

## **Issues of Concern Pertaining to HB 4119 — Potentially Costly to Public and Without Public Benefit**

Testimony for Public Hearing Scheduled on Feb. 5, 2013, Before the  
House Committee on Business and Labor

### **To Chair Doherty, Vice-Chairs Barton and Kennemer, and members of the House Committee on Business and Labor:**

The City of Wilsonville has strong issues of concern pertaining to HB 4119, which would extend the Qualification-Based Selection (QBS) process to public procurements under \$100,000. Direct procurement as it stands under the current law has given the City and other local governments a primary measure of flexibility for procuring engineering services under the otherwise onerous QBS process.

### **HB 4119 — Appears to discourage competition and to harm small businesses**

By creating a bidding advantage for larger consulting firms, HB 4119 decreases the opportunities for small engineering firms in our area to successfully bid on these kinds of “lower-dollar” projects. As the backbone of Oregon’s economy, the State should seek to help small businesses grow and prosper, rather than place inappropriate impediments.

### **HB 4119 — Expanding use of the QBS process is not the best use of public money**

Unlike the selection process for other types of public procurements, QBS typically does not consider price when making the initial selection of the best or most appropriate provider of the professional services required. HB 4119 has a bias against low-bid selection, when in fact this might be the best cost/value bid-choice for the public.

### **HB 4119 — Creates more work, without necessarily a better results for the public**

HB 4119 mandates that local governments use the more time-consuming and less easily quantifiable QBS process rather than a traditional, easy-to-quantify low-bid selection method. In doing so, the State disproportionately is adding to local-government staff work time and expense for the lower-end of the project-cost scale, which is of questionable benefit to the public.

Furthermore, the new provision found in section 8(b), (beginning on line 36 of HB 4419) creates more work for project managers and local-agency contracting officers. For small projects of a

routine nature, there will be many equally qualified consultants that can perform the work. Without price as an unambiguous differentiating factor, other decision criteria must be identified and documented that will be inherently more subjective and potentially subject to challenge. Using pricing as a deciding factor between equally qualified consultants for small projects is economical for the taxpayer and in the best interest of the public.

**HB 4119 — Creates inconsistencies in Oregon public-contracting law**

Current law allows an exemption from strict QBS contracting rules for small architectural, engineering, photogrammetric mapping, transportation planning or land surveying services contracts up to \$100,000. The intent and practical result of the HB 4119, if enacted, is to re-set the exemption limit for these specific professional services from \$100,000 to zero. HB 4119 would therefore be inconsistent with other provisions of Oregon's Public Contracting Code under ORS 279A and 279B, where "non-zero" exemptions to state-wide procurement requirements are allowed for small procurements for Goods and Services, Construction, and virtually all other types of procurements. These exemptions to formal procurement rules are clearly recognized within the text of the Public Contracting Code as promoting efficiency and cost effectiveness in government for small procurement actions. To not have a similar exemption for architectural and engineering (and related) services creates inconsistencies between ORS 27A and B and ORS 279C, and creates an unnecessary burden on local contracting agencies.

The City believes that HB 4119 will lead to higher costs for local governments without benefit to the public, and therefore encourages a DO NOT PASS vote on the bill.

Sincerely,

A handwritten signature in blue ink that reads "Tim Knapp". The signature is written in a cursive, flowing style.

Tim Knapp, Mayor  
City of Wilsonville