



CITY COUNCIL MEETING PACKET

FOR

Tuesday, May 2, 2023

**Sherwood City Hall
22560 SW Pine Street
Sherwood, Oregon**

5:30 pm City Council Work Session

7:00 pm City Council Regular Meeting

URA Board of Directors Meeting
(Following the 7:00 pm City Council Meeting)

This meeting will be live streamed at
<https://www.youtube.com/user/CityofSherwood>



5:30 PM WORK SESSION

1. **Food Cart Regulations** (Erika Palmer, Planning Manager)
2. **99W Pedestrian Bridge Lighting Discussion**
(Craig Sheldon, Public Works Director)
3. **Capital Improvement Plan (CIP) Review**
(Craig Sheldon, Public Works Director)

7:00 PM REGULAR SESSION

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF AGENDA**
5. **CONSENT AGENDA**
 - A. **Approval of April 18, 2023 City Council Meeting Minutes** (Sylvia Murphy, City Recorder)
 - B. **Resolution 2023-027, Authorizing City Manager to Surplus Equipment for Auction**
(Craig Sheldon, Public Works Director)
 - C. **Resolution 2023-028, Appoint Lavette Columbo to the Sherwood Senior Advisory Board**
(Maiya Martin Burbank, Senior Center Manager)
 - D. **Resolution 2023-029, Adopting a Plan of Action for Revenue Recognition, Cut-Off of Expenditures and Recording of Revenue in the Appropriate Funds**
(David Bodway, Finance Director)
 - E. **Resolution 2023-030, Creating New City Funds, Public Art Fund, Economic Development and Promotion Fund and Investment Fund** (David Bodway, Finance Director)
6. **CITIZEN COMMENTS**
7. **PRESENTATIONS**
 - A. **Recognition of 2023 Oregon Youth Governor Appointee – Kylie Johnson**
 - B. **Recognition of 2023 Oregon Mayor's Association "If I Were Mayor" Middle School Entry Contest Winner – Addison Selby**
8. **PUBLIC HEARINGS**
 - A. **Resolution 2023-031, Adopting a Supplemental Budget for fiscal year 2022-23 and making appropriations** (David Bodway, Finance Director)
 - B. **Ordinance 2023-004, Adopting the Sherwood Procurement Code, Chapter 1.10**

AGENDA

SHERWOOD CITY COUNCIL

May 2, 2023

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(Following the 7:00 pm City Council Meeting)

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22560 SW Pine Street
Sherwood, OR 97140

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9. CITY MANAGER REPORT

10. COUNCIL ANNOUNCEMENTS

11. ADJOURN to URA BOARD OF DIRECTORS MEETING

How to Provide Citizen Comments and Public Hearing Testimony: Citizen comments and public hearing testimony may be provided in person, in writing, or by telephone. Written comments must be submitted at least 24 hours in advance of the scheduled meeting start time by e-mail to Cityrecorder@Sherwoodoregon.gov and must clearly state either (1) that it is intended as a general Citizen Comment for this meeting or (2) if it is intended as testimony for a public hearing, the specific public hearing topic for which it is intended. To provide comment by phone during the live meeting, please e-mail or call the City Recorder at Cityrecorder@Sherwoodoregon.gov or 503-625-4246 at least 24 hours in advance of the meeting start time in order to receive the phone dial-in instructions. Per Council Rules Ch. 2 Section (V)(D)(5), Citizen Comments, "Speakers shall identify themselves by their names and by their city of residence." Anonymous comments will not be accepted into the meeting record.

How to Find out What's on the Council Schedule: City Council meeting materials and agenda are posted to the City web page at www.sherwoodoregon.gov, generally by the Thursday prior to a Council meeting. When possible, Council agendas are also posted at the Sherwood Library/City Hall and the Sherwood Post Office.

To Schedule a Presentation to the Council: If you would like to schedule a presentation to the City Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder, 503-625-4246 or Cityrecorder@Sherwoodoregon.gov

ADA Accommodations: If you require an ADA accommodation for this public meeting, please contact the City Recorder's Office at (503) 625-4246 or Cityrecorder@Sherwoodoregon.gov at least 48 hours in advance of the scheduled meeting time.



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
April 18, 2023

WORK SESSION

1. **CALL TO ORDER:** Mayor Rosener called the meeting to order at 6:00 pm.
2. **COUNCIL PRESENT:** Mayor Tim Rosener, Councilors Kim Young, Doug Scott, Taylor Giles, Renee Brouse, and Dan Standke. Council President Keith Mays was absent.
3. **STAFF PRESENT:** City Manager Keith Campbell, Community Services Director Kristen Switzer, HR Manager Lydia McEvoy, City Attorney Ryan Adams, Community Development Director Eric Rutledge, IT Director Brad Crawford, Economic Development Manager Bruce Coleman, Police Chief Ty Hanlon, Police Captain Dan O'Loughlin, Technician Katie Corgan, and City Recorder Sylvia Murphy.

OTHERS PRESENT: Kim Marshall with Project Homeless Connect.

4. TOPICS:

A. HB 3115 Discussion

City Attorney Ryan Adams presented language from HB 3115 (see record, Exhibit A) and recapped that this was a state mandated update that required cities to repeal parts of their camping code if it violated the new state law. Councilor Scott clarified that HB 3115 only applied to public property and the city's camping ordinance would still be applicable to publicly accessible private property. City Attorney Adams replied that was correct and recapped that at the previous work session, Council had asked for information on what other neighboring cities were doing. He explained that North Plains was the only city with an ordinance in place and referred to an email he had sent to Council prior to the meeting with the North Plains ordinance attached (see record, Exhibit B). He stated that his goal for this work session was to refine Council's ideas for the time, place, and manner for the new ordinance. He outlined Beaverton was proposing allowing camping from 8:00 pm to 8:00 am in certain areas and North Plains' ordinance cited 9:00 pm to 7:00 am. He asked for Council feedback on time restrictions and discussion occurred. Mayor Rosener recapped the previous work session discussion and asked for Kim Marshall with Project Homeless Connect to provide feedback and insight. Ms. Marshall explained that when cities banned camping on public property, it made it more likely for people to camp in front of businesses, which could have a negative impact on that business. She commented that a one-size-fits-all approach would not be possible for implementing HB 3115 and each city would have to tailor their ordinance for their city's needs. She explained that the impacts of HB 3115 would be far reaching and complicated because enforcement was typically carried out by police departments, and ideally, the police department should not be the first point of contact. She commented that Sherwood did not have an outreach team and stated that the county was advocating for a five-day

timeframe for allowing camping. She recapped that most cities were allowing overnight camping and explained that if a city had hours in which they allowed camping, that also meant that they would need to enforce those hours which would likely involve law enforcement. She commented that if that were to occur, then the ordinance was unreasonable and asked for compassion and consideration for those that the ordinance would impact which included both people and law enforcement. She voiced that when it came to Sherwood, she was not concerned about delineating a single spot for people to camp since Sherwood did not have a lot of people experiencing homelessness as the city did not have the appropriate resources. She commented that it was likely that people would gravitate towards places that allowed five-day camping. She addressed manner and outlined that the local climate needed to be taken into consideration and explained that people in Oregon would need a tent or tarp, not just a sleeping bag and a pillow, but cities could get specific around heat and stated that fires should be prohibited. Mayor Rosener asked Ms. Marshall how neighboring police departments were handling camping. Ms. Marshall replied that many police departments already had teams or officers who were acquainted with and endeavored to build relationships with those who camped in their cities, and it was now a matter of helping those people follow the guidelines rather than strict enforcement. Councilor Young asked what would happen if someone had been camping for over 72-hours. City Attorney Adams replied that HB 3124 stipulated that if there was an established campsite, they were to receive a 72-hour notice to move instead of a 24-hour notice. He noted that the legislature had not defined "established campsite." Councilor Giles asked if there was a cited distance that a new campsite had to be from a previous campsite. Mr. Adams replied that one of the amendments to HB 3124 stipulated that you could not cite someone or take enforcement action if they were within 200 feet of a posted campsite and discussion occurred. Ms. Marshall voiced that those who camped in Portland and those who camped in Washington County tended to be very different and reported that research showed that people experiencing homelessness were more likely to be the victims of hate crimes rather than the perpetrators. She recapped that it was important to find a balance between a compassionate timeframe to allow camping while not allowing so much time that a campsite was established. Councilor Scott referred to the previous work session discussion and Council discussed how to find a good balance when it came to timeframes. Ms. Marshall commented that one goal of the ordinance could be to prevent the formation of established campsites and reported that Metro bonds and Supportive Housing Services funding now allowed organizations like Project Homeless Connect to provide appropriate services to those experiencing homelessness. She reported that Sherwood did not have a designated outreach team and explained that it would be beneficial to have someone that was able to engage with local law enforcement as well as those in Sherwood without homes to determine what services were needed. Mayor Rosener commented that because of the area's low population of people experiencing homelessness, it would be an opportunity to partner with neighboring cities to pool such resources. Discussion occurred regarding the difficulty of helping those who did not want assistance and the need for enforcement tools in extreme cases. Councilor Scott suggested starting small when it came to the ordinance and adding to the ordinance in the future, if necessary. Discussion regarding working with faith-based organizations and non-profits to provide safe parking spaces for families and the need to address the challenges involved in doing so, such as sanitation and garbage occurred. City Attorney Adams noted that the City of Beaverton was doing something similar with their ordinance. Mayor Rosener commented he agreed with Councilor Scott's idea of keeping Sherwood's ordinance simple and updating it as needed. Police Chief Hanlon stated that locally, many of those who were experiencing homelessness had a family connection nearby, and it was rare that new people moved into the area because it was so far removed from the services they needed access to. He commented that he felt that currently, Sherwood Officers did a good job of trying to connect people with services they may need. He recommended adding a second team to the local Mental Health Response Team for an additional 20 hours of support a day that would support Sherwood, Tualatin, and Tigard/King City. Councilor Young asked if any sites had been identified as possible locations that allowed overnight camping. Captain O'Loughlin replied that those who

stayed in Sherwood tended to “disappear” as they were familiar with the area and selected inconspicuous locations, such as wooded areas and behind buildings. Councilor Scott suggested delineating where people could not camp, such as within the public right-of-way or within a certain distance of a school, instead of citing where people could camp. Discussion occurred regarding the enforcement of park hours, and what hours were considered the most salient between an ordinance, HOA rules, park rules, etc. Captain O’Loughlin stated that there were three sides to this issue: residential needs, business needs, and the needs of those experiencing homelessness and the city needed to address all three issues. He continued that time was the most important factor because the timeframe needed to be compassionate to the person camping, but also compassionate to the affected property or business owner. He commented that it was more important that Council determine what they wanted for grassy areas of public land that were not parks, because that would be more of a challenge. City Attorney Adams commented that the right-of-way in front of businesses was important and said that the manner of the ordinance may be easier to figure out and gave an example of prohibiting fire. Captain O’Loughlin stated that the broader the timeframe and manner, the more difficult it was for the Police Department when it came to compassionate enforcement. He stated that when the time, place, and manner were more restrictive, it allowed Police Officers to move forward when they were dealing with a more difficult person. He continued that when it came to those who needed compassion, help, and resources, a more restrictive ordinance would allow officers to be more lenient and sympathetic. Councilor Scott suggested prohibiting camping within the public right-of-way, within 10-feet of a doorway, and within a certain distance from a school zone. Ms. Marshall voiced that HB 3115 was based on whether or not shelter beds were available. City Attorney Adams added that if someone had a place to sleep, then that person could be compelled to go there instead of camping, but if that person did not have anywhere to go, then a city could not restrict their ability to camp. Mayor Rosener asked if it needed to be a shelter bed or if a designated camping area was valid. Mr. Adams replied that a designated camping area was a valid place to send someone. He stated that he wanted to bring Council a draft ordinance at their next meeting. Councilor Young stated that she agreed with Councilor Scott’s suggestions regarding restricting instead of delineating and discussion regarding prohibiting camping in designated School Walk Zones occurred. Discussion on HB 3115 and if “place” meant available shelter beds or a designated camping area occurred between Ms. Marshall and City Attorney Adams. Councilor Brouse stated she did not want St. Francis included in the camping ban and Mayor Rosener suggested that charter schools and preschools be added to the Walk Zone exclusion areas for restricting camping. Council discussed how a business or organization that wanted to allow camping on their property would need to procure a variance or go through a separate process in order to do so. Councilor Brouse stated that she was in favor of lifting the ban and then working on restrictions as needed and commented she was fine with banning camping in the public rights-of-way. Discussion occurred and Captain O’Loughlin commented that just because the area did not currently have a large population of people experiencing homelessness, that did not mean that that would always be the case and as cities put in more restrictive ordinances, it was possible that that would drive people to the Sherwood area. Mayor Rosener recapped that Council wished the ordinance to have applicable hours, exclusion zones, no open fires, and options for organizations to offer services. City Attorney Adams asked if Council wanted another work session to discuss the draft ordinance or if they wanted to have the first reading instead. Council stated that they wanted a work session to discuss the draft ordinance. Council discussed effective hours of “dusk-to-dawn” or a set timeframe and decided that a set timeframe was more appropriate. Council asked that the draft ordinance cite specific examples of prohibited activities such as no fires and no digging.

5. ADJOURN:

Mayor Rosener adjourned the work session at 6:55 pm and convened a regular session.

REGULAR SESSION

1. **CALL TO ORDER:** Mayor Rosener called the meeting to order at 7:02 pm.
2. **COUNCIL PRESENT:** Mayor Tim Rosener, Councilors Kim Young, Doug Scott, Taylor Giles, Renee Brouse, and Dan Standke. Council President Keith Mays was absent.
3. **STAFF PRESENT:** City Manager Keith Campbell, Community Services Director Kristen Switzer, City Attorney Ryan Adams, IT Director Brad Crawford, Community Development Director Eric Rutledge, HR Manager Lydia McEvoy, Economic Development Manager Bruce Coleman, Police Captain Dan O'Loughlin, Police Chief Ty Hanlon, and City Recorder Sylvia Murphy.

4. **APPROVAL OF AGENDA:**

MOTION: FROM COUNCILOR YOUNG TO APPROVE THE AGENDA. SECONDED BY COUNCILOR BROUSE. MOTION PASSED 6:0; ALL PRESENT MEMBERS VOTED IN FAVOR (COUNCIL PRESIDENT MAYS WAS ABSENT).

5. **CONSENT AGENDA:**

- A. **Approval of April 4, 2023 City Council Meeting Minutes**
- B. **Resolution 2023-025, Authorizing the City Manager to enter into a contract with Blackline, Inc. for the 2023-24 Slurry Seal Program**

MOTION: FROM COUNCILOR BROUSE TO APPROVE THE CONSENT AGENDA. SECONDED BY COUNCILOR YOUNG. MOTION PASSED 6:0; ALL PRESENT MEMBERS VOTED IN FAVOR (COUNCIL PRESIDENT MAYS WAS ABSENT).

6. **CITIZEN COMMENTS:**

There were no citizen comments and Mayor Rosener addressed the next agenda item.

7. **PRESENTATIONS:**

- A. **Proclamation, Proclaiming April 28, 2023 as Arbor Day**

Mayor Rosener read the proclamation aloud which stated that the first Arbor Day was observed in Nebraska in 1872, with the planting of more than a million trees. He stated that Sherwood had been a Tree City USA since 2005 and was committed to urban forestry as a partner in Clean Water Services' Tree for All campaign. He stated that the City was committed to partnering with local schools to teach students that trees that were properly planted and cared for were a source of community environment that assisted in mental and peaceful renewal and provided many comforts such as shade, clean air, beauty, and increasing property values and declared April 28, 2023 as Arbor Day in the City of Sherwood.

Mayor Rosener addressed the next agenda item.

B. Proclamation, Proclaiming April 23-29, 2023 as National Library Week

Mayor Rosener read the proclamation aloud which stated that libraries provided the opportunity for everyone to pursue their passions and engage in life-long learning allowing them to live their best lives. He stated that libraries had long served as trusted institutions for all members of the community regardless of race, ethnicity, creed, ability, sexual orientation, gender identity, or socio-economic status and libraries strived to develop and maintain programs and collections that were as diverse as the populations they served and ensure equity of access for all. He stated that libraries played a critical role in the economic vitality of communities by providing internet and technology access, literacy skills, and support for job seekers, small businesses, and entrepreneurs; and libraries were accessible and inclusive places that promoted a sense of local connection, advancing understanding, civic engagement, and shared community goals. He stated that libraries were cornerstones of democracy that promoted the free exchange of information and ideas for all. Mayor Rosener proclaimed April 23-29, 2023 as National Library Week and encouraged Sherwood residents to explore the Sherwood library and engage with their librarian.

Mayor Rosener addressed the next agenda item.

C. Proclamation, Proclaiming April 2023 as National Volunteer Appreciation Month

Mayor Rosener read the proclamation aloud which stated that the volunteering of an individual's time and resources was an essential part of the Sherwood community spirit, and individuals and communities were at the center of social change, discovering their power to make a difference. He stated that National Volunteer Week was established in 1974 and had grown exponentially each year, drawing endorsements from all US presidents since 1974, as well as recognition from governors, mayors, and other elected officials. He stated that, "we have never needed the volunteer spirit more than we do today," and stated that volunteers developed new skills, built their personal and professional networks, forged a deeper connection with their communities, and experienced the joy of serving a larger cause. He stated that Sherwood continued to rely on the efforts of dedicated volunteers to enrich their community. He recognized the volunteer sector as a third partner with government and business in building strong communities. Mayor Rosener thanked Sherwood volunteers for donating their time, energy, knowledge, and abilities. He proclaimed April 2023 as Volunteer Appreciation Month in Sherwood and called upon all citizens to help to renew and sustain the Sherwood community spirit by committing themselves to address the needs of the community through voluntary action.

Mayor Rosener addressed the next agenda item.

D. Recognition and Appreciation of City of Sherwood Volunteers

Volunteer Coordinator Tammy Steffens came forward and stated that she was responsible for the coordination of Sherwood volunteers. She stated that the mission of the City of Sherwood's Volunteer Program was to provide an enjoyable experience to citizens to help their community by assisting city staff and therefore enhancing the delivery of excellent customer service. She stated that the purpose of the Volunteer Program was to give citizens a satisfying experience in assisting in the enhancement and improvement of services that the city provided to the community. She explained that in many cases, volunteers allowed the city to provide services that would otherwise not be offered and added that volunteer services were quantitatively and qualitatively better than what staff could provide on their own. She stated that volunteers were powerful partners that allowed the city to extend both the city's mission and the budget. She stated that volunteers provided a valuable and unique skillset, knowledge, service,

language, and community perspective. Volunteers were able to devote more time and attention to program participants than staff could without them as well as helped educate the community about the City of Sherwood and cultivated a sense of trust and transparency for the city. She reported that with the help of volunteers, in 2022, the Senior Center was able to serve 14,127 meals. She recapped some of the various tasks and events that volunteers assisted city staff with and reported the volunteers gave 8,222 hours of their time in 2022. Ms. Steffens thanked all Sherwood volunteers for their work. She presented a video of various city staff thanking City of Sherwood volunteers. Council thanked Ms. Steffens and Sherwood volunteers for their work.

Mayor Rosener addressed the next agenda item.

8. NEW BUSINESS:

A. Resolution 2023-026, Authorizing Purchase and Full Federal Reimbursement of Anti-Vehicle Barriers for Sherwood Special Events

Police Chief Ty Hanlon presented a video that illustrated what anti-vehicle barriers were and how cities utilized them. He explained that within the past decade there had been many incidents of vehicles intentionally driving through crowds within the US. He recapped that Sherwood had many community events and thanked Captain O'Loughlin for leading the effort to procure anti-vehicle barriers for the City of Sherwood. He stated that the Hillsboro Police Department received federal grants in 2020-2022 for the purchase of multiple sets of anti-vehicle barriers and in 2022, Hillsboro received a grant from Homeland Security for \$120,504. He reported that the City of Hillsboro was giving their full grant amount to the City of Sherwood in order to allow for the anti-vehicle barriers to be more evenly distributed across Washington County. He recapped that Hillsboro, Beaverton, Tigard, Washington County, and Portland had purchased anti-vehicle barriers. He explained that the grant was for a full set of eight barriers with a trailer, and they would be owned and housed by the City of Sherwood. He explained that an additional four barriers would be purchased with the grant funds and reallocated/owned by the City of Tigard, with Tigard reimbursing Sherwood for their barrier allotment. Councilor Scott asked if city's lent out their anti-vehicle barriers for events. Chief Hanlon replied that he believed they would. Captain O'Loughlin added that it was a cooperative agreement between the cities which stated that the municipalities would share their individual resources as needed. Discussion regarding how to determine when to use the barriers occurred. Captain O'Loughlin spoke on how the anti-vehicle barriers allowed agencies to be more apolitical during protests as well as providing better ADA access.

MOTION: FROM COUNCILOR BROUSE TO APPROVE RESOLUTION 2023-026, AUTHORIZING PURCHASE AND FULL FEDERAL REIMBURSEMENT OF ANTI-VEHICLE BARRIERS FOR SHERWOOD SPECIAL EVENTS. SECONDED BY COUNCILOR YOUNG. MOTION PASSED 6:0; ALL PRESENT MEMBERS VOTED IN FAVOR (COUNCIL PRESIDENT MAYS WAS ABSENT).

Mayor Rosener addressed the next agenda item.

9. CITY MANAGER REPORT:

City Manager Keith Campbell reported that this summer, the Street of Dreams would be held in the Denali Summit area. He reported the Drug Take Back event would be held on April 22nd at the Sherwood Police Department. He spoke on the importance of Sherwood volunteers and thanked them for their service to the city.

Councilor Giles asked if the Robin Hood Festival Plaza project was still set to be completed on schedule? Community Services Director Kristen Switzer replied that it was. Mayor Rosener asked for an update on the Veterans Park construction project. Mr. Campbell replied that the project was on schedule and should be completed around the same time as the festival plaza.

Mayor Rosener addressed the next agenda item.

10. COUNCIL ANNOUNCEMENTS:

Councilor Brouse reported that the Senior Advisory Board held interviews to fill the board's vacancies. She reported that an informational forum for the Sherwood School District election would be held on May 3rd.

Councilor Young reported that she attended the Sherwood School Board meeting where she presented the recently adopted resolution supporting the levy. She reported that the Sherwood Police Foundation Boots & Bling Gala would be held on April 28th at the Center for the Arts.

Councilor Giles reported that Trashapalooza would be held on April 22nd. He reported that he attended recent Library Advisory Board meetings and explained that a library survey had been published. He recapped upcoming library events. He reported that he attended the Cultural Arts Commission meeting on behalf of Council President Mays where they continued their work on pedestrian bridge art recommendations. He reported that the Cultural Arts Commission was seeking businesses who were interested in having a mural painted on the side of their buildings.

Councilor Standke reported that he attended the most recent Planning Commission meeting where they discussed the 2023 Economic Opportunities Analysis with Economic Development Manager Bruce Coleman.

Mayor Rosener reported he attended various meetings with Washington County mayors and the Washington County Chair where they discussed HB 3115, the impact of tolling on I-205 and I-5, housing legislation, and broadband.

City Manager Campbell reminded Council that there would be a joint work session with the Sherwood School Board on April 19th. Mayor Rosener reported that the work session would discuss the city's SRO program, the Safe Routes to School Program, a levy update, and the creation of a Youth Advisory Committee.

11. ADJOURN:

Mayor Rosener adjourned the regular session at 7:54 pm and convened an executive session.

EXECUTIVE SESSION

- 1. CALL TO ORDER:** The executive session was called to order at 8:05 pm.
- 2. COUNCIL PRESENT:** Mayor Tim Rosener, Councilors Kim Young, Doug Scott, Taylor Giles, Renee Brouse, and Dan Standke. Council President Keith Mays was absent.

3. STAFF PRESENT: City Manager Keith Campbell, HR Manager Lydia McEvoy, and City Attorney Ryan Adams.

4. TOPICS:

A. ORS 192.660(2)(i) Performance Evaluation.

5. ADJOURN:

The executive session was adjourned at 9:03 pm.

Attest:

Sylvia Murphy, MMC, City Recorder

Tim Rosener, Mayor

TO: Sherwood City Council

FROM: Craig Sheldon, Public Works Director

Through: Keith D. Campbell, City Manager and Ryan Adams, City Attorney

SUBJECT: Resolution 2023-027, Authorizing City Manager to Surplus Equipment for Auction

Issue:

Should City Council surplus equipment for auction?

Background:

Resolution 2005-006 Adopting Public Contracting Rules outlines the procedure for surplus property. 1.10.080(2) states "...For surplus property deemed by the City Manager to have a value of more than \$5,000, the City Council may authorize the property to be sold, to be donated, or to be destroyed."

The City has a 1998 Case 580L Backhoe and a 1995 GMC Flush Truck, each with an estimated value exceeding \$5,000.00 that staff would like to auction using GovDeals.

Financial Impact:

There are no adverse financial impacts to the budget. The funds collected from the sale of the equipment will be applied to the appropriate funds.

Recommendation:

Staff respectfully recommends adoption of Resolution 2023-027, authorizing the City Manager to surplus equipment for auction.



RESOLUTION 2023-027

AUTHORIZING THE CITY MANAGER TO SURPLUS EQUIPMENT FOR AUCTION

WHEREAS, the City has equipment that has reached its end of life cycle; and

WHEREAS, the City anticipates that the cost for this equipment will exceed \$5,000; and

WHEREAS, the City would like to auction this equipment on GovDeals.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Manager is hereby authorized to surplus a 1998 Case 580L Backhoe and 1995 GMC Flush Truck for auction.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 2nd day of May 2023.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Maiya Martin Burbank, Adult Community Center Manager
Through: Kristen Switzer, Community Services Director and Keith D. Campbell City Manager

SUBJECT: Resolution 2023-028, Appointing Lavette Columbo to the Sherwood Senior Advisory Board

Issue:

Should the Council appoint Lavette Columbo to the Sherwood Senior Advisory Board?

Background:

A vacancy exists on the Sherwood Senior Advisory Board due to resignation, vacating position #9. The term of office for this vacancy expires in June 2023. Due to the timing of the expiration of the current term, we ask that this resolution extend for a full three-year term and expire June 2026. The City advertised the vacancy and received two (2) applications. Lavette Columbo submitted an application for consideration of appointment and was interviewed by the interview panel. The interview panel consisting of Board Chair Caz Thomson, Council Liaison Renee Brouse, Staff Liaison Maiya Martin Burbank and unanimously recommended appointment of Lavette Columbo to fill the vacancy. The Mayor has recommended this appointment to Council. In accordance with City Council Rules of Procedure, all such appointments are subject to the approval of City Council by resolution.

Financial Impacts:

There are no financial impacts from this proposed action.

Recommendation:

Staff respectfully recommends City Council's adoption of Resolution 2023-028, Appointing Lavette Columbo to the Sherwood Senior Advisory Board.



RESOLUTION 2023-028

APPOINTING LAVETTE COLUMBO TO THE SHERWOOD SENIOR ADVISORY BOARD

WHEREAS, a vacancy exists on the Senior Advisory Board, Position #9 due to a resignation; and

WHEREAS, the term of office for this vacancy expires in June 2023; and

WHEREAS, the City advertised the vacancy on the City website, newspaper, social media, and fliers; and

WHEREAS, Lavette Columbo applied to be appointed and was interviewed by Board Chair, Council Liaison, and Staff Liaison; and

WHEREAS, the interview panel considered all of the applicants and recommended to the Mayor that Lavette Columbo be appointed to fill the vacancy for the remainder of the term, and a full 3 year term expiring June 2026; and

WHEREAS, the Mayor has recommended to Council that Lavette Columbo be appointed; and

WHEREAS, in accordance with Council Rules of Procedure, all such appointments are subject to the approval of the City Council by resolution.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Sherwood City Council hereby appoints Lavette Columbo to position #9 on the Sherwood Senior Advisory Board for a term expiring at the end of June 2026.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 2nd day of May 2023.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

Agenda Item: Consent Agenda

TO: Sherwood City Council

FROM: David Bodway, Finance Director
Through: Keith D. Campbell, City Manager

SUBJECT: Resolution 2023-029, Adopting a plan of action for Revenue Recognition, Cut-Off of Expenditures and Recording of Revenue in the Appropriate Funds

Issue:

Shall the City Council adopt a plan of action regarding the internal controls over accounting for Revenue Recognition, Cut-Off of Expenditures and Recording of Revenue in the Appropriate Funds?

Background:

During the audit of fiscal year 2021-22, the auditors brought up a lack of adequate controls over revenue recognition. Under the full accrual basis of accounting, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of the timing of related cash inflows and outflows. This impacted the Grant Fund and the Broadband Fund but was corrected before issuance of the financial statements. This resulted in a finding from the auditors of a material weakness in internal controls.

Additionally, the auditors also brought up a lack of adequate controls over expenditure cut-off and recording revenue in the appropriate funds. Under accrual accounting, expenditures are generally recorded when a liability is incurred. This impacted the General Fund as expenditures were incorrectly recorded in the proper fiscal year. This amount was determined to be immaterial to the financial statements and was not corrected. This resulted in a finding from the auditors of a significant deficiency in internal controls.

There was also a misclassification of utility fees between two proprietary funds which under-reported Storm Fund revenue and over-reported Sanitary Fund revenue. This amount was determined to be immaterial to the financial statements and was not corrected in the fiscal year under audit but was addressed and corrected in the current fiscal year. This resulted in a finding from the auditors of a significant deficiency in internal controls.

According to ORS 297.466 (2) "Upon receipt of an audit report [...] the governing body [...] shall determine the measures it considers necessary to address any deficiencies disclosed in the report. The governing body shall adopt a plan of action to address the deficiencies". This plan of action must be filed with the Secretary of State within 30 days after filing the audit report. The audit report was filed on April 11, 2023.

Working closely with the Accounting Supervisor, the Finance Director will review any new revenue source to assist in the appropriate recording of the financial transaction. Additionally, staff has prepared a year-end checklist to ensure a reconciliation occurs to properly record revenue as earned.

Even though the amount in question was determined to be immaterial to the financial statements, staff has prepared a year-end checklist which spells out the order of steps necessary for adequate controls over expense accrual to avoid similar issues in the future.

Again, this amount in question was deemed immaterial to the financial statements, staff will perform analytical procedures of major fund account balances at year end; document and investigate any transaction that does not meet reasonable expectations.

Financial Impacts:

No direct financial impact of this plan of action.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2023-029, Adopting a plan of action for Revenue Recognition, Cut-Off of Expenditures and Recording of Revenue in the Appropriate Funds.



RESOLUTION 2023-029

ADOPTING A PLAN OF ACTION FOR REVENUE RECOGNITION, CUT-OFF OF EXPENDITURES AND RECORDING OF REVENUE IN THE APPROPRIATE FUNDS

WHEREAS, during the audit of the fiscal year 2021-22 financial statements it was determined that funds received in advance as revenue had not been earned and therefore was incorrectly reported as revenue; and

WHEREAS, the corrections related to these were significant enough to be material to the financial statements and a deficiency in internal control thereby identified by the auditors as a material weakness; and

WHEREAS, during the audit of the fiscal year 2021-22 financial statements it was determined that expenditures paid from the General Fund were incorrectly recorded in the proper fiscal year; and

WHEREAS, it was identified by the auditors as a significant deficiency in internal control; and

WHEREAS, during the audit of the fiscal year 2021-22 financial statements it was determined that revenue was incorrectly recorded in the appropriate proprietary funds; and

WHEREAS, it was identified by the auditors as a significant deficiency in internal control; and

WHEREAS, the Sherwood City Council has received and reviewed the 2021-2022 financial statement audit; and

WHEREAS, ORS 297.466(2) requires the governing body to adopt a plan of action to address these deficiencies,

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Plan of Action for Sherwood Oregon, attached hereto as Exhibit A, is hereby approved and adopted.

Section 2. This Resolution shall be effective immediately upon its approval and adoption.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder



City of Sherwood
22560 SW Pine St.
Sherwood, OR 97140
Tel 503-625-5522
Fax 503-625-5524
www.sherwoodoregon.gov

Mayor
Tim Rosener

Council President
Keith Mays

Councilors
Renee Brouse
Taylor Giles
Doug Scott
Dan Standke
Kim Young

City Manager
Keith Campbell

May 2, 2023

Oregon Secretary of State
Audits Division
255 Capitol St. NE, Suite #500
Salem, OR 97310

Re: Plan of Action for Sherwood Oregon

Sherwood Oregon respectfully submits the following corrective action plan in response to deficiencies reported in our audit of fiscal year ended June 30, 2022. The audit was completed by the independent auditing firm Talbot, Korvola & Warwick, LLC. and reported the deficiencies listed below. The plan of action was adopted by the governing body at their meeting on May 2, 2023, as indicated by signatures below.

The deficiencies are listed below, including the adopted plan of action and timeframe for each.

1. Deficiency #1

- a. Type of deficiency (Material Weakness) – “While performing audit procedures, a deficiency in internal control related to revenue recognition was identified. The City recorded grant amounts \$2,207,711 in Grants Fund and \$1,665,000 in the Broadband Fund, received in advance as revenue without corresponding eligible expenditures. Without adequate controls over revenue recognition, there is a reasonable possibility that a significant misstatement or error would not be prevented or detected and corrected on a timely basis.”
- b. Document the plan of action – Resolution 2023-029 to review any new revenue source to assist in the appropriate recording of the financial transaction. Additionally, staff has prepared a year-end checklist to ensure a reconciliation occurs to properly record revenue as earned.
- c. Timeframe for (or date of) implementation: May 2, 2023.

2. Deficiency #2

- a. Type of deficiency (Significant Deficiency) – “While performing audit procedures, we noted errors related to cut-off of expenditures that the City’s internal controls did not prevent, or detect and correct, on a timely basis. Without adequate controls over cut-off, there is a reasonable possibility that a significant misstatement or error would not be prevented, or detected and corrected, on a timely basis,”
- b. Document the plan of action: Resolution 2023-029, staff has prepared a year-end checklist which spells out the order of steps necessary for adequate controls over expense accrual to avoid similar issues in the future.
- c. Timeframe for (or date of) implementation: May 2, 2023.

3. Deficiency #3

- a. Type of deficiency (Significant Deficiency) – “While performing audit procedures, we noted errors related to recording of revenue in the appropriate funds that the City’s internal controls did not prevent, or detect and correct, on a timely basis. Without adequate controls over the recording of revenue in the appropriate fund, there is a reasonable possibility that a significant misstatement or error would not be prevented, or detected and corrected, on a timely basis.”
- b. Document the plan of action: Resolution 2023-029, staff will perform analytical procedures of major fund account balances at year end; document and investigate any transaction that does not meet reasonable expectations.
- c. Timeframe for (or date of) implementation: May 2, 2023.

Tim Rosener, Mayor

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: David Bodway, Finance Director
Through: Keith D. Campbell, City Manager

SUBJECT: Resolution 2023-030, Creating New City Funds, Public Art Fund, Economic Development and Promotion Fund and Investment Fund

Issue:

Shall the City Council approve the creation of a Public Art Fund, Economic Development and Promotion Fund and Investment Fund?

Background:

On February 7, 2023, the City Council held two work sessions and one of the results of both work sessions was to create three new City Funds by transferring unrestricted funds from the General Fund to the Public Art Fund, Economic Development and Promotion Fund and Investment Fund.

Additionally, Financial Policy 1-4a states that a new fund shall be established when there is the inauguration of a new dedicated revenue stream and a concurrent service. Funds separate from the General Fund that would be appropriate for accounting for this new dedicated revenue stream and service does not currently exist in the General Fund. Financial Policy 1-5 requires that funds be created by resolution.

Therefore, to account for this activity separately from all other funds and to be able to report accurately on the use of these funds, staff strongly recommends separating them out into their own funds rather than having them comingled with other funds.

Financial Impacts:

There are no anticipated financial impacts from adoption of this resolution.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2023-030, Creating New Funds, Public Art Fund, Economic Development and Promotion Fund and Investment Fund.



RESOLUTION 2023-030

CREATING NEW CITY FUNDS, PUBLIC ART FUND, ECONOMIC DEVELOPMENT AND PROMOTION FUND AND INVESTMENT FUND

WHEREAS, Financial Policy 1-4a states that a new fund shall be established when there is the inauguration of a new dedicated revenue stream and a concurrent service; and

WHEREAS, the General Fund will began transferring funds to both the Public Art and Economic Development and Promotion Funds beginning FY23-24; and

WHEREAS, the City will transfer out of the General Fund unrestricted dollars to be set aside in an Investment Fund and utilized once the City determines the most appropriate use of funds.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Public Art Fund, Economic Development and Promotion Fund and Investment Funds; dedicated to account for funds received through transfers from the General Fund and accounting for various activities associated with each fund, are hereby created.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 2nd day of May, 2023.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, Agency Recorder

TO: Sherwood City Council

FROM: David Bodway, Finance Director
Through: Keith D. Campbell, City Manager

SUBJECT: Resolution 2023-031, Adopting a Supplemental Budget for fiscal year 2022-23 and making appropriations

Issue:

Shall the City Council adopt a supplemental budget and approve the corresponding appropriations for fiscal year 2022-23?

Background:

Pursuant to ORS 294.463, Oregon Municipalities can transfer appropriation between existing categories during the budget year and pursuant to ORS 294.471 and 294.473, Oregon Municipalities can make one or more supplemental budgets. Our practice over the past years is to perform such transfers generally twice per year, once around mid-fiscal year and then at the end of the fiscal year, if necessary.

The purposes for the appropriations have been detailed in the attached Exhibit 1 and sorted by the source of funding for each expenditure. Please refer to that exhibit for additional information.

Financial Impacts:

The financial impacts are detailed in the attached Exhibit 2 to the Staff Report as well as in the Resolution itself. The net impact by fund is shown in the increases / (decreases) of "Total Unappropriated and Reserve Amounts". All funds have a positive net impact of this supplemental budget aside from the General Construction Fund and Sherwood Broadband Fund which have negative net impacts.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2023-031, adopting a supplemental budget for fiscal year 2022-23 and making appropriations.

Exhibit 1
Requested appropriations by source of funding

GENERAL FUND

1. The beginning fund balance in the General Fund was higher than expected due to revenue exceeding expectations and prudent spending.

Additional beginning fund balance	\$ 847,822	Ongoing annual
City Attorney Recruitment	28,897	-
Public Safety Salaries	259,837	259,837
City Hall Reroofing Carryover	51,541	-
Total proposed FY22-23 uses of funds	\$ 340,275	-
Remaining funds – Reserve for Future Years	\$ 507,547	-

2. The City is also anticipating receiving funds higher than originally budgeted. An updated IGA was signed with Washington County to assist with funding for the Senior Center. The Art Center is exceeding original expectations in both Facility Rental and Class Fees; Building Charges for Services are outperforming original expectations. The City has allocated ARPA Grant Funds to fund eligible government services "Police". Adjustments to account for this additional funding is reflected below:

Senior Center – Washington County	33,000
Art Center – Charges for Services	60,000
Building – Charges for Services	483,344
Transfer In – Grant Fund	4,471,299
Total to General Fund	\$5,047,643
Center for the Arts	60,000
Building – Building Plan Review	66,500
Contingency – For One Time	382,169
Total proposed FY22-23 uses of funds	\$ 508,669
Remaining funds – Reserve for Future Years	\$4,538,974

DEBT SERVICE FUND

1. The beginning fund balance in the Debt Service Fund was lower than budgeted due to economic factors that were affecting interest rates on investments. Additionally, interest rates have rebounded significantly in the current fiscal year and the amount earned on investments is higher than original budgeted.
2. Last, there was an error in the resolution adopting the City budget, the budget approved by the budget committee listed a transfer out and in the resolution these funds were mistakenly included in the Debt Service line item. The debt has already been paid off; the original intent was to transfer out the remaining fund balance to the General Fund. This revision along with the adjustments to beginning fund balance and interest revenue is noted below:

Additional beginning fund balance	\$ (1,005)
Interest	302
Total to Debt Service Fund	(703)
Debt Service	(78,737)
Transfers Out	78,034
Total proposed FY22-23 uses of funds	\$ (703)

GRANTS FUND

1. The beginning fund balance for the Grants Fund was lower than projected. This was due to revenue recognition requirements for ARPA Funds received but not yet spent. Additionally, interest rates have rebounded significantly in the current fiscal year and the amount earned on investments is higher than original budgeted.
2. The CEP committee held a second round of applications in the fall and the adjustment is reflected below in operations. Additionally, the City has elected the standard allowance in its use of the ARPA Funds and has allocated these funds to eligible government services by transferring these dollars to the General Fund. These revisions along with the adjustments to beginning fund balance, federal ARPA funds, interest and reserve for future years is noted below:

Additional beginning fund balance	\$(2,178,088)
ARPA	2,207,711
Interest	45,877
Total to Grants Fund	\$ 75,500
Contingency	(4,481,755)
Transfer Out to General Fund	4,471,299
Operations	59,576
Total proposed FY22-23 uses of funds	\$ 49,120
Reserve for Future Years	\$ 26,380

GENERAL CONSTRUCTION FUND

1. The beginning fund balance in the General Construction Fund was higher than projected. This was due to timing of the Cedar Creek Trail project. The carryforward, unspent funding for this project has been included and an adjustment to Capital is reflected below. This revision along with the adjustment to beginning fund balance is noted below:

Additional beginning fund balance	\$ 121,590
Capital	121,590
Total proposed FY22-23 uses of funds	\$ 121,590
Remaining Funds	\$ 0

WATER FUND

1. The beginning fund balance for the Water Fund was lower than projected. This was due to timing of various projects. Additionally, an unexpected repair that was not anticipated nor budgeted is needed at the Snyder Reservoir. This revision along with the adjustments to beginning fund balance and reserve for future years is noted below:

Additional beginning fund balance	\$ (145,697)
Reserve for Future Years	\$ (145,697)
Contingency	\$ (290,025)
Operations	\$ 290,025
Total proposed FY22-23 uses of funds	\$ 0

Exhibit 2

Supplemental Budget, Appropriations and Financial Impacts FY 22-23

Fund	General	TLT	Debt Service	Grants	General Construction	Street Operations	Street Capital	Water	Sanitary	Storm	Sherwood Broadband	Total
Resources												
Beginning fund balance	847,822	8,958	(1,005)	(2,178,088)	121,590	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)	84,297
Intergov	33,000	-	-	2,207,711	-	-	-	-	-	-	-	2,240,711
Charges for services	543,344	-	-	-	-	-	-	-	-	-	-	543,344
Infrastructure Development Fees	-	-	-	-	-	-	-	-	-	-	-	-
Interest	-	-	302	45,877	-	-	-	-	-	-	-	46,179
Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-
Transfers in	4,471,299	-	-	-	-	-	-	-	-	-	-	4,471,299
Total Resources	5,895,465	8,958	(703)	75,500	121,590	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)	7,385,830
Requirements												
Administration	28,897	-	-	-	-	-	-	-	-	-	-	28,897
Comm. Development	66,500	-	-	-	-	-	-	-	-	-	-	66,500
Public Safety	259,837	-	-	-	-	-	-	-	-	-	-	259,837
Community Services	60,000	-	-	-	-	-	-	-	-	-	-	60,000
PW Operations	51,541	-	-	-	-	-	-	-	-	-	-	51,541
Operations Department	-	-	-	59,576	-	-	-	290,025	-	-	-	349,601
Capital Department	-	-	-	-	121,590	-	-	-	-	-	-	121,590
Debt Service	-	-	(78,737)	-	-	-	-	-	-	-	-	(78,737)
Transfers Out	-	-	78,034	4,471,299	-	-	-	-	-	-	-	4,549,333
Contingency	382,169	-	-	(4,481,755)	-	-	-	(290,025)	-	-	-	(4,389,611)
Total Appropriations	848,944	-	(703)	49,120	121,590	-	-	-	-	-	-	1,018,951
Total Unappropriated and Reserve Amounts	5,046,521	8,958	-	26,380	-	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)	6,366,879
Total Requirements	5,895,465	8,958	(703)	75,500	121,590	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)	7,385,830



RESOLUTION 2023-031

ADOPTING A SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2022-23 AND MAKING APPROPRIATIONS

WHEREAS, on June 29, 2022, the City of Sherwood budget for fiscal year 2022-23 was adopted and funds were appropriated by the City Council; and

WHEREAS, the City of Sherwood has since received or expects to soon receive unanticipated revenues and a supplemental budget is required in order to expend those revenues; and

WHEREAS, beginning fund balances either exceeded or fall short of projections due to savings in the later part of fiscal year 2021-2022 or revenue and expenditures failing to meet budgeted/projected expectations; and

WHEREAS, certain unplanned events have occurred during the course of this budget year; and

WHEREAS, in order not to overspend appropriations in any category of expenditures, it is necessary to transfer appropriations within several funds from certain expenditure categories to other expenditure categories; and

WHEREAS, the purpose of all new and transferred appropriations are detailed in Exhibit 1 attached hereto; and

WHEREAS, pursuant to ORS 294.463, Oregon Municipalities can transfer appropriation between existing categories during the budget year; and

WHEREAS, pursuant to ORS 294.471 and 294.473, Oregon Municipalities can make one or more supplemental budgets; and

WHEREAS, in accordance with local budget law, notice was published on April 27, 2023 of the public hearing that was held before the City Council on May 2, 2023.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. **Adoption of an FY22-23 Supplemental Budget.** The City Council of the City of Sherwood, Oregon hereby adopts the supplemental budget for FY22-23 in the sum of \$7,385,830.

Section 2. Making Appropriations. The additional amounts for the fiscal year beginning July 1, 2022 shown below are hereby appropriated as follows:

Fund	General	TLT	Debt Service	Grants	General Construction	Street Operations	Street Capital	Water	Sanitary	Storm	Sherwood Broadband
Resources											
Beginning fund balance	847,822	8,958	(1,005)	(2,178,088)	121,590	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)
Intergov	33,000	-	-	2,207,711	-	-	-	-	-	-	-
Charges for services	543,344	-	-	-	-	-	-	-	-	-	-
Infrastructure Development Fees	-	-	-	-	-	-	-	-	-	-	-
Interest	-	-	302	45,877	-	-	-	-	-	-	-
Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-
Transfers in	4,471,299	-	-	-	-	-	-	-	-	-	-
Total Resources	5,895,465	8,958	(703)	75,500	121,590	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)
Requirements											
Administration	28,897	-	-	-	-	-	-	-	-	-	-
Comm. Development	66,500	-	-	-	-	-	-	-	-	-	-
Public Safety	259,837	-	-	-	-	-	-	-	-	-	-
Community Services	60,000	-	-	-	-	-	-	-	-	-	-
PW Operations	51,541	-	-	-	-	-	-	-	-	-	-
Operations Department	-	-	-	59,576	-	-	-	290,025	-	-	-
Capital Department	-	-	-	-	121,590	-	-	-	-	-	-
Debt Service	-	-	(78,737)	-	-	-	-	-	-	-	-
Transfers Out	-	-	78,034	4,471,299	-	-	-	-	-	-	-
Contingency	382,169	-	-	(4,481,755)	-	-	-	(290,025)	-	-	-
Total Appropriations	848,944	-	(703)	49,120	121,590	-	-	-	-	-	-
Total Unappropriated and Reserve Amounts	5,046,521	8,958	-	26,380	-	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)
Total Requirements	5,895,465	8,958	(703)	75,500	121,590	(550,131)	2,436,840	(145,697)	645,779	475,189	(1,576,960)

Section 3. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 2nd day of May, 2023.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

Exhibit 1
Requested appropriations by source of funding

GENERAL FUND

1. The beginning fund balance in the General Fund was higher than expected due to revenue exceeding expectations and prudent spending.

Additional beginning fund balance	\$ 847,822	Ongoing annual
City Attorney Recruitment	28,897	-
Public Safety Salaries	259,837	259,837
City Hall Reroofing Carryover	51,541	-
Total proposed FY22-23 uses of funds	\$ 340,275	-
Remaining funds – Reserve for Future Years	\$ 507,547	-

2. The City is also anticipating receiving funds higher than originally budgeted. An updated IGA was signed with Washington County to assist with funding for the Senior Center. The Art Center is exceeding original expectations in both Facility Rental and Class Fees; Building Charges for Services are outperforming original expectations. The City has allocated ARPA Grant Funds to fund eligible government services "Police". Adjustments to account for this additional funding is reflected below:

Senior Center – Washington County	33,000
Art Center – Charges for Services	60,000
Building – Charges for Services	483,344
Transfer In – Grant Fund	4,471,299
Total to General Fund	\$5,047,643
Center for the Arts	60,000
Building – Building Plan Review	66,500
Contingency – For One Time	382,169
Total proposed FY22-23 uses of funds	\$ 508,669
Remaining funds – Reserve for Future Years	\$4,538,974

DEBT SERVICE FUND

1. The beginning fund balance in the Debt Service Fund was lower than budgeted due to economic factors that were affecting interest rates on investments. Additionally, interest rates have rebounded significantly in the current fiscal year and the amount earned on investments is higher than original budgeted.
2. Last, there was an error in the resolution adopting the City budget, the budget approved by the budget committee listed a transfer out and in the resolution these funds were mistakenly included in the Debt Service line item. The debt has already been paid off; the original intent was to transfer out the remaining fund balance to the General Fund. This revision along with the adjustments to beginning fund balance and interest revenue is noted below:

Additional beginning fund balance	\$ (1,005)
Interest	302
Total to Debt Service Fund	(703)
Debt Service	(78,737)
Transfers Out	78,034
Total proposed FY22-23 uses of funds	\$ (703)

GRANTS FUND

1. The beginning fund balance for the Grants Fund was lower than projected. This was due to revenue recognition requirements for ARPA Funds received but not yet spent. Additionally, interest rates have rebounded significantly in the current fiscal year and the amount earned on investments is higher than original budgeted.
2. The CEP committee held a second round of applications in the fall and the adjustment is reflected below in operations. Additionally, the City has elected the standard allowance in its use of the ARPA Funds and has allocated these funds to eligible government services by transferring these dollars to the General Fund. These revisions along with the adjustments to beginning fund balance, federal ARPA funds, interest and reserve for future years is noted below:

Additional beginning fund balance	\$(2,178,088)
ARPA	2,207,711
Interest	45,877
Total to Grants Fund	\$ 75,500
Contingency	(4,481,755)
Transfer Out to General Fund	4,471,299
Operations	59,576
Total proposed FY22-23 uses of funds	\$ 49,120
Reserve for Future Years	\$ 26,380

GENERAL CONSTRUCTION FUND

1. The beginning fund balance in the General Construction Fund was higher than projected. This was due to timing of the Cedar Creek Trail project. The carryforward, unspent funding for this project has been included and an adjustment to Capital is reflected below. This revision along with the adjustment to beginning fund balance is noted below:

Additional beginning fund balance	\$ 121,590
Capital	121,590
Total proposed FY22-23 uses of funds	\$ 121,590
Remaining Funds	\$ 0

WATER FUND

1. The beginning fund balance for the Water Fund was lower than projected. This was due to timing of various projects. Additionally, an unexpected repair that was not anticipated nor budgeted is needed at the Snyder Reservoir. This revision along with the adjustments to beginning fund balance and reserve for future years is noted below:

Additional beginning fund balance	\$ (145,697)
Reserve for Future Years	\$ (145,697)
Contingency	\$ (290,025)
Operations	\$ 290,025
Total proposed FY22-23 uses of funds	\$ 0

TO: Sherwood City Council

FROM: Ryan Adams, City Attorney

SUBJECT: Ordinance 2023-004, Adopting the Sherwood Procurement Code, Chapter 1.10

Issue:

Shall the City Council adopt an ordinance updating its procurement code?

Background:

To ensure transparency in public purchasing, the Oregon Legislative Assembly requires all cities to establish, implement and follow standardized procurement rules. ORS 279A.065 gives cities three choices in their establishment of standardized procurement rules: (1) follow the Model Rules adopted by the Oregon attorney general; (2) prescribe their own rules; or (3) prescribe their own rules which include portions of the Model Rules adopted by the Oregon attorney general.

Sherwood has chosen to adopt its own rules, but those rules have not been modified since 2005, with the adoption of Ordinance 2005-003 and Resolution 2005-006. Updating the City's procurement code will align the City with current state contracting amounts and will preserve staff time and resources. The current code text is attached to this staff report for reference.

Financial Impacts:

Other than the cost of codification and updating the Municipal Code, there are no financial impacts to the City by adopting the proposed amendments.

Recommendation:

Staff respectfully recommends City Council hold a public hearing on Ordinance 2023-004, Adopting the Sherwood Procurement Code, Chapter 1.10.

Chapter 1.10 PUBLIC CONTRACTING RULES

Sections:

1.10.010 General provisions.

- ~~A. Except as provided within these rules, city public contracting is governed by the code and the model rules.~~
- ~~B. The Sherwood city council is the city's contract review board (board). Except as otherwise provided in these rules, the powers and duties of the board under the code and model rules will be exercised by the board and the powers and duties given or assigned to contracting agencies by the code or model rules will be exercised by the city manager acting as the city's contracting agent.~~
- ~~C. For the purposes of these rules, "City Manager" means the city manager for the city of Sherwood, or the city manager's designee.~~

~~(Res. 05-006 § 1 (part))~~

1.10.020 Personal service contracts.

- ~~A. "Personal service contract" means a contract for personal or professional services performed by an independent contractor, primarily for the provision of services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary 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 attorneys, accounting and auditing services, information technology services, planning and development services, artists, designers, performers, property managers and consultants. The city manager has discretion to determine whether a particular contract or service falls within this definition. For the purposes of this section, personal services contracts do not include such contracts for architectural, engineering and land surveying services. The procedures for those contracts are found in the model rules, OAR 137, Division 48.~~
- ~~B. The following formal selection procedure will be used when the estimated payment to the contractor exceeds twenty five thousand dollars (\$25,000.00).~~
 - ~~1. Announcement. The city will give notice of its intent to procure personal services through the League of Oregon Cities, and any other means the city deems appropriate, including contacting prospective contractors directly. Announcements will include:~~
 - ~~a. A description of the proposed project;~~
 - ~~b. The scope of the services required;~~
 - ~~c. The project completion dates;~~
 - ~~d. A description of special requirements;~~
 - ~~e. When and where the application may be obtained and to whom it must be returned;~~

- ~~f. The closing date; and~~
 - ~~g. Other necessary information.~~
- ~~2. Application. Applications will include a statement that describes the prospective contractor's credentials, performance data, examples of previous work product or other information sufficient to establish contractor's qualification for the project, references, and other information identified by the city as necessary to make its selection.~~
- ~~3. Initial Screening. The city manager will evaluate the qualifications of all applicants and select a prospective contractor or prospective contractors whose application demonstrates that the contractor is best qualified to meet the city's needs.~~
- ~~4. Final Selection.~~
 - ~~a. The city manager will interview the finalists selected from the initial screening. At the city manager's discretion, the interviews may be conducted before the board.~~
 - ~~b. After the interview process concludes, the city manager will make the final selection. If the interviews are conducted before the board, the board will make the final selection.~~
 - ~~c. The final selection will be based upon applicant capability, experience, project approach, compensation requirements, references and any other criteria identified by the city as necessary for the city to select a contractor.~~
- ~~C. The following informal selection procedure may be used when the estimated payment to the contractor is under twenty five thousand dollars (\$25,000.00) or when the city manager determines that the informal procedures will not interfere with competition among prospective contractors, reduce the quality of services or increase costs. The city manager will contact a minimum of three prospective contractors qualified to offer the services sought. The city manager will request an estimated fee, and make the selection consistent with the city's best interests. If three quotes are not received, the city manager will make a written record of efforts to obtain the quotes.~~
- ~~D. The city manager may enter personal service contracts not exceeding an estimated five thousand dollars (\$5,000.00) without following the procedures under subsection A or B of this section. However, the city manager must make reasonable efforts to choose the most qualified contractor to meet the city's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.~~
- ~~E. The city manager may negotiate with a single source for personal services if the services are available from only one contractor, or the prospective contractor has special skills uniquely required for the performance of the services. The city must make written finds to demonstrate why the proposed contractor is the only contractor who can perform the services desired.~~
- ~~F. The city manager may select a contractor without following any procedures when conditions require immediate action to protect life or property. In such instances, the city manager must make written declarations of the circumstances that justify the emergency appointments.~~

~~(Res. 05-006 § 1 (part))~~

~~1.10.030 Authority to electronically advertise solicitations for goods and services.~~

- ~~A.— The city manager is authorized to develop an "electronic procurement system" in accordance with OAR 137-047-0300(2)(b). As described in OAR 137-046-0110(15), this is an information system accessible through the internet that allows the city to post electronic advertisements and receive electronic offers for goods and services. When an electronic procurement system is in place, the model rules allow procurement solicitations to be advertised exclusively on the internet. This saves the city time and money over newspaper advertisements.~~
- ~~B.— Prior to any development of an electronic procurement system, the city may advertise solicitations for goods and services on the internet in addition to newspaper advertisements.~~

~~(Res. 05-006 § 1 (part))~~

~~1.10.040 Authority to electronically advertise solicitations for public improvements.~~

- ~~A.— For all public improvement contracts with an estimated cost not exceeding one hundred twenty five thousand dollars (\$125,000.00), the city manager may electronically advertise solicitations in a manner deemed appropriate. This method of advertising will save the city time and money, may be used exclusively, and is allowed under ORS 279C.360(1).~~
- ~~B.— An advertisement for a public improvement contract with an estimated cost over one hundred twenty five thousand dollars (\$125,000.00) must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.~~

~~(Res. 05-006 § 1 (part))~~

~~1.10.050 Small procurements.~~

- ~~A.— As provided by ORS 279B.065, any procurement of goods or services not exceeding five thousand dollars (\$5,000.00) may be awarded in any manner the city manager finds practical or convenient, including direct selection or award.~~
- ~~B.— A small procurement contract may be amended in accordance with OAR 137-047-0800, but the cumulative amendments may not increase the total contract price to greater than six thousand dollars (\$6,000.00).~~
- ~~C.— A procurement may not be artificially divided or fragmented to qualify for this section.~~

~~(Res. 05-006 § 1 (part))~~

~~1.10.060 Sole source procurements.~~

- ~~A.— Pursuant to ORS 279B.075(1), the city manager is authorized to declare in writing certain goods and services to be available from only one source.~~
- ~~B.— The determination of a sole source must be based on findings required by ORS 279B.075(2), and otherwise be processed in accordance with OAR 137-047-0275.~~

~~(Res. 05-006 § 1 (part))~~

~~1.10.070 Notice of intent to award certain contracts.~~

- ~~A.— At least seven days before the award of a public contract solicited under a traditional invitation to bid or request for proposals, the city will post or provide to each bidder or proposer notice of the city's intent to award a contract.~~
- ~~B.— If stated in the solicitation document, the city may post this notice electronically or through nonelectronic means and require the bidder or proposer to determine the status of the city's intent.~~
- ~~C.— As an alternative, the city may provide written notice to each bidder or proposer of the city's intent to award a contract. This written notice may be provided electronically or through nonelectronic means.~~
- ~~D.— The city may give less than seven days notice of its intent to award a contract if the city determines in writing that seven days is impracticable as allowed by ORS 279B.135.~~
- ~~E.— This section does not apply to goods and services contracts awarded under small procurements under these rules, or other goods and services contracts awarded in accordance with ORS 279B.070, 279B.075, 279B.080 or 279B.085.~~
- ~~F.— This section does not apply to any public improvement contract or class of public improvement contracts exempted from competitive bidding requirements.~~
- ~~G.— A protest of the city's intent to award a contract may only be filed in accordance with OAR 137-047-0740 or OAR 137-049-0450, as applicable.~~

~~(Res. 05-006 § 1 (part))~~

~~1.10.080 Procedure for surplus property.~~

- ~~A.— Surplus property is property owned by the city such as, office furniture, computers, equipment, vehicles, excluding real property, the city manager determines is surplus and no longer useful to the city.~~
- ~~B.— For surplus property deemed by the city manager to have a value of five thousand dollars (\$5,000.00) or less, the city manager may authorize the property to be sold, to be donated, or to be destroyed. For surplus property deemed by the city manager to have a value of more than five thousand dollars (\$5,000.00), the city council may authorize the property to be sold, to be donated, or to be destroyed.~~
- ~~C.— Surplus property may be sold through the informal solicitation of bids or through an auction, including an online auction. The city manager has the discretion to advertise the sale of surplus property in a newspaper of city wide circulation.~~
- ~~D.— City employees may purchase surplus property, so long as at least three individuals or entities have bid on the property and the employee's bid is the highest bid.~~

~~(Res. 05-006 § 1 (part))~~



ORDINANCE 2023-004

ADOPTING THE SHERWOOD PROCUREMENT CODE, CHAPTER 1.10

WHEREAS, ORS 279A.065 allows cities to adopt their own procurement codes; and

WHEREAS, in 2005, the City of Sherwood adopted a procurement code via Resolution 2005-006; and

WHEREAS, the City of Sherwood has not updated its procurement code since 2005.

NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Sherwood Municipal Code Chapter 1.10 is repealed in its entirety and replaced by the attached Exhibit 1.

Section 2. This Ordinance shall become effective 30 days from its adoption.

Duly passed by the City Council this 16th of May, 2023.

Tim Rosener, Mayor

Date

Attest:

Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Standke	_____	_____
Giles	_____	_____
Scott	_____	_____
Young	_____	_____
Brouse	_____	_____
Mays	_____	_____
Rosener	_____	_____

Chapter 1.10 PUBLIC CONTRACTING RULES

1.10.010 Introduction

- A. Purpose of Purchasing Policy.** This Code is adopted by the Sherwood City Council as the governing body of the city to establish the rules and procedures for contracts entered into and purchases made by the City of Sherwood, Oregon. It is the policy of the city in adopting this Code to utilize public contracting and purchasing practices and methods that maximize the efficient use of city resources and the purchasing power of city 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 purchasing needs of the city as they emerge within various industries.
- B. Interpretation of Purchasing Policy.** Except as specifically provided in this Code, public contracts and purchases shall be awarded, administered and governed according to ORS Chapters 279A, 279B and 279C (the “Public Contracting Code”) and the Attorney General’s Model Public Contract Rules (“Model Rules”), as they now exist.
1. In furtherance of the purposes of the objective set forth above in subsection A, this Code be interpreted to authorize the full use of all contracting and purchasing powers described in ORS Chapters 279A, 279B and 279C.
 2. The Model Rules adopted under ORS 279A.065 shall apply to the contracts and purchases of the city to the extent they do not conflict with this Code and the rules and regulations adopted by the city.
 3. In the event of a conflict between any provisions of this Code and the Model Rules, the provisions of this Code shall prevail.
- C. Specific Provisions’ Precedence over General Provisions.** In the event of a conflict between the provisions of this Code, the more specific provision shall take precedence over the more general provision.
- D. Conflict with Federal Statutes and Regulations.** Except as otherwise expressly provided in ORS Chapters 279A, 279B and/or 279C, applicable federal statutes and regulations govern when federal funds are involved.

1.10.020 Definitions. Unless a different definition is specifically provided herein, or context clearly requires otherwise, the following terms have the meanings set forth herein. Additionally, any term defined in the singular includes the meaning of the plural, and vice versa.

- A. Administering agency.** The contracting agency that solicited and established the original contract in a cooperative procurement for goods, services, personal services, professional services or public improvements.
- B. Affected person/offendor.** A person whose ability to participate in a procurement is adversely impaired by a city decision.
- C. Architectural, engineering and land surveying services.** Professional services performed by an architect, engineer or land surveyor and includes architectural, engineering or land surveying services, separately or any combination thereof, as appropriate within the context of a section of this Model.
- D. Award.** The decision to enter into a contract or purchase order with a specific offeror.
- E. Bid.** A response to an invitation to bid.
- F. Bidder.** A person who submits a bid in response to an invitation to bid.
- G. Business with which a city employee is associated.** Any business in which a city employee is a director, officer, owner or employee, or any corporation in which a city employee owns or has owned ten percent (10%) or more of any class of stock at any point in the preceding calendar year.
- H. City.** The City of Sherwood, Oregon, a municipal corporation and a contracting and purchasing agency.
- I. City Manager.** The person appointed by the city council to the position of city manager, or, as the context or situation requires, the City Manager's designee.
- J. Closing.** The date and time announced in a solicitation document as the deadline for submitting bids or offers.
- K. Contract.** See Public Contract.
- L. Contractor.** The person who enters into a contract with the city.
- M. Contract price.** As the context requires:
1. The maximum payment that the city will make under a contract if the contractor fully performs under the contract, including bonuses, incentives and contingency amounts;
 2. The maximum not-to-exceed payment specified in the contract; or
 3. The unit prices set forth in the contract.
- N. Contracting agency.** A public body authorized by law to conduct a procurement.
- O. Cooperative procurement.** A procurement conducted by, or on behalf of, one or more contracting agencies.
- P. Days.** Calendar days.

- Q. Department.** Includes the following departments of the City of Sherwood:
- a. Community Development
 - b. Community Services
 - c. Finance
 - d. Office of the City Attorney
 - e. Public Works
 - f. Police
- R. Department Director.** An employee of the City of Sherwood that is the senior employee of a department of the City of Sherwood and member of the senior leadership team, or any other City employee designated, in writing, by the City Manager.
- S. Emergency.** Involves circumstances that:
1. Could not have been reasonably foreseen;
 2. Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
 3. Require prompt execution of a contract or amendment in order to remedy the condition.
- T. Findings.** The justification for a conclusion. If the justification relates to a public improvement contract, findings may be based on information that includes, but is not limited to:
1. Operational, budget and financial data;
 2. Public benefits;
 3. Value engineering;
 4. Specialized expertise;
 5. Market conditions;
 6. Technical complexity; and
 7. Funding sources.
- U. Goods and/or services.** Supplies, equipment, materials and services, other than personal services, and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto. The term includes combinations of any of the items identified in the definition.
- V. Grant.** An agreement under which:
1. The city receives moneys, property or other assistance, including but not limited to, federal assistance that is characterized as a grant by federal law or

regulation, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;

- a. The assistance received by the city is from a grantor for the purpose of supporting or stimulating a program or activity of the city; and
- b. No substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions; or

2. The city provides moneys, property or other assistance, including but not limited to, federal assistance that is characterized as a grant by federal law or regulation, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;

- a. The assistance is given to the recipient for the purpose of supporting or stimulating a program or activity of the recipient; and
- b. No substantial involvement by the city is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions.

W. Immediate family member. An employee's: spouse, and parents thereof; children, and spouses thereof; parents, and spouses thereof; siblings, and spouses thereof; grandparents and grandchildren, and spouses thereof; and domestic partner, and parents thereof.

X. Offer. A bid, proposal, quote or other response to a solicitation document.

Y. Offeror. A person who submits an offer.

Z. Opening. The date, time and place announced in the solicitation document for the public opening of written sealed offers.

AA. Original contract. The initial contract or price agreement solicited and awarded during a cooperative procurement by an administering agency.

BB. Purchasing agency. An agency that procures goods or services, personal services, or public improvements from a contractor based on the original contract established by an administering agency in a cooperative procurement.

CC. Person. An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public body, public corporation or other legal or commercial entity, and any other person or entity with legal capacity to contract.

DD. Personal services. Services, other than professional services, that require specialized skill, knowledge and resources in the application of technical or scientific expertise or in the exercise of professional, artistic or management discretion or judgment.

1. Qualifications and performance history, expertise and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a personal services contractor, with price being secondary.
2. Personal services contracts include, but are not limited to, the following classes of contracts:
 - a. Contracts for services performed in a professional capacity, including but not limited to, services of an accountant, attorney, auditor, court reporter, information technology consultant, physician or broadcaster;
 - b. 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 city is or may become interested;
 - c. Contracts for services as an artist in the performing or fine arts, including any person identified as a photographer, film maker, actor, director, painter, weaver or sculptor;
 - d. Contracts for services that are specialized, creative or research-oriented; and/or
 - e. Contracts for services as a consultant.

EE. Price agreement. A contract for the procurement of goods or services at a set price which has:

1. No guarantee of a minimum or maximum purchase; or
2. An initial order or minimum purchase combined with a continuing contractor obligation to provide goods or services with no guarantee of any minimum or maximum additional purchase.

FF. Procurement. The act of purchasing, leasing, renting or otherwise acquiring goods or services, personal services or professional services. It includes each function and procedure undertaken or required to be undertaken to enter into a contract, administer a contract and obtain the performance of a contract for goods or services, personal services or professional services.

GG. Professional services. Architectural, engineering, land surveying, photogrammetric, transportation planning or related services, or any combination of these services, provided by a consultant.

HH. Proposal. A response to a request for proposals.

II. Proposer. A person that submits a proposal in response to a request for proposals.

JJ. Provider. As the context requires, a supplier of goods or services, personal services, or professional services.

- KK. Public contract.** A sale or other disposal, or a purchase, lease, rental or other acquisition, by the city of personal property, goods or services, including personal services, professional services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. It does not include grants.
- LL. Public contracting.** Procurement activities relating to obtaining, modifying or administering contracts or price agreements.
- MM. Public improvement.** A project for construction, reconstruction or major renovation on real property, by or for the city. It does not include projects for which no funds of the city are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or emergency work, minor alteration, or ordinary repair or maintenance necessary to preserve a public improvement.
- NN. Public improvement contract.** A contract for a public improvement. This does not include a contract for emergency work, minor alterations, or ordinary repair or maintenance necessary to maintain a public improvement.
- OO. Recycled product.** All materials, goods and supplies, not less than fifty percent (50%) of the total weight of which consists of secondary and post-consumer waste with not less than ten percent (10%) of its total weight consisting of post-consumer waste. It includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form.
- PP. Related services.** Personal services, other than architectural, engineering and land survey services, that are related to the planning, design, engineering or oversight of public improvement projects or components thereof, including but not limited to:
1. Landscape architectural services;
 2. Facilities planning services;
 3. Energy planning services;
 4. Space planning services;
 5. Environmental impact studies;
 6. Hazardous substances or hazardous waste or toxic substances testing services;
 7. Wetland delineation studies;
 8. Wetland mitigation services;
 9. Native American studies;
 10. Historical research services;

11. Endangered species studies;
12. Rare plant studies;
13. Biological services;
14. Archaeological services;
15. Cost estimating services;
16. Appraising services;
17. Material testing services;
18. Mechanical system balancing services;
19. Commissioning services;
20. Project management services;
21. Construction management services and owner's representatives service;
and/or
22. Land use planning services.

QQ. Request for proposals. A solicitation document used for soliciting proposals.

RR. Request for qualifications. A written document issued by the city describing particular services to which potential contractors respond with a description of their experience and qualifications that results in a list of potential contractors who are qualified to perform those services, but which is not intended to create a contract between a potential contractor on the list and the city.

SS. Revenue generating agreements. Contracts or agreements for services that generate revenue and that are typically awarded to the offeror proposing the most advantageous or highest monetary return.

TT. Scope. The range and attributes of the goods or services described in a procurement document.

UU. Signed or signature. Any mark, word or symbol attached to or logically associated with a document and executed or adopted by a person with the authority and intent to be bound.

VV. Solicitation. As the context requires:

1. A request for the purpose of soliciting offers, including an invitation for bid, a request for proposal, a request for quotation, a request for qualifications, or other similar documents;
2. The process of notifying prospective offerors of a request for offers; and/or
3. The solicitation document.

WW. Work. The furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual item in a contract and successful completion of all duties and obligations imposed by the contract.

XX. Written or in writing. Conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words, including electronic transmissions or facsimile documents when required by applicable law or permitted by a solicitation document or contract.

1.10.030. Authority

A. City Council as Local Contract Review Board. The Sherwood city council is designated as the local contract review board of the city and has all the rights, powers and authority necessary to carry out the provisions of this Code, the Public Contracting Code, and/or the Model Rules.

B. Application of Attorney General's Model Rules of Procedure. Pursuant to ORS 279A.065(6), the city has elected to establish its own policy for public contracting and purchasing. Except as provided herein, the Model Rules do not apply to the city.

C. Inapplicability of Code. This Code does not apply to the following:

1. Contracts or agreement to which the Public Contracting Code does not apply;
2. Contracts, intergovernmental and interstate agreements entered into pursuant to ORS Chapter 190;
3. Grants;
4. Acquisitions or disposals of real property or interests in real property;
5. Procurements from an Oregon Corrections Enterprise program;
6. Contracts, agreements or other documents entered into, issued or established in connection with:
 - a. The incurring of debt, 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;
 - b. The making of program loans and similar extensions or advance of funds, aid or assistance by the city 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;
 - c. The investment of funds by the city as authorized by law; or
 - d. Banking, money management or other predominantly financial transactions that, by their character, cannot practically be established

under the competitive contractor selection procedures, based upon the findings of the city manager.

7. Contracts for employee benefit plans;
8. Contracts with newspapers and other publications for the placement of advertisements or public notices;
9. Contracts for items where the price is regulated and available from a single source or limited number of sources;
10. Insurance contracts;
11. Revenue-generating agreements;
12. Federal agreements where applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or this Code, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or this Code.

D. Authority of City Manager. For contracts and purchases covered by this Code, the city manager is authorized to:

1. Award contracts and amendments without specific authorization by the city council whenever the contract amount is \$150,000 or less, the proposed expenditure is included in the current fiscal year budget, and the proposed expenditure aligns with Sherwood City Council goals as may be amended from time to time.
2. Execute contracts and amendments with specific authorization by the city council whenever the contract or amendment amount is greater than \$150,000 and the proposed expenditure is included in the current fiscal year budget.
3. As the purchasing agent for the city, the city manager is authorized to:
 - a. Advertise for bids or proposals without specific authorization from the city council, when the proposed purchase is included within the current fiscal year budget.
 - b. Advertise for bids or proposals when the proposed purchase is not included within the current fiscal year budget after the city council approves the proposed budget transfer.
 - c. Purchase goods, services and/or property without specific authorization by the city council whenever the amount is \$150,000 or less and the proposed expenditures are included in the current fiscal year budget.
 - d. Purchase goods, services and/or property with specific authorization by the city council whenever the amount is greater than \$150,000 and the proposed expenditure is included in the current fiscal year budget.

- e. Purchases of any goods or services in excess of \$7,500 from city employees require authorization of the city manager.
 - f. Department Directors are authorized to make expenditures of up to \$50,000 without approval of the city manager so long as this code, and any other applicable law, is followed.
 - g. Departments shall communicate purchase requirements to the city manager and plan sufficiently in advance so that orders can be placed in economical quantities.
4. Delegate, in writing, the signature authority described in the above subsection (2) and the purchasing powers described in the above subsection (3). In the absence of a written delegation to the contrary, and in the absence of the city manager, the signature authority described in the above subsection (2) and the purchasing powers described in the above subsection (3) are delegated in order as follows:
- a. Public Works Director
 - b. City Attorney;
 - c. Community Services Director;
 - d. Finance director;
 - e. Police Chief.
5. Adopt forms, procedures, computer software, and administrative rules for all city purchases regardless of the amount.
- a. When adopting the forms, procedures, computer software, and/or administrative rules, the city manager shall establish practices and policies that:
 - i. Do not encourage favoritism or substantially diminish competition; and
 - ii. Allow the city to take advantage of the cost-saving benefits of alternative contracting methods and practices;
 - b. The city shall use these forms, procedures, computer software and administrative rules unless they conflict with the Code.

E. Favorable Terms. Contracts and purchases shall be negotiated on the most favorable terms in accordance with this Code, other adopted ordinances, state and federal laws, policies and procedures.

F. Unauthorized Contracts or Purchases. Public contracts entered into or purchases made as authorized herein shall be voidable at the sole discretion of the city.

1. The city may take appropriate action in response to execution of contracts or purchases made contrary to this provision.
2. Such actions include, but are not limited to, providing educational guidance, imposing disciplinary measures, termination of employment, and/or holding individuals personally liable for such contracts or purchases.

G. Purchasing from City Employees or Employees' Immediate Family

Prohibited. No contract shall be entered into with or purchase made from any city employee or employee's immediate family member, or any business with which the employee is associated, unless:

1. The contract or purchase is expressly authorized and approved by the city council; or
2. The need for the contract or purchase occurs during a state of emergency, and the city manager finds, in writing, that the acquisition from the employee, employee's immediate family member or business with which the employee is associated is the most expeditious means to eliminate the threat to public health, safety and welfare.

1.10.040. Preferences.

A. Discretionary Local Preference. If the solicitation is in writing, the city manager may provide a specified percentage preference of not more than ten percent (10%) for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon.

1. When a preference is provided under this subsection, and more than one offeror qualifies for the preference, the city manager may give further preference to a qualifying offeror that resides in or is headquartered in Oregon.
2. The city manager may establish a preference percentage of ten percent (10%) or higher if the city manager makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence of good cause.
3. The preference described in this subsection cannot be applied to a contract for emergency work, minor alterations, and ordinary repairs or maintenance of public improvements.

B. Mandatory Tie Breaker Preference. If offers are identical in price, fitness, availability and the quality is identical, and the city desires to award the contract, the preferences provided in ORS 279A.120 shall be applied prior to the contract award.

C. Reciprocal Preference. Reciprocal preferences must be given when evaluating bids, if applicable under ORS 279A.120.

- D. Preference for Recycled Materials and Supplies.** Preferences for recycled goods shall be given when comparing goods, if applicable under ORS 279A.125. The city manager shall adopt standards to determine if goods are manufactured from recycled materials.

1.10.050. General Provisions.

- A. Public Notice.** Unless otherwise specifically provided by this Code, any notice required to be published by this Code may be published using any method the city manager deems appropriate, including but not limited to, mailing notice to persons that have requested notice in writing, placing notice on the city's website, or publishing in statewide trade or local publications.

- B. Procedure for Competitive Verbal Quotes and Proposals.** Where allowed by this Code, solicitations by competitive verbal quotes and proposals shall be based on a description of the quantity of goods or services to be provided, and may be solicited and received any reasonable method of communication if authorized by the city manager.

1. A good faith effort shall be made to contact at least three (3) potential providers.
2. If three (3) potential providers are not reasonably available, fewer will suffice, provided the reasons three potential providers are not reasonably available is documented, in writing, as part of the procurement file.

- C. Procedure for Informal Written Solicitation.** Where allowed by this Code, informal written solicitations shall be made by a solicitation document sent to not less than three (3) prospective providers.

1. The solicitation document shall request competitive price quotes or competitive proposals, and include:
 - a. The date, time and place that price quotes or proposals are due;
 - b. A description or quantity of the good or service required;
 - c. Any statement of period for which price quotes or proposals must remain firm, irrevocable, valid and binding on the offeror. If no time is stated in the solicitation document, the period shall be thirty (30) days;
 - d. Any required contract terms or conditions; and
 - e. Any required bid form or proposed format.
2. Price quotes or proposals shall be received by the city manager at the date, time and place established in the solicitation document.
 - a. The city manager, or their designee, shall keep a written record of the sources of the quotes or proposals.
 - b. If three (3) quotes or proposals are not reasonably available, fewer

shall suffice, but the city manager, or their designee, shall make a written record of the effort made to obtain quotes or proposals as part of the procurement file.

- D. Procurement Methods for Professional Services and Public Improvements.** The city shall apply the Public Contracting Code and the Model Rules when procuring professional services and public improvements and processing protests thereof.
- E. Training.** At least once per year, the Office of the City Attorney shall arrange and provide training on procurement law, policies, and best practices.
- F. Procurement Management.** The City, and each department thereof, shall maintain a list of its active contracts, and shall include within such list, the amount of the contract, and the date of expiration thereof. A payment to any contractor that exceeds the lesser of fifteen percent (15%) or fifty-thousand dollars (\$50,000) of the previously agreed upon contract amount, shall require the approval of the City Manager and City Attorney. Nothing in this section shall be construed to allow a contract of more than \$150,000 to be executed without Council approval.
- G. Retroactive Approval.** Retroactive approval of a contract means the award or execution of a contract where work was commenced without final award or execution. The city manager may make a retroactive approval of a contract only if the responsible employee submits a copy of the proposed contract to the city manager, along with a written request for contract retroactive approval, that contains:
 - 1. An explanation of the reason work was commenced before the contract was finally awarded or executed;
 - 2. A description of steps being taken to prevent similar occurrences in the future;
 - 3. Evidence that, but for the failure to finally award or execute the contract, the employee complied with all other steps required to properly select a contractor and negotiate the contract; and
 - 4. A proposed form of contract.

1.10.060. Source Selection Methods for Goods or Services, Other Than Personal or Professional Services.

- A. Small Procurements.** Contracts for or purchases of goods or services with a contract price of \$10,000 or less are small procurements.
 - 1. Purchases less than \$10,000. The city manager may use any procurement method the city manager deems practical or convenient, including direct negotiation or award, for small procurements of goods or services with a contract price of less than \$10,000.

2. Negotiations. The city manager may negotiate with an offeror to clarify competitive verbal quotes or proposals or informal written proposals, or to make modifications that will make the quote or proposal acceptable or more advantageous to the city.
3. Award. If a contract is awarded, the award shall be made to the offeror whose verbal quote or proposal the city manager determines will best serve the interests of the city, taking into account price as well as any other relevant considerations, including but not limited to, experience, expertise, product functionality, suitability for a particular purpose, delivery, and contractor responsibility.
4. Amendments. Small procurement contracts may be amended if the cumulative amendments do not increase the total contract price to more than twenty-five percent (25%) of the original contract price.
5. Public notice. No public notice of small procurements is required.

B. Intermediate Procurements. Contracts for goods or services with a contract price greater than \$10,000 and less than or equal to \$150,000 are intermediate procurements.

1. Intermediate procurements shall be by informal written solicitation.
2. Negotiations. The city manager may negotiate with an offeror to clarify an informal written solicitation, or to make modifications that will make the quote, proposal or solicitation acceptable or more advantageous to the city.
3. Award. If a contract is awarded, the award shall be made to the offeror whose competitive verbal quote or proposal or informal written solicitation the city manager determines will best serve the interests of the city, taking into account price or any other relevant considerations, including but not limited to, experience, expertise, product functionality, suitability for a particular purpose, delivery and contractor responsibility.
4. Amendments. Intermediate procurement contracts may be amended if the cumulative amendments do not increase the total contract price by more than twenty-five percent (25%) of the original contract price.

C. Large Procurements. Contracts for goods or services with a contract price greater than \$150,000 are large procurements.

1. The city manager may use competitive sealed bidding as set forth in ORS 279B.055, or competitive sealed proposals as set forth in ORS 279B.060.
2. When using either competitive sealed bidding or competitive sealed proposals, the city manager shall follow the applicable procedures set out in the Model Rules.
3. The city shall apply the applicable procedure set out in the Model Rules for processing protests of large procurements.

1.10.070. Personal Services Contracts.

A. Classification of Services as Personal Services. In addition to the classes of

personal services contracts identified in the definition of personal services contracts, the city manager may classify additional specific types of services as personal services. In determining whether a service is a personal service, the city manager shall consider:

1. Whether the work requires specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment;
2. Whether the city intends to rely on the contractor's specialized skills, knowledge and expertise to accomplish the work; and
3. Whether selecting a contractor primarily on the basis of qualifications, rather than price, would most likely meet the city's needs and result in obtaining satisfactory contract performance and optimal value.
4. A service shall not be classified as personal services for the purposes of this Code if:
 - a. The work has traditionally been performed by contractors selected primarily on the basis of price; or
 - b. The services do not require specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment.

B. Requests for Qualifications. At the city manager's discretion, a request for qualifications may be used to determine whether competition exists to perform the needed personal services or to establish a non-binding list of qualified contractors for individual negotiation, informal written solicitations or requests for proposals.

1. A request for qualifications shall describe the particular type of personal services that will be sought, the qualifications the contractor must have to be considered, and the evaluation factors and their relative importance.
2. A request for qualifications may require information including, but not limited to:
 - a. The contractor's particular capability to perform the required personal services;
 - b. The number of experienced personnel available to perform the required personal services;
 - c. The specific qualifications and experience of personnel;
 - d. A list of similar personal services the contractor has completed;
 - e. References concerning past performance; and
 - f. Any other information necessary to evaluate the contractor's qualifications.
3. A voluntary or mandatory qualifications pre-submission meeting may be held for all interested contractors to discuss the proposed personal services. The request

for qualifications shall include the date, time and location of the meeting.

4. Unless the responses to a request for qualifications establish that competition does not exist, the request for qualifications is canceled, or all responses to the request for qualifications are rejected, and all respondents who meet the qualifications set forth in the request for qualifications shall receive notice of any required personal services and have an opportunity to submit a proposal in response to request for proposals.

C. Direct Negotiations. Personal services may be procured through direct negotiations if:

1. The contract price does not exceed \$75,000 and the work is within a budgetary appropriation or approved by the city council; or
2. The confidential personal services, including special counsel, or professional or expert witnesses or consultants, are necessary to assist with pending or threatened litigation or other legal matters in which the city may have an interest; or
3. The nature of the personal service is not project-driven but requires an ongoing, long-term relationship of knowledge and trust.
4. Amendments. Personal services contracts procured by direct negotiation pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty- five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.
5. Public Notice. No public notice of personal services contracts procured by direct negotiations is required.

D. Informal Written Solicitations. An informal written solicitation process may be used for personal services when the contract price is less than \$150,000.

1. An informal written solicitation shall solicit proposals from at least three (3) qualified providers. If the city manager determines three (3) qualified providers are not reasonably available, fewer shall suffice if the reasons three (3) providers are not reasonably available are documented in the procurement file.
2. The solicitation document shall include:
 - a. The date, time and place that proposals are due;
 - b. A description of personal services sought, or the project to be undertaken;

- c. Any statement of the time period for which proposals must remain firm, irrevocable, valid and binding on the offeror. If no time is stated in the solicitation document, the period shall be thirty (30) days;
 - d. Any required contract terms or conditions; and
 - e. Any required bid form or proposal format.
3. Selection and ranking of proposals may be based on the following criteria:
- a. Particular capability to perform the personal services required;
 - b. Experienced staff available to perform the personal services required, including the proposer's recent, current and projected workloads;
 - c. Performance history;
 - d. Approach and philosophy used in providing personal services;
 - e. Fees or costs;
 - f. Geographic proximity to the project or the area where the services are to be performed; and
 - g. Such other factors deemed appropriate, including a desire to ensure an equitable distribution of work among highly qualified contractors.
4. The city manager shall maintain written documentation of the solicitation, including solicitation attempts, responses, and provider names and addresses in the procurement file.
5. Amendments. Personal services contracts procured by informal written solicitations pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.
6. Public Notice. No public notice of personal services contracts procured by informal written solicitations pursuant to this section is required.
7. The selection procedures described in this section may be waived by the Contracting Agency where 1) an emergency exists that could not have been reasonably foreseen and requires such prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures, 2) selection is from a list of providers with similar qualifications in which selection is determined based upon a regularly scheduled pre-qualification process, not to exceed three years, or 3) a change in contractor to do follow-up work would clearly result in increased costs or increased time.

E. Requests for Proposals. A request for proposals shall be used to procure personal services when the contract price is \$150,000 or more or the complexity of the project requires the use of a formal competitive process to determine whether a particular proposal is most advantageous to the city.

1. Request for Proposal. The request for proposal shall include:
 - a. Notice of any pre-offer conference, including:
 - i. The time, date and location;
 - ii. Whether attendance at the pre-offer conference is mandatory or voluntary; and
 - iii. A provision that statements made by representatives of the city at the pre-offer conference are not binding unless confirmed by written addendum.
 - b. The form and instructions for submission of proposals, including the location where proposals must be submitted, the date and time by which proposals must be received and any other special information, e.g., whether proposals may be submitted by electronic means;
 - c. The name and title of the person designated for the receipt of proposals and the person designated as the contact person for the procurement, if different;
 - d. A date, time and place that pre-qualification applications, if any, must be filed and the classes of work, if any, for which proposers must be pre-qualified;
 - e. A statement that the city may cancel the procurement or reject any or all proposals;
 - f. The date, time and place of opening;
 - g. The office where the request for proposals may be reviewed;
 - h. A description of the personal services to be procured;
 - i. The evaluation criteria;
 - j. The anticipated schedule, deadlines, evaluation process and protest process;
 - k. The form and amount of any proposal security deemed reasonable and prudent by the city manager to protect the city's interests;
 - l. A description of the manner in which proposals will be evaluated, including the relative importance of price and other evaluation factors used to rate the proposals;
 - m. If more than one tier of competitive evaluation will be used, a description of the process under which the proposals will be evaluated in the subsequent tiers;
 - n. If contracts will be awarded to more than one personal services contractor, an identification of the manner in which the city will determine the number of

contracts to be awarded, or that the manner will be left to the city's discretion at time of award;

- o. If contracts will be awarded to more than one personal services contractor, the criteria to be used to choose from the multiple contracts when acquiring personal services shall be identified;
 - p. All required contract terms and conditions, including the statutorily required provisions in ORS 279B.220, 279B.230 and 279B.235; and
 - q. Any terms and conditions authorized for negotiation.
- 2. Public Notice. The city manager shall provide public notice of a request for proposals for personal services.
 - a. Public notice shall be given not less than twenty-one (21) days prior to closing for the request for proposals, unless the city manager determines that a shorter interval is in the public's interest, or a shorter interval will not substantially affect competition.
 - b. The city manager shall document the specific reasons for the shorter public notice period in the procurement file.
- 3. Amendments. Personal services contracts procured by requests for proposals pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty- five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.

1.10.080. Alternative Source Selection Methods for Goods or Services & Personal Services.

- A. Sole-Source Procurements.** A contract may be awarded as a sole-source procurement without competition pursuant to this section.
 - 1. Determination of Sole Source. Before a sole-source contract may be awarded, the city manager shall make written findings that the goods or services, personal services or professional services are available from only one source, based on one or more of the following criteria:
 - a. The efficient use of existing goods or services, personal services or professional services requires the acquisition of compatible goods or services, personal services or professional services that are available from only one source;
 - b. The goods or services, personal services or professional services are available from only one source and required for the exchange of software or data with other public or private agencies;
 - c. The goods or services, personal services or professional services are available from only one source, and are needed for use in a pilot or an experimental project; or

- d. Other facts or circumstances exist that support the conclusion that the goods or services, personal services or professional services are available from only one source.
2. Negotiations. To the extent reasonably practical, contract terms advantageous to the city shall be negotiated with the sole source provider.
3. Notice. The city manager, or designee, shall post notice of any determination that the sole source selection method will be used on the city's website not less than five (5) days prior to the date a sole source contract will be awarded. The notice shall describe the goods or services, personal services or professional services to be procured, identify the prospective contractor and include the date and time when, and place where, protests of the use of a sole source selection method must be filed.

B. Special Procurements. In its capacity as contract review board for the city, the city council, upon its own initiative or upon request of the city manager, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

1. Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the city council that contains the following:
 - a. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
 - b. The estimated contract price or cost of the project, if relevant;
 - c. Findings to support the substantial cost savings, enhancement in quality or performance, or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
 - d. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;
 - e. A description of the proposed alternative contracting methods to be employed; and
 - f. The estimated date by which it would be necessary to let the contract(s).
2. In making a determination regarding a special selection method, the city council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
3. Hearing. The city shall approve the special solicitation or exemption after a public hearing before the city council.

- a. At the public hearing, the city shall offer an opportunity for any interested party to appear and present comment.
 - b. The city council shall consider the findings and may approve the exemption as proposed or as modified by the city council after providing an opportunity for public comment.
- C. **Contracts.** Subject to award at the city manager's discretion, the following classes of contracts may be awarded in any manner that the city manager deems appropriate to the city's needs, including by direct appointment or purchase. Except where otherwise provided, the city manager shall make a record of the method of award.
 1. Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the Code.
 2. Architectural. Procurement of architectural, engineering, photogrammetric mapping, transportation planning, and land surveying services, and/or related services less than or equal to \$50,000.00 subject to approval by the Community Development Director, and up to \$150,000.00 subject to approval of the City Manager.
 3. Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
 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. Price Regulated Items and/or under established price agreements, gasoline, diesel fuel, heating oil, lubricants and asphalt, investment contracts, insurance contracts, office copier purchases, sole source contracts, and oil or hazardous material removal.
 6. Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the city.
 7. Software and Computer Equipment. Contracts for the purchase of computer equipment and software, which may be by requests for quotations, the solicitation of which may be by advertisement or oral requests for offers.
 8. Specialty Goods for Resale. Contracts for the purchase of specialty goods by the city for resale to consumers.
 9. Sponsorship Agreements. Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor.
 10. Structures. Contracts for the disposal of structures or signs located on city-owned property.

11. Renewals. Contracts that are being renewed in accordance with their terms, or within 6 months thereof, 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 (1) 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. Temporary Use of City-Owned Property. The city may negotiate and enter into a license, permit or other contract for the temporary use of city-owned property without using a competitive selection process if:
 - a. The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the proposer;
 - b. The proposed use of the property is consistent with the city's use of the property and the public interest; and
 - c. The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property or the public interest.
14. Used Property. The city manager may contract for the purchase of used property by negotiation if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similar new property.
 - a. For this purpose, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city.
 - b. The city manager shall record the findings that support the purchase.
15. Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.
16. Conference/Meeting Room Contracts. Contracts entered into for meeting room rental, hotel rooms, food and beverage, and incidental costs related to conferences and city-sponsored workshops and trainings.

D. Emergency Procurements. When the city manager determines that immediate execution of a contract within the city manager's authority is necessary to prevent substantial damage or injury to persons or property, the city manager may execute the contract without competitive selection and award or city council approval, but, where time permits, competitive quotes should be sought from at least three (3) providers.

1. When the city manager enters into an emergency contract, the city manager shall, as soon as possible in light of the emergency circumstances, 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 city and the public.
2. The city manager shall also notify the city council of the facts and

circumstances surrounding the emergency execution of the contract.

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

1.10.090. Surplus Property.

- A. General Methods.** Surplus property may be disposed of by any of the following methods upon a determination by the city manager that the method of disposal is in the best interest of the city. Factors that may be considered by the city manager include costs of sale, administrative costs, and public benefits to the city.
1. Governments. Without competition, by transfer or sale to another government department or public agency.
 2. Auction. By publicly advertised auction to the highest bidder.
 3. Bids. By publicly advertised invitation to bid.
 4. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with this Code for the award of personal services contracts.
 5. Fixed Price Sale. The city manager may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
 6. Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
 7. Donation. By donation to any organization operating within or providing a service to residents of the state of Oregon, which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- B. 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 employee making the disposal shall make a record of the value of the item and the manner of disposal.
- C. Personal-Use Items.** An item (or indivisible set) of specialized and personal use with a current value of less than \$500 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the city manager.
- D. Restriction on Sale to City Employees.** Unless subject to an open and public bid process, City employees shall not compete, as members of the public, for the purchase of publicly sold surplus property.
- E. Conveyance to Purchaser.** Upon the consummation of a sale of surplus personal

property, the city shall make, execute and deliver a bill of sale or similar instrument signed on behalf of the city, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser. All property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind, including but not limited to warranties of title or fitness for any purpose.

1.10.100. Protest and Appeal Procedures.

A. Appeal of Debarment or Prequalification Decision.

1. **Right to Hearing.** Any person who has been debarred from competing for the city's contracts or for whom prequalification has been denied, revoked or revised may appeal the city's decision to the city council as provided in this section.
2. **Filing of Appeal.** The person shall file a written notice of appeal with the city manager within five (5) business days after the prospective contractor's receipt of notice of the determination of debarment or denial of prequalification.
3. **Notification of City Council.** Immediately upon receipt of such notice of appeal, the city manager shall notify the city council of the appeal.
4. **Hearing.** The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
 - a. Promptly upon receipt of notice of appeal, the city shall notify the appellant of the date, time and place of the hearing;
 - b. The city council shall conduct the hearing and decide the appeal within thirty (30) days after receiving notice of the appeal from the city manager; and
 - c. At the hearing, the city council shall reconsider, without regard to the underlying decision giving rise to the appeal, the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.
5. **Decision.** The city council shall set forth in writing the reasons for the decision.
6. **Costs.** The city council may allocate its costs for the hearing between the appellant and the city.
 - a. The allocation shall be based upon facts found by the city council and stated in the city council's decision that, in the city council's opinion, warrant such allocation of costs.
 - b. If the city council does not allocate costs, the costs shall be paid by the appellant if the decision is upheld, or by the city if the decision is overturned.
 - c. **Judicial Review.** The decision of the city council may be reviewed only upon a petition in the circuit court of Washington County filed within fifteen (15) days after the date of the city council's decision. The appeal must be filed in accordance with all applicable state laws and trial court procedures.

B. Protests and Judicial Review of Special Procurements. An affected person may

protest the request for approval of a special procurement as provided in this section.

1. **Delivery; Late Protests.** An affected person shall deliver a written protest to the city manager within seven (7) days after the first date of public notice of a proposed special procurement, unless a different period is provided in the public notice.
 - a. The written protest shall include a fee in an amount established in a schedule adopted by the city manager to cover the costs of processing the protest.
 - b. A protest submitted after the timeframe established under this subsection is untimely and shall not be considered.
 2. **Content of Protest.** The written protest shall include:
 - a. Identification of the requested special procurement;
 - b. A detailed statement of the legal and factual grounds for the protest;
 - c. Evidence or documentation supporting the grounds on which the protest is based;
 - d. A description of the resulting harm to the affected person; and
 - e. The relief requested.
 3. **Additional Information.** The city manager may allow any person to respond to the protest in any manner the city manager deems appropriate, by giving such persons written notice of the time and manner whereby any response shall be delivered.
 4. **City Response.** The city manager, or their designee, shall issue a written disposition of the protest in a timely manner.
 - a. If the city manager upholds the protest, in whole or in part, the city manager may, in the city manager's sole discretion, implement the protest in the approval of the special procurement, deny the request for approval of the special procurement, or revoke any approval of the special procurement.
 - b. If the city manager upholds the protest, in whole or in part, the city shall refund the fee required to be delivered with the protest.
 5. **Judicial Review.** An affected person may not seek judicial review of a denial of a request for a special procurement.
 - a. Before seeking judicial review of the approval of a special procurement, an affected person shall exhaust all administrative remedies.
 - b. Judicial review shall be in accordance with ORS 279B.400.
- C. Protests and Judicial Review of Sole-Source Procurements.** An affected person may protest the determination that goods or services or a class of goods or services are available from only one source as provided in this section.
1. **Delivery; Late Protests.** An affected person shall deliver a written protest to the city manager within seven (7) days after the first date of public notice of a proposed sole source procurement is placed on the city's website, unless a different period is provided in the public notice.

- a. The written protest shall include a fee in an amount established in a schedule adopted by the city manager to cover the costs of processing the protest.
 - b. A protest submitted after the timeframe established under this subsection is untimely and shall not be considered.
- 2. Content of Protest. The written protest shall include:
 - a. A detailed statement of the legal and factual grounds for the protest;
 - b. Evidence or documentation supporting the grounds on which the protest is based;
 - c. A description of the resulting harm to the affected person; and
 - d. The relief requested.
- 3. Additional Information. The city manager may allow any person to respond to the protest in any manner the city manager deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
- 4. City Manager Response. The city manager shall issue a written disposition of the protest in a timely manner.
 - a. If the city manager upholds the protest, in whole or in part, the proposed sole-source contract shall not be awarded.
 - b. If the city manager upholds the protest, in whole or in part, the city shall refund the fee required to be delivered with the protest.
- 5. Judicial Review. An affected person may not seek judicial review of an election not to make a sole-source procurement.
 - a. Before seeking judicial review of the approval of a sole-source procurement, an affected person shall exhaust all administrative remedies.
 - b. Judicial review shall be in accordance with ORS 279B.400.

D. Protests and Judicial Review of Personal Services Procurements. An affected person may protest the procurement of a personal services contract as provided in this section.

- 1. Delivery. Unless otherwise specified in the solicitation document, the protest shall be in writing and delivered to the city manager.
 - a. The written protest shall include a fee in an amount established in a schedule adopted by the city manager to cover the costs of processing the protest.
 - b. Protests of the procurement of a specific contract as a personal services contract shall be made prior to closing.
 - c. Protests to the award or an intent to award a personal services contract shall be made within seven (7) days after issuance of the intent to award, or if no notice of intent to award is given, within forty-eight (48) hours after award.
 - d. Protests submitted after the timeframe established under this subsection are untimely and shall not be considered.

2. Contents of Protest. The written protest shall:
 - a. Specify all legal or factual grounds for the protest as follows:
 - i. A person may protest the solicitation on the grounds that the contract is not a personal services contract or was otherwise in violation of this Code or applicable law. The protest shall identify the specific provision of this Code or applicable law that was violated.
 - ii. A person may protest award or intent to award for the reason that:
 - All proposals ranked higher than the affected persons are nonresponsive;
 - The city failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation document;
 - The city abused its discretion in rejecting the affected person's proposal as nonresponsive; or
 - The evaluation of proposals or the subsequent determination of award is otherwise in violation of this Code or applicable law.
 - iii. The protest shall identify the specific provision of this Code or applicable law that was violated by the city's evaluation or award;
 - b. Include evidence or supporting documentation that supports the grounds on which the protest is based;
 - c. A description of the resulting harm to the affected person; and
 - d. The relief requested.
 3. Additional Information. The city manager may allow any person to respond to the protest in any manner the city manager deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
 4. City Manager Response. The city manager shall issue a written disposition of the protest in a timely manner.
 - a. If the city manager upholds the protest, in whole or in part, the proposed personal services contract procurement shall be cancelled, or the contract shall not be awarded, as the case may be.
 - b. If the city manager upholds the protest, in whole or in part, the city shall refund the fee required to be delivered with the protest.
 5. Judicial Review. Before seeking judicial review, an affected person shall exhaust all administrative remedies. Judicial review shall be in accordance with ORS 279B.420.
- E. Protests of Cooperative Procurements.** Protests of the cooperative procurement process, contents of a solicitation document, or award may be filed with the city only if the city is the administering agency and under the applicable procedure

described herein.