



**CITY COUNCIL MEETING
STAFF REPORT**

<p>Meeting Date: June 17, 2024</p>	<p>Subject: Resolution No. 3150 A resolution of the City of Wilsonville adopting administrative rules relating to public contracting activities; and</p> <p>Resolution No. 3151 A resolution of the City of Wilsonville adopting administrative rules amending the Public Art Policy and Guidelines</p> <p>Staff Member: Stephanie Davidson, Assistant City Attorney</p> <p>Department: Legal</p>	
<p>Action Required</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Public Hearing Date:</p> <p><input type="checkbox"/> Ordinance 1st Reading Date:</p> <p><input type="checkbox"/> Ordinance 2nd Reading Date:</p> <p><input checked="" type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Information or Direction</p> <p><input type="checkbox"/> Information Only</p> <p><input type="checkbox"/> Council Direction</p> <p><input type="checkbox"/> Consent Agenda</p>	<p>Advisory Board/Commission Recommendation</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Denial</p> <p><input type="checkbox"/> None Forwarded</p> <p><input checked="" type="checkbox"/> Not Applicable</p> <p>Comments: N/A</p>	
<p>Staff Recommendation: Staff recommends Council adopt Resolution Nos. 3150 and 3151.</p>		
<p>Recommended Language for Motion: Two separate motions: I move to adopt Resolution No. 3150. I move to adopt Resolution No. 3151.</p>		
<p>Project / Issue Relates To: Rules that govern public contracting activities.</p>		
<p><input type="checkbox"/> Council Goals/Priorities:</p>	<p><input type="checkbox"/> Adopted Master Plan(s):</p>	<p><input checked="" type="checkbox"/> Not Applicable</p>

ISSUE BEFORE COUNCIL:

Consider adopting Resolution No. 3150 and Resolution No. 3151 for the reasons set forth in this staff report.

EXECUTIVE SUMMARY:

Public contracting (also referred to as “public procurement”) refers to the City’s efforts to procure goods or services. On May 20, 2024, City Council adopted Ordinance No. 891, which will be effective as of July 1, 2024. Ordinance No. 891 will repeal and replace what is currently City Code sections 2.310-2.319. These parts of the City’s Code contain rules that apply to the City’s public contracting activities. City staff recommend that City Council adopt Resolution No. 3150 and Resolution No. 3151 for the following reasons.

I. Resolution No. 3150 – Administrative Rules Relating to Public Contracting Activities

A draft of the administrative rules attached as **Exhibit A** to Resolution No. 3150 (which is **Attachment 1**) (the “Proposed Administrative Rules”) was presented to City Council during the work session held on March 18, 2024. In addition, portions of these Proposed Administrative Rules were discussed at the work session held on February 22, 2024, and during Legal Business at the meeting held on April 1, 2024.

After July 1, 2024, the parts of the current City Code that relate to City Council, in its capacity as the “Local Contract Review Board” (a term that is meaningful under the Oregon Public Contracting Code); application of state law; and, the delegation of limited authority to the City Manager and Community Development Director will remain in City Code. The plan that City staff has presented to City Council calls for all other parts of the current City Code relating to public contracting activities to be moved into administrative rules; by adopting resolution No. 3150, City Council will do this.

Here is a high-level summary of the more significant proposed changes to current City Code that are reflected in the Proposed Administrative Rules:

- The new term “Professional Service” is added, which is the term used colloquially by City staff. This term is equivalent to the term “Personal Services” used under the Oregon Public Contracting Code. Further, direct appointment of Professional Services for contracts of up to \$100,000 will be allowed (current City Code allows for direct appointment of these services only for contracts with a value of up to \$25,000). In other words, the Proposed Administrative Rules increase the threshold at which City staff can avoid competitive procurements processes for Professional Services by \$75,000.
- There is a new reporting requirement, in Section 3, which has been added to ensure that City Council remains apprised of certain contracts approved that will be approved by the City Manager without City Council’s prior approval (e.g., contracts that have a value of between \$100,000 and \$250,000, and contract amendments that result in an increase in the aggregate value of the contract of between 15% and 25%). This reporting requirement has been added in connection with changes implemented by Ordinance No. 891, which increase the City Manager’s contract approval authority.

- There are new exemptions from competitive procurement requirements for:
 - o Partnerships with non-profit organizations to promote environmental stewardship,
 - o the National Citizen Survey, and
 - o Public art.

- The existing exemption related to computer equipment and software has been expanded.

Most other language within the Proposed Administrative Rules comes from current City Code. In limited instances this language has been reformatted, reorganized, or reworded for greater clarity.

II. Resolution no. 3151 – Technical Fix to Public Art Policy and Guidelines

Any City procurement activity related to “Public Art” must comply with the City’s Public Art Policy and Guidelines (“Public Art Policy”). Section VII(A)(9) of the Public Art Policy currently states:

“In accordance with Wilsonville City Code Section 2.313(1)(a), if the cost of a proposed Public Art project is expected to exceed \$100,000, the City Council must approve the contract for the procurement of the artwork.”

Ordinance No. 891 repeals and replaces this part of City Code, and increases this approval threshold. Therefore, Resolution No. 3151 amends and restates this part of the Public Art Policy to align it with the changes to City Code that will take effect on July 1, 2024.

EXPECTED RESULTS:

Adoption of Resolution No. 3150 and Resolution No. 3151

TIMELINE:

July 1, 2024: Effective date of Resolution No. 3150 and Resolution No. 3151

CURRENT YEAR BUDGET IMPACTS:

N/A

COMMUNITY INVOLVEMENT PROCESS:

The update to the City’s local public contracting regulations in Ordinance No. 891 went through a public noticing and public hearing process.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

Adopting Resolution No. 3150 and Resolution No. 3151 will provide for better alignment between the City’s new Public Procurement Code and its Public Art Policy, and will complete the work envisioned during City Council’s consideration of Ordinance No. 891. These resolutions are an integral part of the City’s work over the past six months to update and add clarity to its public procurement rules.

ALTERNATIVES:

If Resolution No. 3150 is not adopted, certain rules regarding public contracting, which are currently part of City Code, will be removed from City Code as of July 1, 2024. This is not intended. This language was intentionally omitted from Ordinance No. 891 because staff recommended, and Council directed, for this language to be moved into administrative rules adopted via resolution. Failing to adopt Resolution No. 3150 will result in incomplete execution of this plan, and the inadvertent deletion of certain rules regarding public procurement activities from City Code (e.g., rules regarding disposition of surplus property). City staff do not recommend this.

If Resolution No. 3151 is not adopted, the City's Public Procurement Code and its Public Art Policy will be incongruent. City staff do not recommend this.

CITY MANAGER COMMENT:

N/A

ATTACHMENTS:

1. Resolution No. 3150
 - A. Exhibit A: Administrative Rules
2. Resolution No. 3151