilities or equipment a label indicating the interest of Hunter.

5.1. Removal. Customer will use reasonable efforts to ensure that Hunter facilities and/or equipment are not removed or caused to be removed by any person, other than Hunter or without Hunter's prior written consent.

5.2. Proper Environment. Customer shall use reasonable efforts to keep the location of Hunter's facilities and/or equipment in the proper environment as specified by Hunter.

5.3. Damage. Customer agrees to exercise due care and caution to protect Hunter's facilities and equipment from the weather, vandalism and other potential problems. Customer shall be liable for any loss or damage to Hunter's facilities and/or equipment at any location arising from Customer's negligence, intentional act, unauthorized maintenance or other cause within the reasonable control of Customer, its employees or agents. In the event of any loss or damage to Hunter's facilities or equipment for which Customer is liable, Customer shall reimburse Hunter for the lesser of the reasonable cost of repair or the actual cost of replacement.

6. Rights and Obligations of Customer.

6.1. Installation. Customer shall at its expense undertake all necessary preparations required to comply with Hunter's installation and maintenance instructions. Such preparations include obtaining all necessary consents for the installation and use of Hunter facilities and/or equipment in the building, including consents for necessary alterations to buildings; ensuring that any floor loading limits will not be exceeded; providing suitable accommodations, foundations and an environment to meet the environmental specifications for Hunter including all necessary trunking, conduits and cable trays; providing suitable electric power and any other utilities needed by Hunter to install, test and or maintain Hunter's facilities and equipment; providing a suitable and safe working environment for Hunter's personnel, including an environment safe from environmental hazards; and taking up or removing, in time to allow Hunter to carry out installation as scheduled, any fitted or fixed floor coverings, ceiling tiles, suspended ceilings and partition covers.

6.2. Premises Access. Customer shall provide Hunter or other persons authorized by Hunter with access (on both a routine and emergency basis) for the implementation of all service acceptance date; Customer will provide Hunter reasonable access to the Customer premises where any Hunter facilities or equipment are installed. Hunter shall not be responsible for any faults on the network or any failure to perform the provisions of this

agreement to the extent that Hunter, in good faith, requires access, and any such faults or failures or the continuation thereof are a result of the failure of Customer to provide access to the place at each location where Hunter facilities and/or equipment are installed supporting the failing service or connection.

(a) During implementation, Hunter will normally carry out work required to install and/or repair Hunter's facilities and equipment during its normal working hours but may, on reasonable notice, require access at other times. At Customer's request, Hunter will carry out work to install Hunter's facilities and equipment outside Hunter's regular working hours, in which event Customer agrees to pay overtime and any other appropriate charges agreed between the parties.

(b) Any out-of-pocket costs, reasonably incurred by Hunter, as a consequence of the denial of access by Customer (or building owner) to any location shall be paid by Customer. Hunter shall advise Customer of any such costs on a case-by-case basis.

6.3. Acceptable Use Policies (AUP). Hunter's Acceptable Use Policy (AUP) is posted to our web site and is to be acknowledged and known by the Customer at all reasonable times. Customer shall comply with Hunter's acceptable use policies. The acceptable use policies are subject to change at any time by Hunter acting in its sole discretion, and all such changes shall be binding upon Customer upon written notice to Customer by Hunter.

(a) Customer shall be responsible for the use and compatibility of equipment or software not provided by Hunter. In the event that Customer uses equipment or software not provided by Hunter which impairs Customer's Data Services or the network, Customer shall nonetheless be liable for payment for all service, including without limitation any software provided by Hunter. Upon notice from Hunter that any equipment or software not provided by Hunter is causing or is likely to cause an hazard, interference, or service obstruction, Customer shall immediately eliminate the likelihood or hazard, interference, or service obstruction and if Customer fails to do so, Hunter may take such action as it deems required to eliminate such hazard, interference or service obstruction.

(b) Customer will only connect to the network using industry standard equipment, which complies and is compatible with the service specifications set forth in applicable technical publications. Notwithstanding the undertaking of Customer in the prior sentence, if, in Hunter's reasonable opinion, the technical integrity of the network or the service being provided over the network to Customer or any other third party is being jeopardized or is likely to be jeopardized as a result of the connection of any Customer premises equipment to the network by Customer or by any other activity for which Customer is responsible, Hunter may suspend the provision of the services to any connection so affected. Following remedial action by Customer satisfactory Hunter, Hunter will reinstate the service provided through that connection as soon as possible.

(c) Hunter reserves the right to allow or refuse to allow any make, model or software revision of customer-provided equipment to be used as a gateway to any network access. Customer will cooperate with Hunter in setting the initial configuration for its equipment's interface with the network.

(d) Hunter may from time to time issue technical instructions on the use of the network to ensure the proper functioning of the services or the protection of the network from damage or deterioration. Customer will observe technical instructions.

6.4. System Integrity. Customer to cure any violation (other than failure to pay) of the provisions of this agreement within 30 days notice by Hunter.

6.5. Hunter Equipment Movement. Customer is obligated to obtain written approval from Hunter prior to moving any of Hunter's equipment. Moving of equipment without authorization may cause damages and/or an outage. A customer-caused outage, due to the moving of equipment without written authorization, will be the sole responsibility of the Customer. Costs for repairs performed by Hunter technicians as a result of damages due to movement of Hunter equipment shall be borne by the Customer. No deductions to billing will be made for Customer-caused outages.

7. Termination Either party may terminate this agreement for cause, provided written notice is given the other party specifying the cause for termination and requesting correction within 10 days for failure to pay a sum due, or within 30 days for any other cause, and such cause is not corrected within the applicable period. Cause is any material breach of the terms of this agreement, including the failure to pay any amount when due, the filing of a petition in bankruptcy by or against Customer or Customer's inability to meet obligations when due; or failure of Hunter. Hunter will furnish copies of such policies upon request.

7.1. Cessation of Service. Hunter may deny Customer access to the network and cease to provide all or part of any services described in this agreement without notice if Customer:

- (a) violates any provision of applicable acceptable use policies;
- (b) engages in any conduct or activity that Hunter, in its sole discretion, reasonably believes causes a risk that Hunter may be subjected to civil or criminal litigation, charges, or damages; or;
- (c) would cause Hunter to be denied access or to lose services by Hunter's internet provider.

7.2. Cessation of Access. If Hunter ceases to provide or denies Customer access to the network pursuant to this section, neither Customer nor any of its customers shall have any right:

- (a) to access through Hunter any materials stored on the internet,
- (b) to obtain any credits otherwise due to Customer, and such credits shall be forfeited, or;
- (c) to access third party services, merchandise or information on the internet through Hunter. Hunter shall have no responsibility to notify any third-party providers of services, merchandise or information of any discontinuance of any services pursuant to this section, nor any responsibility for any consequences resulting from lack of such notification.

7.3. Termination Fee. If Hunter terminates this agreement for cause, or if Customer terminates this agreement without cause, Customer shall pay Hunter a termination fee equal to the lesser of:

- (a) the remaining charges applicable through the end of the scheduled term, or;
- (b) six month charges.

8. No Warranties. To the extent permitted by applicable law, Hunter is providing the services and the system (including but not limited to the Hunter facilities and/or equipment and any access to the network) as **is and with all faults**, and hereby disclaims all other warranties, if any, either express, implied, statutory or otherwise with respect to any of the system and services provided or to be provided under this agreement, including but not limited warranties of merchantability, fitness for a particular purpose, of lack of viruses, lack of negligence or lack of workmanlike effort.

Hunter makes no warranty:

- (a) of title, quiet enjoyment or lack of infringement with respect to the system or services;
- (b) that the system or services are "year 2000" compliant.

9. Exclusion Of Certain Damages; Limitation Of Liability And Remedy; Exclusive Remedy. To the maximum extent permitted by applicable law, in no event will Hunter be liable under any contract, negligence, strict liability or other theory for any special, indirect, incidental or consequential damages (including but not limited to damages for loss of profits for confidential or other information, for business interruption, for personal injury, for loss of privacy, for failure to meet any duty including of good faith or of reasonable care, for negligence, and for any other pecuniary of other loss whatsoever) arising out of or in any way related to any breach by Hunter of this agreement, to the provision or use of or inability to use the system or services or otherwise with respect to any subject matter of this agreement, even if Hunter has been advised of the possibility of such damages.

Hunter's total liability to Customer under this agreement and the transactions contemplated hereby, including without limitation any liability of Hunter for any damages of any nature whatsoever, including without limitation direct or actual damages, shall be limited to the direct damages incurred by Customer in actual and reasonable reliance on the system or services, which damages shall not, in the aggregate, exceed 100% of the amount having actually been paid by Customer to Hunter in the twelve

Hunter Initials _____ Date _____
Customer Initials _____ Date _____

month period immediately preceding the date on which the breach giving rise to the damages occurred.

Except for the provision of credits to Customer's account as specifically provided in Addendum "A," the rights and remedies granted to Customer under this section 9 constitute Customer's sole and exclusive remedy against Hunter, it's agents, officials and employees for any and all claims arising under statutory or common law or otherwise.

There are no third party beneficiaries of this agreement. Customer agrees that Hunter shall have no liability for the negligence, products, services or websites of Customer; of affiliates; of developers or consultants identified of referred to Customer by Hunter; or of any other third party, including but not limited to liability for the content, quality and accuracy of the foregoing which are accessible by use of the system or services of Hunter.

10. Uncontrollable Conditions. Neither party shall be deemed in violation of this agreement if it is prevented from performing any of the obligations under this agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative; judicial; executive or administrative authorities; or any other circumstances which are not within its reasonable control.

11. Severability. In the event that a court, governmental agency, or regulatory body with proper jurisdiction determines that this agreement or a provision of this agreement is unlawful, this agreement, or that provision of the agreement to the extent it is unlawful, shall terminate. If a provision of this agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this agreement shall continue in effect.

12. General Provisions. Failure or delay by either party to exercise any right or privilege under this agreement will not operate as a waiver of such right or privilege. Customer may assign this agreement only with the consent of Hunter. This agreement constitutes the entire understanding between Customer and Hunter with respect to Service provided herein and supersedes any prior agreements or understandings.

13. Hunter Communications Acceptable Use Policy for Hunter IP Products and Services.

Hunter Communications Acceptable Use Policy (the "Policy") for Hunter IP Products and Services is designed to help protect Hunter, Hunter's customers and the Internet community in general from irresponsible or, in some cases, illegal activities. The Policy is a non-exclusive list of the actions prohibited by Hunter Communications. Hunter Communications reserves the right to modify the Policy at any time.

13.1 Prohibited Uses of Hunter's Systems, Products and Services.

1. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.
2. Sending unsolicited mail messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (e.g., "e-mail spam"). This includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, and political tracts. It also includes posting the same or similar message to one or more newsgroups (excessive cross-posting or multiple-posting). Hunter accounts or services may not be used to collect replies to messages sent from another Internet Service Provider where those messages violate this Policy or that of the other provider.
3. Unauthorized use, or forging, of mail header information (e.g., "spoofing").
4. Unauthorized attempts by a user to gain access to any account or computer resource not belonging to that user (e.g., "cracking").
5. Obtaining or attempting to obtain service by any means or device with intent to avoid payment.
6. Unauthorized access, alteration, destruction, or any attempt thereof, of any information of any Hunter customers or end-users by any means or device.

7. Knowingly engage in any activities that will cause a denial-of-service (e.g., synchronized number sequence attacks) to any Hunter customers or end-users whether on the Hunter network or on another provider's network.
8. Using Hunter's Products and Services to interfere with the use of the Hunter network by other customers or authorized users.
9. Any open wireless network is strictly prohibited. Any type of unauthorized service sharing will be searched for and immediately identified. Any Customer unwilling to bring down any such network will be terminated

Each Hunter IP customer is responsible for the activities of its customer base/representatives or end-users and, by accepting service from Hunter, is agreeing to ensure that its customers/representatives or end-users abide by this Policy. Complaints about customers/representatives or end-users of Hunter IP Customer will be forwarded to the Hunter IP customer's postmaster for action. If violations of the Hunter Communications Acceptable Use Policy occur, Hunter IP customer's Products and Services reserves the right to terminate services with or take action to stop the offending customer from violating Hunter's AUP as Hunter deems appropriate, without notice.

13.2 Terms of Service. To ensure that all Hunter Network users experience reliable service, Hunter requires users to adhere to the following terms and conditions. If you have any questions or concerns regarding Hunter service, call the appropriate contact listed on your monthly billing statement. Cable Modem customers need to contact their respective ISP providers.

City of Ashland:

Name: _____
Title: _____
Signature: _____ Date: _____

Hunter Communications:

Richard Ryan, President
Signature: _____ Date: _____

**SPECIAL PROCUREMENT
REQUEST FOR APPROVAL
Greater than \$5,000**

To: City Council, Local Contract Review Board
From: Michael Ainsworth Interim Director IT Department
Date: March 2, 2010
Subject: **REQUEST FOR APPROVAL OF A SPECIAL PROCUREMENT**

In accordance with ORS279B.085, this request for approval of a Special Procurement is being presented to the City Council for approval. This written request for approval describes the proposed contracting procedure and the goods or services or the class of goods or services to be acquired through the special procurement and the circumstances that justify the use of a special procurement under the standards set forth ORS 279B.085(4).

1. **Requesting Department Name:** IT Department, Ashland Fiber Network
2. **Department Contact Name:** Michael Ainsworth
3. **Type of Request:** _____ Class Special Procurement Contract-specific Special Procurement
4. **Time Period Requested:** From Present To: June 30, 2010
5. **Total Estimated Cost:** \$90,000 (\$15,000/month for six months.)
6. **Supplies and/or Services or class of Supplies and/or Services to be acquired**

Internet bandwidth connectivity to Internet Point of Presence and traffic management.

7. Background and Proposed Contracting Procedure: Provide a description of what has been done in the past and the proposed procedure. The Agency may, but is not required to, also include the following types of documents: Notice/Advertising, Solicitation(s), Bid/Proposal Forms(s), Contract Form(s), and any other documents or forms to be used in the proposed contracting procedure. Attach additional sheets as needed.

Current contract (from a 2007 RFP) is at end of term. The proposed six month extension is to allow sufficient time for the incoming IT Director to review current practices to then process and complete a formal sealed proposal (RFP) for Internet Bandwidth.

8. **Justification for use of Special Procurement:** Describe the circumstances that justify the use of a Special Procurement. Attach relevant documentation.

The incoming IT Director will perform review of current practices and will then use his expertise to establish criteria to perform a new RFP process for Internet Bandwidth. The hire date of the incoming director requires an extension of the current contract to allow sufficient time for the director to perform the evaluation and establish future criteria.

9. **Findings to Satisfy the Required Standards:** This proposed special procurement:

X (a) will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because:

The City intends to process and complete a formal competitive sealed proposal (RFP)

(Please provide specific information that demonstrates how the proposed Special Procurement meets this requirement.); **and**

_____ (b)(i) will result in substantial cost savings to the contracting agency or to the public because:

(Please provide the total estimate cost savings to be gained and the rationale for determining the cost savings); **or**

_____ (b)(ii) will otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the requirements of ORS 279B.055, 279B.060, 279B.065, or 279B.070, or any rules adopted thereunder because:

(Please provide specific information that demonstrates how the proposed Special Procurement meets this requirement.)

Public Notice:

Pursuant to ORS 279B.085(5) and OAR 137-047-0285(2), a Contracting Agency shall give public notice of the Contract Review Authority's approval of a Special Procurement in the same manner as a public notice of competitive sealed Bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. The Contracting Agency shall give such public notice of the approval of a Special Procurement at least seven (7) Days before Award of the Contract.

Date Public Notice first appeared on www.ashland.or.us – March 3, 2010 *

*** subject to Council approval on March 2, 2010**

PUBLIC NOTICE

Approval of a Special Procurement

First date of publication: March 3, 2010

A request for approval of a Special Procurement was presented to and approved by the City Council, acting as the Local Contract Review Board, on March 2, 2010.

The City intends to approve a contract for six months to then allow sufficient time to process and complete a formal competitive sealed proposal (RFP) for Internet bandwidth connectivity to Internet Point of Presence and traffic management.

It has been determined based on written findings that the Special Procurement will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts, and result in substantial cost savings or substantially promote the public interest in a manner that could not be realized by complying with the requirements that are applicable in ORS 279B.055, 279B.060, 279B.065, or 279B.070.

An affected person may protest the request for approval of a Special Procurement in accordance with ORS 279B.400 and OAR 137-047-0300. A written protest shall be delivered to the following address: City of Ashland, Michael Ainsworth, Interim IT Director, Ashland Fiber Network, 90 N. Mountain Ave. Ashland, OR 97520.

The seven (7) protest period will expire at 5:00pm on March 10, 2010.

This public notice is being published on the City's Internet World Wide Web site at least seven days prior to the award of a public contract resulting from this request for approval of a Special Procurement.

Authority to enter into a Special Procurement:

AMC 2.50.070 Procedures for Competitive Bids

All Public Contracts shall be based upon Competitive Bidding pursuant to ORS 279A - 279C and the Attorney General Model Rules, OAR Chapter 137 Divisions 46 - 49, except for the following:

G. *Special procurements as set forth ORS 279B.085 and herein.*

ORS 279B.085 Special procurements. (1) *As used in this section and ORS 279B.400:*

(a) *“Class special procurement” means a contracting procedure that differs from the procedures described in ORS 279B.055, 279B.060, 279B.065 and 279B.070 and is for the purpose of entering into a series of contracts over time for the acquisition of a specified class of goods or services.*

(b) *“Contract-specific special procurement” means a contracting procedure that differs from the procedures described in ORS 279B.055, 279B.060, 279B.065 and 279B.070 and is for the purpose of entering into a single contract or a number of related contracts for the acquisition of specified goods or services on a one-time basis or for a single project.*

(c) *“Special procurement” means, unless the context requires otherwise, a class special procurement, a contract-specific special procurement or both.*

(2) *Except as provided in subsection (3) of this section, to seek approval of a special procurement, a contracting agency shall submit a written request to the Director of the Oregon Department of Administrative Services or the local contract review board, as applicable, that describes the proposed contracting procedure, the goods or services or the class of goods or services to be acquired through the special procurement and the circumstances that justify the use of a special procurement under the standards set forth in subsection (4) of this section.*

(3) *When the contracting agency is the office of the Secretary of State or the office of the State Treasurer, to seek approval of a special procurement, the contracting agency shall submit a written request to the Secretary of State or the State Treasurer, as applicable, that describes the proposed contracting procedure, the goods or services or the class of goods or services to be acquired through the special procurement and the circumstances that justify the use of a special procurement under the standards set forth in subsection (4) of this section.*

(4) *The director, a local contract review board, the Secretary of State or the State Treasurer may approve a special procurement if the director, board, Secretary of State or State Treasurer finds that a written request submitted under subsection (2) or (3) of this section demonstrates that the use of a special procurement as described in the request, or an alternative procedure prescribed by the director, board, Secretary of State or State Treasurer, will:*

(a) *Be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and*

(b)(A) *Result in substantial cost savings to the contracting agency or to the public; or*

(B) *Otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065 or 279B.070 or under any rules adopted thereunder.*

(5) *Public notice of the approval of a proposed special procurement must be given in the same manner as provided in ORS 279B.055 (4).*

(6) *If a contract is awarded through a special procurement, the contracting agency shall award the contract to the offeror whose offer the contracting agency determines in writing to be the most advantageous to the contracting agency.*

(7) *When the director, a local contract review board, the Secretary of State or the State Treasurer approves a class special procurement under this section, the contracting agency may award contracts to acquire goods or services within the class of goods or services in accordance with the terms of the approval without making a subsequent request for a special procurement. [2003 c.794 §57; 2005 c.103 §8d]*

OAR 137-047-0285 Special Procurements

(1) *Generally. A Contracting Agency may Award a Contract as a Special Procurement pursuant to the requirements of ORS 279B.085.*

(2) *Public Notice. A Contracting Agency shall give public notice of the Contract Review Authority's approval of a Special Procurement in the same manner as public notice of competitive sealed Bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. The Contracting Agency shall give such public notice of the approval of a Special Procurement at least seven (7) Days before Award of the Contract.*

(3) *Protest. An Affected Person may protest the request for approval of a Special Procurement in accordance with ORS 279B.400 and OAR 137-047-0700.*