

ORDINANCE NO. 024-50

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING THE CODE OF THE CITY OF GLENDALE, CHAPTER 2 (ADMINISTRATION), ARTICLE V (FINANCIAL AFFAIRS), DIVISION 2 (PURCHASING PROCEDURE, DIVISION 3 (SALE, LEASE, ETC. OF CITY PROPERTY), AND DIVISION 3.1 (DISPOSAL OF SURPLUS OR OBSOLETE CITY PERSONAL PROPERTY); AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is necessary to make certain changes to update the City Code for financial affairs, purchasing requirements and procurement procedures; and

WHEREAS, it is in the best interests of the City and its citizens to increase the dollar threshold for Formal Procurement Procedure to \$100,000 to account for inflation since 2001, when the last comprehensive updates were done; and

WHEREAS, it is in the best interests of the City and its citizens to provide a longer period of time to appeal awards of formal procurements and to codify its bid protest and hearing procedure; and

WHEREAS, it is in the best interests of the City and its citizens to clarify how the City implements the requirements of Title 34 of the Arizona Revised Statutes to procure professional services for construction and capital improvement projects;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Glendale, Arizona, as follows:

SECTION 1. That the Code of the City of Glendale, Chapter 2 (Administration), Article V (Financial Affairs), Division 2 (Purchasing Procedure), is hereby amended to read as follows:

**Sec. 2-136. Short title.**

This division shall be known and may be cited as the "~~Purchasing Ordinance~~ Procurement Code of the City of Glendale, Arizona."

(Ord. No. 1233, § 3.102, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

**Sec. 2-137. Scope.**

(a) This division shall apply to expenditures of public funds, regardless of source, including state and federal assistance monies, by the city except that nothing in this division shall prevent the city from complying with terms and conditions of any grant, gift, bequest, cooperative agreement, or federal guideline. ~~This division does not apply to contracts solicited or entered into for construction projects.~~

(b) The provisions of this division are not applicable to the following types of procurements that by their nature are not susceptible to the competitive bidding process and are therefore exempt from this Procurement Code.

(1) Professional witnesses or special investigative services for law enforcement purposes, as such contracts provide for professional services or testimony relating to a filed or anticipated administrative or judicial proceeding in which the City is or may become a party;

(2) Agreements negotiated by the City Attorney or Risk Manager in settlement of a claim or claims, litigation or threatened litigation;

(3) Worker's compensation payments for medical and related expenses;

(4) Public utility purchases of water, power and related services; and

(5) Contracts for legal services drawn under the supervision of the City Attorney.

(c) The determination that procurements are exempt from this division shall be made by the Finance Director in consultation with the City Attorney.

## **Sec. 2-138. Definitions.**

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City personal property:* Any equipment, supplies or products having been purchased by the city, or obtained by reason of abandonment, confiscation, or donation.

*City real property:* Any vacant or developed parcel of land owned by the city.

*Construction:* The process of building, altering, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the operation, or preventative maintenance of existing structures, buildings, or real property.

*Contract:* A written agreement of the city, for the city, for the procurement of ~~supplies~~ goods or services. The term includes, but is not limited to, contracts of a fixed price, cost, cost plus a fixed fee, or incentive type; contracts providing for the issuance of job or task orders; leases, excluding leases of City real estate; rentals; maintenance agreements; letter contracts; and purchase orders. The term also includes supplemental agreements or amendments with respect to any of the foregoing.

*Contract modification:* Any written alteration in the terms and conditions of any contract accomplished by mutual ~~action~~ consent of the parties to the contract.

*Contractor:* Any person having a contract with the city.

*Cooperative purchasing:* Procurement conducted by, or on behalf of, more than one (1) public procurement unit.

*Debarment:* The disqualification of a vendor to receive invitations for bids or the award of a contract by the city for a specified period of time, not to exceed three (3) years, commensurate with the seriousness of the offense, ~~resulting from conduct or failure or inadequacy of performance.~~

*Emergency purchase:* Procurement ~~when supplies of goods~~ or services that are needed for to address a situation where the health, safety or welfare of the public is ~~may be~~ endangered if immediate corrective or preventive action is not taken.

*Finance director:* Shall mean the Director of the Budget and Finance Department of the City, or any successor City department with responsibility for over the budget, Finance financial or procurement matters of the City, or his/her authorized designee.

*Good:* As provided in A.R.S. Section 47-2105, "goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid.

*Invitation for bid:* All documents including those attached or incorporated by reference, utilized for soliciting bids.

*Local vendor:* A vendor having an office within the corporate limits of the city or within the water and sewer service of the city.

~~*Materials manager or manager:* The person designated by the city manager as the materials manager.~~

*Open market procurement:* Procedures used for procurement when formal purchase procedure is not required.

*Person:* A natural person, firm, corporation, company, association, society, partnership, consortium, joint venture, commercial entity, non-profit organization, governmental entity, political subdivision or similar collection of individuals.

*Procurement:* The purchasing, renting, leasing, or otherwise obtaining any ~~supplies, good~~ or service for the city. The term includes all functions that pertain to the obtaining of any ~~supply, good~~ or service, including description of requirements, selection and solicitations of sources, preparation and award of contract, and all phases of contract administration.

*Request for proposal:* All documents, including those attached or incorporated by reference, utilized for soliciting proposals.

*Responsible bidder or proposer:* A bidder or proposer ~~who that~~ has the capability to perform fully the contract requirements, and the reliability, ~~which will~~ to assure good faith performance.

*Responsive bidder or proposer:* A bidder or proposer ~~who that~~ has submitted a bid or proposal ~~which that~~ conforms in material respects to the requirements of the solicitation.

*Service:* The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term does not include "professional services" such as architects, lawyers, certified public accountants, consultants, appraisers, and engineers, or employment agreements or collective bargaining agreements.

*Shall:* The words "shall," "will," and "must" all refer to mandatory actions.

*Specification:* Any description of the physical or functional characteristics, or of the nature of, a ~~supply, good or service item~~ being procured. The term may include a description of any requirement for inspecting, testing, or preparing a ~~supply, good or service item~~ for delivery.

~~*Supply:* All personal property, including equipment.~~

*Surplus supplies:* Any supplies no longer having any use to the city. This term includes obsolete, scrap, and nonexpendable supplies that have completed their useful life cycle.

*Suspension:* An action taken to temporarily disqualify a person vendor or contractor from participating in a city procurement. A suspension is limited to a twelve-month period.

*Using or requesting agency:* Any department, agency or commission, board, committee, or other unit in the city government using supplies or services.

*Warehouse manager:* The person, regardless of job title or classification, responsible for the supervision of the warehouse, warehouse daily operations, and warehouse personnel.

(Ord. No. 1233, § 3.103, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01; Ord. No. 3004, § 1, 9-27-16)

## **Sec. 2-139. ~~Materials manager~~ Purchasing authorities generally.**

(a) All contracts, including any subsequent amendment thereto, for goods and services with an aggregate total dollar value of one-hundred thousand dollars (\$100,000) or more must be approved by the city council.

(ab) The ~~materials manager~~ Finance director shall be the head of and be responsible for the administration of the purchasing department as described in Article VIII, Section 3, of the City Charter. The ~~materials manager~~ Finance director shall ~~have~~ ensure compliance with the provisions of the Procurement Code and be responsible for the general supervision ~~of~~ over the purchasing ~~of~~ goods and services for the city department. The ~~materials manager~~ Finance director shall have the powers and duties prescribed by this division.

(bc) The ~~materials manager~~ Finance director shall have the power and it shall be his/her duty:

(1) To procure and contract for ~~supplies~~ goods and services including rentals, service agreements, and leases needed by any ~~using agency~~ city department, in accordance with ~~purchasing procurement~~ procedures as prescribed by this division and according to such administrative rules and regulations policies as the materials manager Finance director, in consultation with the City Manager, shall adopt determine are necessary for the efficient internal management and operation of the ~~purchasing department~~ Procurement division ~~and such other rules and regulations as shall be prescribed by the city manager~~. The authority of the ~~materials manager~~ Finance director to make procurements and contract for ~~all using agencies~~ city departments shall not be abridged or limited by excepting any particular using agency, except with unless the authorization of the city manager, when it is determined determines that such action would be in the best interest of the city.

(2) To establish and amend, when necessary, all rules, forms and ~~regulations~~ policies authorized by this division and any others necessary to its operation.

- (3) To recommend the suspension or debarment of vendors. When suspension or debarment is recommended, a statement of the reason for ~~placing the vendor on debarment~~ suspending or debarring such vendor and the length of time such action remains effective shall be prepared by the ~~materials manager~~ Finance director in writing and transmitted to the city attorney. Upon the city attorney's approval, the ~~materials manager~~ Finance director shall notify the vendor by letter containing ~~an option~~ notice of its right to appeal and appear before a review board committee consisting of ~~materials manager~~ the Finance director, city manager or designee, and the ~~participating city agency~~ originating or contracting city department.

(Ord. No. 1233, §§ 3.103, 3.104, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

### **Sec. 2-140. Inspection and testing.**

- (a) The ~~materials manager~~ Finance director shall supervise the inspection or testing of deliveries of supplies or performance of services to determine their conformance with specifications.
- (b) The ~~materials manager~~ Finance director shall ~~have authority to~~ may authorize ~~using agencies having staff and facilities for adequate inspection~~ to inspect all facilities and any deliveries made to ~~such using agencies~~ them.
- (c) The ~~materials manager~~ Finance director shall have authority to require chemical and physical tests of samples submitted and sample of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the ~~materials manager~~ Finance director shall have the authority to make use of laboratory facilities of any agency department of the city or of any outside laboratory.
- (d) The ~~materials manager~~ Finance director shall have authority to monitor and inspect the performance of a contractor ~~at the using agency~~ to determine compliance to ~~service~~ the City or contract's specifications.

(Ord. No. 1233, § 3.107, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

### **Sec. 2-141. Requisitions and estimates.**

A requesting ~~agency~~ department shall file ~~with materials manager~~, requisitions of the requirements ~~in~~ for supplies goods and services with the Finance director, certified by means of a department signature in accordance with the city's administrative code for signature regulations. The signature shall certify that there is ~~to the credit of the using agency~~ a sufficient unencumbered appropriation balance to defray the amount of such order. The ~~materials manager~~ Finance director may not issue an order for delivery until the requesting ~~agency~~ department has filed the requisition for the requirement.

(Ord. No. 1233, § 3.105, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

### **Sec. 2-142. Standards and specifications.**

The ~~materials manager~~ Finance director shall prepare, in cooperation with the city departments, written standards and specifications for supplies goods and services.

(Ord. No. 1233, § 3.106, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

**Sec. 2-143. Modification of contracts.**

- (a) The ~~materials manager~~ Finance director, after consultation with the city attorney, may add, amend, modify or delete existing and add new the city's existing standard contractual terms, conditions, provisions and clauses for all forms used to procure of supply and contract for goods and services contracts utilized by the city, provided that such modifications, deletions or additions are supported by a written determination.
- (b) The Finance director may not add, amend, modify or delete any term of contract entered into by the City once it has been approved by the city council without first obtaining city council approval of the newly-added, amended, modified or deleted term.

(Ord. No. 1233, § 3.108, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

**Sec. 2-144. Unauthorized purchases.**

Except as otherwise provided in this division, ~~it shall be unauthorized for any no~~ no city employee ~~official, agent or contractor shall to~~ order the purchase of supplies goods or services or make contracts ~~within the purview of this division in the name of a department or the city other than through the purchasing Procurement division and purchase orders.~~ Purchases or contracts made contrary to the provisions hereof ~~may~~ are not ~~be~~ approved, and the city ~~may~~ is not be bound thereby.

(Ord. No. 1233, § 3.104(1), 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

**Sec. 2-145. Formal purchase procedure.**

- (a) ~~P~~procurement of supplies goods and services, ~~when the cost which will exceed cost the formal purchase dollar threshold of fifty one-hundred thousand dollars (\$50,000.00), (\$100,000) or more,~~ shall be made using either a formal written request for proposal (RFP) or an invitation for bid (IFB), except as otherwise provided in this division. The ~~materials manager~~ Finance director shall determine which procurement method (RFP or IFB) will be most practicable and advantageous to the city for the procurement of supplies goods or services.
- (b) For the purpose of determining whether the formal purchase procedure must be followed, "cost" shall be calculated by aggregating the value of all goods and services being procured and all potential time periods available under the contract (i.e., all amounts of compensation available for any and all initial and extension terms under a contract whether or not all amounts are spent or all extensions are exercised).

(c1) General Provisions:

- (a1) Public notice of an IFB or RFP shall be issued in accordance with the City Charter.
- (b2) The ~~materials manager~~ Finance director shall have authority to require a bid or proposal guarantee be submitted with any and all bids or proposals, and performance bonds be submitted prior to execution of any contract.

- (e3) The IFB or RFP may be delayed or canceled, or any or all bids or proposals may be rejected, in whole or in part, by the ~~materials manager~~ Finance director in the best interest of the city.
- (e4) The ~~materials manager~~ Finance director shall have the authority to refuse an award to any vendor or contractor ~~who~~ that is in default on the payment of taxes, licenses or other monies due the city at the time set for opening the bid or proposal. All vendors and contractors must be in compliance, at the time set for opening the bid or proposal, with all applicable state licensing laws, rules and regulations.
- (e5) Budgeted line items specifically identifying ~~products~~ goods or services, which have been approved by the city council in ~~their~~ its review and adoption of the annual budget of the city, and for which an award is within the allocated expenditure, shall be approved for award by the ~~materials manager~~ Finance director and deputy city manager. At the discretion of the city manager, Notwithstanding the previous sentence, contracts that document the award for the allocated expenditure pursuant to of an IFB or RFP may be submitted for the approval of the city council. Awards that exceeds the allocated expenditure formal purchase dollar threshold shall require the must be approval approved of by the city council.
- (f6) No contract or procurement shall be subdivided to avoid the requirements of this section.
- (g7) ~~With the approval of the city manager, The~~ formal purchase procedures of section 2-145, may be waived ~~when there has been by~~ a written determination of the materials manager Finance director that using the formal purchase procedures of section 2-145, would: (i) not be likely to result in a lower price to the city or would cause unnecessary expense or delay under the circumstances in procuring the goods or services; and/or (ii) because of specific circumstances, competition is not applicable.
- (h8) The amount of any applicable sales, transaction privilege or use tax of this city shall not be a factor in determining the net lowest bidder or the most advantageous proposal. (Source: A.R.S. 41-2533(G) and 41-2534(G))
- (i) ~~City manager directives prescribe procedures for the procurement of supplies and services, which exceed the formal purchase dollar threshold, and because of specific circumstances competition is not applicable. Awards, pursuant to this provision, shall require either the approval of the city council, or city manager,~~
- (j9) ~~The materials manager shall have authority to receive formal protests lodged in writing, specifically identifying the objection to the award of an IFB or RFP, pursuant to formal purchase procedure. The protest must be submitted to the materials manager no later than seven (7) calendar days after notification of the intent to award. Untimely protests will not be considered. (Source: A.R.S. §§ 41-2533(G) and 41-2534(G))~~ Term limits. All contracts for goods and services may not exceed a total term of 5 years, unless a longer term is approved by the City Council. Council may grant its approval for a term greater than 5 years if it determines a longer term is in the city's best interest and may, but is not required to, consider price or rate

discounts, industry standards, the specialized nature of the good or service being provided or any applicable performance criteria.

The 5 year term limit does not apply to: (A) goods and services procured pursuant to a cooperative agreement, if the underlying agreement from the originating governmental agency contains an initial term greater than 5 years or contains a renewal, extension or amended period that causes the total term to exceed 5 years, or (B) contracts for legal services, or (C) construction or capital improvement contracts under Title 34 of the Arizona Revised Statutes; or (D) contracts for a purchase, sale, lease or use of City real property.

(d2) Sealed bidding (IFB):

- (a1) An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.
- (b2) Bids shall be opened publicly at the time and place designated in the invitation for bids. The designated time and place may include a virtual meeting or location. The amount of each bid, and such other relevant information as may be specified by the ~~materials manager~~ Finance director, together with the name of each bidder shall be recorded as determined by the ~~materials manager~~ Finance director. This record shall be open to public inspection after the bid opening in a manner prescribed by the ~~materials manager~~ Finance Director. Except to the extent the bidder designates, and the city concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential.
- (e3) Bids shall be evaluated based on the material requirements set forth in the invitations for bids. The invitation for bids shall set forth the evaluation criteria to be used. No additional criteria may be used in bid evaluation that are not set forth in the invitation for bids or this subsection ~~(2)~~ (d).
- (d4) After bid opening, no corrections in bid prices or other provisions of bids or withdrawal of bids, prejudicial to the interest of this city or fair competition shall be permitted. All decisions to permit the correction or withdrawal of any bid, or to cancel awards or contracts based on bid mistakes, after bid opening shall be supported by a written determination made by the ~~materials manager~~ Finance director.
- (e5) The contract shall be awarded to the lowest or, if applicable (such as in a land sale), the highest responsible and responsive bidder whose bid conforms in material respects to the requirements and criteria set forth in the invitation for bids. In making the determination of the lowest (or highest) responsible and responsive bidder, the ~~materials manager~~ Finance director may consider the following:
  - i. The ability, capacity and experience of the bidder to perform the contract.
  - ii. Whether the bidder can perform the contract promptly, or within the time specified, without delay or interference, or has a valid reason why such performance is impracticable.
  - iii. The quality of performance of previous contracts.
  - iv. The sufficiency of the financial resources of the bidder to perform the contract.

- v. The quality and adaptability of the materials, ~~supplies goods~~ or services to the particular use required.

(Source: A.R.S. § 41-2533(G))

- vi. The number and scope of conditions attached to the bidder's offer.

- (~~f~~6) If an award is not given to the lowest or highest bidder, a statement of the reason for not awarding to the lowest bidder shall be given in writing and be placed in the contract file.

(~~e~~3) Sealed proposals (RFP):

- (~~a~~1) Proposals shall be solicited through a request for proposals.

- (~~b~~2) Proposals shall be opened publicly at the time and place designated in the request for proposals. The name of each proposer and such other relevant information as the ~~materials manager~~ Finance director shall designate shall be publicly read and recorded as required by the ~~materials manager~~ Finance director. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing proposers during the process of negotiation. The proposals and any related public records shall ~~not be open~~ available for public inspection ~~until 24 hours after contract~~ the notice of intent to award has been issued by the Finance director. Except to the extent the proposer designates, and the city concurs, trade secrets or other proprietary data contained in the proposal shall remain confidential.

- (~~e~~3) As provided in the request for proposals, discussions may be conducted with responsible proposers who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and before a notice of intent to award is issued for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers during the negotiation process. (Source: A.R.S. § 41-2534(F))

- (~~e~~4) The award shall be made to the responsible and responsive proposer whose proposal is determined, in writing, to be the most advantageous to the city and best meets the overall needs of the city taking into consideration the evaluation of factors set forth in the request for proposals. The city is not bound to award to the lowest cost (priced) RFP. No other factors or criteria may be used in the evaluation other than the material criteria as set forth in the request for proposals or in this subsection (3). In addition to the material criteria set forth in the request for proposals, the ~~materials manager~~ Finance director may also consider the following:

- a1. Price.

- b2. The ability, capacity and experience of the proposer to perform the contract.

- c3. Whether the proposer can perform the contract promptly or within the time specified, without delay or interference.

d4. The quality of performance of previous contracts.

e5. The sufficiency of the financial resources of the proposer to perform the contract.

f6. The quality and adaptability of the materials, supplies or services to the particular use required.

g7. The number and scope of conditions attached to the proposer's offer, and conformance of proposer's offer to material aspects of the request for proposal.

(Source: A.R.S. § 41-2534(G))

~~(e~~5) The contract file shall contain the basis on which the award is made.

(Ord. No. 1233, § 3.109, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 1710, § 1, 2-4-92; Ord. No. 2184, § 1, 2-13-01)

(f) Bid Protests and Record Requests

- (1) Any interested party may request to inspect or receive copies of public records related to a formal procurement 24 hours after sealed bids have been opened and the notice of intent to award the bid has been issued in accordance with subsection (c) or (d) above. Any information that is protected as a “trade secret” under the Arizona Trade Secrets Act or as “confidential” under any other applicable statute, law or regulation shall remain confidential and shall be protected, deleted or redacted from disclosure.
- (2) Any interested party may object to the issuance of a notice of intent to award a contract to a winning bidder.
- (3) Bid protests made pursuant to this section must be submitted to the Finance director no later than: (i) seven (7) calendar days after the date upon which the protestor knew or should have known the basis of its objection; or (ii) 15 calendar days after notice of the intent to award has been issued by the Finance director, whichever is shorter.
- (4) A protest must be made in a writing to the Finance director, specifically identifying the objection to the award of an IFB or RFP and signed by an individual or authorized representative of an interested party. The protest must contain the following information:
  - i. The name, address, telephone number and e-mail address of the protestant;
  - ii. Identification of the solicitation or contract number;
  - iii. A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents;
  - iv. The form of relief requested.
- (5) The Finance director has the authority to determine if a protest has been submitted timely. Untimely protests will not be considered and will be dismissed. (Source: A.R.S. §§ 41-2533(G) and 41-2534(G)).

- (6) If the protest is timely, the Finance director will review and consider all the information and documentation submitted with the protest. After conferring with the City Attorney's Office, the Finance director will issue a written determination, including whether to accept, reject or modify the relief requested. The Finance director will issue his/her ruling within fourteen (14) business days of receiving the protest. If the Finance director fails to issue a decision within the time limits set forth in the proceeding sentence, the protest is deemed to be denied.
- (7) If the protestant wishes to appeal the written determination issued by the Finance director in accordance with subsection (f)(6) above, the protestant may request a hearing ("Hearing Request"). The Hearing Request shall include the same information required in subsection (f)(3) above, and may also include any new or additional information protestant believes justifies a reconsideration of the Finance director's determination. The Hearing Request must be filed with the Finance director no later than seven (7) business days after the written determination has been received by the protestant. For purposes of this section, "received by the protestant" shall mean the day protestant had actual or constructive notice of the issuance of the Finance director's bid protest determination.
- (8) The Hearing will be conducted by a neutral third party as designated by the city manager ("Hearing Officer") and shall be held within sixty (60) calendar days after the Hearing Request is received by the Finance director, unless the parties agree otherwise.
- (9) The protestant may, but is not required to, be represented by legal counsel at the Hearing before the Hearing Officer. The city shall be represented by the City Attorney's Office. A party may present testimony and documentary evidence and argument with respect to the issues and may examine and cross examine witnesses, subject to the determination of the Hearing Officer. Each party shall bear its own costs and expenses.
- (10) At least 10 calendar days prior to the Hearing, or as otherwise agreed by the parties, each party shall exchange with the other party all documents, exhibits, and other evidence it intends to present at the hearing and a list of witnesses intended to testify at the hearing.
- (11) The Hearing Officer shall have no authority to issue subpoenas for the production of evidence or the appearance of witnesses. It is the responsibility of each party to have all witnesses, documents and exhibits available on the date of the Hearing.
- (12) The Hearing Officer will have a recording made of the Hearing at the expense of the City. If the protestant or its attorney requests a transcript of the proceeding, the protestant shall pay its cost of obtaining a copy the transcript.
- (13) Each party shall be allotted a maximum of one (1) hour to present its case. The time limit is cumulative and includes any opening and/or closing statement. Hearings shall be conducted informally and in the most efficient manner to expedite and ensure a fair hearing, as determined by the Hearing Officer. The Arizona Rules of Evidence shall not apply.

- (14) If a party fails to appear at a hearing without cause, the Hearing Officer may presume that the party no longer wishes to proceed with the hearing or appeal the Finance director's determination and may make a finding in the city's favor. If a party fails to appear at a hearing with cause, the Hearing Officer may reschedule the hearing date or may make a finding on the record without hearing testimony or argument.
- (15) The decision by the Hearing Officer shall be final. The decision shall be sent to all parties by personal service or certified mail, return receipt requested, within 20 calendar days after the conclusion of the Hearing.
- (16) The city may establish such other administrative procedures as necessary to ensure orderly conduct of the Hearing and to ensure due process.
- (17) A bid awarded using the informal purchase procedures in section 2-146 may not be protested using the procedures contained in this section or any other process.

Charter reference— Bids, Art. VII, § 4.

#### **Sec. 2-146. Informal purchase procedures.**

- (a) Procurement of ~~supplies goods and services, when the total cost will not exceed the formal purchase dollar threshold of section 2-145,~~ shall may be made using informal purchase purchasing procedures when the total cost will not exceed the formal purchase procedure dollar threshold of section 2-145(a).
- (b) All informal purchase procurements, ~~wherever whenever practical, are to be based on~~ should solicit at least three (3) quotations. ~~City manager directives~~ The Finance director, in consultation with the City Manager and City Attorney, shall establish prescribe procedures for ~~the informal procurements. of supplies goods and services, which do not exceed the established informal purchase procedure amount, and because of specific circumstances competition is not applicable.~~ the informal procurements.
- (c) ~~Quotations shall be solicited from prospective vendors~~ If consistent with the procedures established according to subsection (b) above, such quotations may be provided in written or oral form.
- (d) The award shall be made to the quotation which best meets the needs of, and is most advantageous to, the city. In addition to the criteria set forth in the quotation, the ~~materials manager~~ Finance director may also consider the following:
  - (1) Price.
  - (2) The ability, capacity and experience of the proposer to perform the contract.
  - (3) Whether the ~~proposer~~ prospective vendor can perform the contract promptly or within the time specified, without delay or interference.
  - (4) The quality of performance of previous contracts.
  - (5) The sufficiency of the financial resources of the proposer to perform the contract.

- (6) The quality and adaptability of the materials, supplies or services to the particular use required.
  - (7) The number and scope of conditions attached to the ~~proposer's~~ prospective vendor's offer, and conformance of ~~proposer's~~ the prospective vendor's offer to material aspects of the quotation.
- (e) The ~~materials manager~~ Finance director shall keep a record of all informal purchase awards and the responses submitted in competition thereon, whether originally made in written or oral form, and such records shall be part of the public record.
  - (f) The ~~materials manager~~ shall ~~prescribe an amount which~~ A purchase of goods or services with a total cost of less than \$10,000 qualifies as a small purchase. Competitive bidding is not required for small purchases. The ~~amount determination by the materials manager shall be in writing, part of the public record and shall not exceed the amount specified in subsection (h) of this section. City manager directives prescribe procedures for the procurement of supplies and services~~ Finance director, in consultation with the City Manager and City Attorney, shall establish procedures for the procurement of goods and services which do not exceed the established small purchase amount. Such that qualify as a small purchase, procurements, which do not exceed the established amount, are independent of the requirements of this section.
  - (g) ~~Procurement of supplies and services when the cost will not exceed the formal purchase dollar threshold but is greater than the ten thousand dollars (\$10,000.00) shall be made using written quotations.~~
  - (h) ~~Procurement of supplies goods and services, when the cost will not exceed ten thousand dollars (\$10,000.00) but is greater than the small purchase amount may be made using verbal or written quotations.~~
  - (i) The ~~materials manager~~ shall ~~have authority to receive protests lodged in writing, specifically identifying the objection to the award of a quotation, and render a written finding, pursuant to informal purchase procedure. The finding of the materials manager shall be final and conclusive.~~ Awards issued under these informal purchase procedures or as a small purchase may not be protested or appealed.

(Ord. No. 1233, § 3.110, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 1710, § 2, 2-4-92; Ord. No. 2184, § 1, 2-13-01)

### **Sec. 2-147. Emergency purchases.**

- (a) The ~~materials manager~~ Finance director may procure and contract for supplies goods and services without compliance with the procedures set forth in sections 2-145 and 2-146 of this Code when there has been a determination that an emergency purchase is necessary. For purposes of this section, an "emergency" is defined is any condition or circumstances that pose a threat to the health, safety or welfare of the City or its citizens
- (b) The requesting department head shall be responsible for determining and documenting the validity of need for all emergency purchase requests.

- (c) Emergency purchases shall be confirmed by filing a purchase requisition marked "emergency" to the ~~materials manager~~ Finance director no later than noon the next working day. A complete written explanation shall be signed by the department head and transmitted with the requisition.
- (d) ~~City manager directives for~~ eEmergency purchases of material goods and services ~~prescribe procedures for emergency purchases which cost one-hundred thousand dollars (\$100,000) or more must be ratified by the city council.~~

(Ord. No. 1233, § 3.111, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

#### **Sec. 2-148. Sole source procurements.**

- (a) The ~~materials manager~~ Finance director may procure and contract for supplies goods and services without ~~compliance~~ complying with the procedures set forth in sections 2-145 and 2-146 of this Code when there has been a written determination that competition is not available and there is only one (1) known source for ~~the supply~~ such goods or services.
- (b) The agency department requesting a sole source procurement shall provide a written determination, in such manner and on such form as the ~~materials manager~~ Finance director shall prescribe, justifying the basis for the sole source procurement.
- (c) Award of a sole source procurement which exceeds the formal purchase procedure dollar threshold of section 2-145 (a) shall require the approval of the city council. ~~City manager directives for sole source procurements of materials goods and services prescribes procedures for sole source procurement.~~

(Ord. No. 1233, § 3.112, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

#### **Sec. 2-149. Cooperative purchasing.**

- (a) The ~~materials manager~~ Finance director shall have the authority to participate with other units of government for the procurement of supplies goods or services in cooperative purchasing agreements when the best interests of the city would be served thereby.
- (b) The ~~materials manager~~ Finance director shall have the authority to enter into agreements, ~~independent of~~ without meeting the formal or informal purchasing requirements of sections 2-145 and 2-146, established with other units of government for the cooperative ~~use~~ purchase of supplies goods or services provided the ~~actions of the other~~ contracting party complies with the ~~intent of said sections~~ all terms and conditions of the cooperative purchasing agreement without variation.
- (c) The ~~materials manager~~ Finance director shall also have the authority to ~~institute contracts with the approval of the city council for the common use of warehouse facilities, capital equipment and other facilities with other units of government under terms mutually agreed upon.~~ administratively amend the city's agreement with the contracting party to adopt any amendment of the underlying agreement made and approved by the originating unit of government without obtaining further council approval.

(Ord. No. 1233, § 3.113, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

**Sec. 2-150. Warehousing stores.**

- (a) There is established in the City's books and records an account known as the warehouse inventory account.
- (b) Supplies to be added into an inventory administered by ~~the Warehouse Manager~~ an employee or agent designated by the city manager and shall be charged against the warehouse inventory account. Requisitions for withdrawal of supplies in inventory shall be credited to the warehouse inventory account by a charge against the appropriation of the requesting agency.
- (c) The ~~Warehouse Manager~~ designated employee or agent shall maintain a perpetual inventory record of supplies ~~charged against the revolving fund~~ and shall be responsible for the receipt, storage, issuance and distribution of supplies contained therein.
- (d) The ~~Warehouse Manager~~ designated employee or agent shall be responsible for ensuring all inventory and supplies added to the inventory account are procured in accordance with this chapter and such policies and procedures as may be set forth by the ~~Materials Manager~~ Finance director.

(Ord. No. 1233, § 3.114, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01; Ord. No. 3004, § 1, 9-27-16)

**Sec. 2-151. Pool stock.**

The ~~materials manager~~ Finance director shall have the authority to transfer and administer surplus city personal property into a pool stock to be maintained for use by requesting agencies on a temporary basis. Using such form as shall be established, pool stock will be issued to requesting agency. All pool stock shall be returned at the designated time. The ~~materials manager~~ Finance director shall maintain pool stock in such condition that it is fit for its intended purpose.

**Secs. 2-152. Suspension and debarment.**

- (a) The Finance director, after consultation with the City Attorney, shall have authority to debar any person or contractor for cause from participating in the city's bid solicitation process or from receiving an award of city contracts, grants, loans, or other financial assistance. The debarment may continue for a period of up to three years.
- (b) The Finance director, after consultation with the City Attorney, shall have authority to suspend a person or contractor for cause from participating in the city's bid solicitation process or from receiving an award of city contracts, grants, loans, or other financial assistance. The suspension may continue for a period of up to twelve months.
- (c) The causes for debarment or suspension include the following:
  - (1) Indictment or conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

- (2) Indictment for or conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the Arizona Trade Secrets Act, violation of environmental laws or requirements or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a contractor;
  - (3) Indictment for, or conviction under, any state or federal antitrust or antidiscrimination statute or the Drug-Free Workplace Act;
  - (4) Violation or breach of contract provisions which the Finance director has determined justify suspension or debarment. Such violation or breach may include, but is not limited to:
    - i. Deliberate failure or refusal, without good cause, to perform in accordance with the terms and conditions of the contract with the city; or
    - ii. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts with third parties; provided such failure to perform or unsatisfactory performance that was caused by acts entirely beyond the control of the contractor shall not be considered to be a basis for debarment; or
    - iii. On-going investigation or legal proceedings against the person or contractor brought by a third party or on-going investigation by or litigation with the city; or
    - iv. Any other cause the Finance director determines to be as serious and egregious, including suspension or debarment by another governmental entity.
- (d) The Finance director shall decide whether to debar or suspend the person or contractor is in the best interests of the city, based on a preponderance of the evidence. The Finance director shall issue a written decision which will include:
- i. The reasons for the action taken, including any evidence relied upon to reach the decision; and
  - ii. Inform the debarred or suspended person of its right to protest the decision.
- (e) A person or contractor subject to an order of suspension or debarment and any other party intervening will be sent a copy of the decision issued according to this section from the city via regular U.S. mail or by electronic means, if the person or contractor has notified the city that is its preferred method of transmission, within 5 business days of its issuance by the Finance director. The debarment or suspension shall take effect immediately upon issuance of the order by the Finance director, unless otherwise provided in the order. The decision of the Finance director shall be final except that a debarred or suspended contractor or person shall have the right to protest in accordance with section 2-145(e) of this article.
- (f) Nothing in this section prevents the Finance director from converting a suspension to a debarment should additional facts or causes be discovered during the term of the person or contractor's suspension.

- (g) In the event the cause given rise to the debarment or suspension is resolved in the person or contractor's favor, such person may petition the Finance director for reinstatement. Any such petition must include documentation evidencing the favorable outcome. The Finance director shall issue a written decision whether to terminate the person or contractor's debarment or suspension within ten (10) business days. The decision of the Finance director on whether to reinstate the person or contractor shall be final and unappealable.

**Secs. 2-153—2-154. Reserved.**

**Sec. 2-155. Bidding Construction and Job Order Contracts.**

- (a) All ~~construction~~ contracts for building, altering, repairing, improving or demolishing city buildings, structures or other public improvements shall be awarded only after a ~~public competitive bid~~ in compliance with provisions of title 34, Arizona Revised Statutes.
- (b) Multiple departments of the city may use a single contract or multiple contracts to retain a supplier of professional services as provided in A.R.S. §§ 34-103 and 603. However, the city may not pay the supplier an aggregated amount greater than \$500,000 per year unless the contract or contracts has been procured using a competitive bidding process pursuant to A.R.S. Title 34 and the formal procurement procedures of section 2-145 above.
- (c) For purposes of this section, "professional services" is defined to include procurement of architect services, construction, construction services, construction-manager-at-risk construction services, design-build construction services, engineer services, job-order-contracting construction services, landscape architect services, assayer services, geologist services, and land surveying services consistent with A.R.S. Title 34.
- (d) The city may use job-order contracting for construction services provided all the requirements of A.R.S. § 34-607 are met, including the availability of appropriations. The amount of an individual job order shall not exceed \$1 million unless, after review and approval by the Finance Director and the City Attorney, the City Council increases the maximum amount of the individual job order as provided in A.R.S. § 34-605.

(Ord. No. 2211, § 1, 9-25-01)

**Sec. 2-156 Approval of change orders.**

- (a) Change orders, which do not increase the contract amount of construction contracts, shall be approved and executed by the city manager.
- (b) Change orders, which increase the contract amount of construction contracts, may be approved and executed by the city manager if the total of all change orders for the contract ~~does not exceed~~ is less than fifty one-hundred thousand dollars (~~\$50,000.00~~) (\$100,000). Any single change order or combination of change orders which will increase the contract amount by one-hundred thousand dollars (\$100,000) or more must be approved by an affirmative vote of the city council.

**Secs. 2-157—2-165. Reserved.**

SECTION 2. That the Code of the City of Glendale, Chapter 2 (Administration), Article V (Financial Affairs), Division 3 (Sale, Lease, etc., of City Property), is hereby amended to read as follows:

**DIVISION 3. SALE, LEASE, ETC., OF CITY REAL PROPERTY**

**Sec. 2-166. Authorized.**

- (a) The city shall have the right to sell, lease, exchange or otherwise contract for the dispose disposal, occupation or use of city real property for in any manner and on any terms and conditions deemed in the best interests of the city. Except as Unless otherwise provided in the charter, the council shall have the sole authority to determine the best interests of the city and such determination shall be final and unreviewable.
- (b) Contracts for professional services, such as performing of a title search, survey, or environmental site assessment, used in support of a real estate transaction authorized by subsection (a) above are subject to the formal or informal purchasing procedures contained in Section 2-145 or 2-146, respectively.

**Sec. 2-167. Notice.**

A No-sale, lease, exchange or transfer of city real property shall may only be made until after a notice of such sale has been published in a newspaper of general circulation in the city for two (2) consecutive weeks and a notice of such sale has been posted at the city hall for twelve (12) consecutive days.

**Sec. 2-168. ~~Bids~~ Sales of real property.**

- (a) Sale, lease, exchange, or any other transfer of, and licenses to occupy or use, any city real property may be accomplished without following the formal or informal purchasing procedures contained in Section 2-145 or 2-146, respectively.
- (b) If the city sells, leases, exchanges, transfers or provides a right to occupy or use any city real property without following the formal or informal purchasing procedures contained in Section 2-145 or 2-146, an award or the resulting agreement may not be protested using the procedures contained in this article or using any other process.
- (c) If the city uses the formal purchase procedures of section 2-145 to solicit bids for sale of any real property, the city shall follow those procedures as it would for any other bid solicitation or award.
- (d) The city council shall receive, review and consider any and all bids and offers for the sale, lease, occupancy or use of city real property and; provided, however, that the council shall have the right to accept, reject or make a counter-offer of any and all bids in its sole, unreviewable discretion. Council may request a best and final offer from any and all bidders prior to making an award or may modify, amend, or cancel any solicitation, in whole or in part, at any time prior to or after the approval of a contract.

(e) The city council may also negotiate and agree to any terms and conditions in contract for sale of city real property that vary from the terms and conditions of any criteria or requirements contained in a bid solicitation, provided those terms and conditions are deemed by the city council to be in the city's best interests.

(Code 1963, § 2-42)

**Sec. 2-169. Exchanges of real property.**

~~No~~Exchanges of real property shall ~~may~~ be made ~~until~~ only after a notice of such exchange has been posted at the city hall for twelve (12) consecutive days.

(Code 1963, § 2-43)

**Sec. 2-170. Execution of documents.**

The council shall have the power to enter into and to authorize the execution of any and all instruments pertaining to the sale, lease, exchange, transfer, or disposal or use of city real property. Any change, amendment or modification of the provisions, terms or conditions of such instruments shall only be made and executed with the approval of the same by council.

SECTION 3. That the Code of the City of Glendale, Chapter 2 (Administration), Article V (Financial Affairs), Division 3. 1 (Disposal of Surplus or Obsolete City Personal Property) is hereby amended to read as follows:

## DIVISION 3.1. DISPOSAL OF SURPLUS OR OBSOLETE CITY PERSONAL PROPERTY

### Sec. 2-171. Disposal.

- (a) The city shall have the right to sell, lease, exchange, trade or otherwise dispose of surplus or obsolete city personal property in any manner and on any terms and conditions deemed in for the best interests of the city.
- (b) ~~Except as~~ Unless otherwise provided in the Charter, if the original purchase price of the personal property being disposed of is less than \$100,000, the Finance Director, in consultation with the city manager and city attorney, shall determine the manner of disposal of the property that is in the best interests of the city. and sSuch determination shall be final and unreviewable. The manner of disposal may include donating any surplus or obsolete city personal property to a governmental, non-profit or charitable organization, without public notice.
- (c) If the original purchase price of the personal property is equal to or greater than \$100,000, the city council shall determine the manner of disposal of the property that is in the best interests of the city. Such determination shall be final and unreviewable.
- (d) The conversion of ~~surplus and obsolete~~ city property, including surplus and obsolete property, for personal use by any city employee, elected official, contractor, subcontractor or agent is prohibited.
- (e) Firearms and other specialty items used by the police department may be disposed of in any manner deemed to be in the city's best interest by the city manager.

~~At the discretion of the city manager, the city may elect to donate any surplus or obsolete city personal property to a governmental, nonprofit or charitable organization, without public notice.~~

SECTION 4. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

[Signatures on the following page]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 26<sup>th</sup> day of November, 2024.

- \_\_\_\_\_  
Mayor Jerry P. Weiers

ATTEST:

\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey, City Attorney

REVIEWED BY:

\_\_\_\_\_  
Kevin R. Phelps, City Manager