

ORDINANCE NO. 860

AN ORDINANCE OF THE CITY OF GLOBE, ARIZONA, AMENDING THE GLOBE CITY CODE BY REPLACING ARTICLE 3-5 "PURCHASING", OF THE GLOBE CITY CODE; THERETO; ADOPTING SUCH ORDINANCE BY REFERENCE; REPEALING ANY AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH;

WHEREAS, Arizona revised Statutes §9-802 provides for the adoption of a code or public record by reference; and

WHEREAS, pursuant to Resolution NO. 1798, the City Council adopted by reference and declared as a public record an amendment to the Globe City Code entitled " Article 3-5 Purchasing; and

WHEREAS, the Mayor and Council of the City of Globe have determined that it is in the best interest of the City to adopt a Purchasing Code to follow State purchasing procedures

.NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Globe, Arizona, that:

Section 1. Adoption by Reference. Pursuant to A.R.S. Section 9-802, the City of Globe hereby amends Chapter 3 of the City Code by adopting by reference Resolution 1798, amending City Code Chapter 3 to add a new Article 3-5 Purchasing

Section 2. At least three (3) copies of new Article 3-5 and any future amendments or revisions, shall be kept on file in the office of the City Clerk for public access. Copies placed for public access shall be readily available for public inspection during normal working hours.

Section 3. All ordinances or parts of ordinances adopted by the City of Globe in conflict with the provisions of this ordinance are hereby repealed, effective as of the day this ordinance is effective.

ORDINANCE NO. 860 PASSED AND ADOPTED by a majority vote of the City Council in an open meeting by the City Council, City of Globe, Arizona, on the 3rd day of December 2019, to be effective when publication and posting, pursuant to A.R.S. §§9-812 and 9-813, is completed.

CITY OF GLOBE



Alfred Gameros, Mayor

ATTEST:



Shelly Salazar, City Clerk

APPROVED AS TO FORM:



WILLIAM J. SIMS III, City Attorney

RESOLUTION NO. 1798

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GLOBE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENTS FILED WITH THE CITY CLERK AND AMENDING CHAPTER 3 OF THE CITY CODE AND REPLACING ARTICLE 3-5 "PURCHASING" FOR THE PURPOSE OF ADOPTION BY REFERENCE

RECITALS:

WHEREAS, Arizona revised Statutes §9-802 provides for the adoption of a code or public record by reference; and

WHEREAS, the Mayor and Council of the City of Globe have determined that it is in the best interest of the City to adopt revised standards for purchasing for the City of Globe.

WHEREAS, it is the purpose of this resolution to declare the amended and restated Article 3-5, of the City Code, to be a public record for purposes of adoption by reference.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Globe, Arizona,

THAT Article 3-5 of the City Code is hereby attached hereto as Exhibit A and declared to be a public record for the purpose of adoption by reference three copies of which are on file with the City Clerk, and said copies are hereby ordered to remain on file with the city Clerk.

PASSED AND ADOPTED this 3rd day of December, 2019 by the Mayor and Council of the City of Globe, Arizona.



Al Gameros, Mayor

ATTEST:


Shelly Salazar CMC
City Clerk

APPROVED AS TO FORM:


William J. Sims III
City Attorney

Article 3-5 PURCHASING

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Section 3-5-1 Arizona Procurement Code

The City Manager or his designee may utilize any and all procedures authorized in this City Procurement Code for the purchase of goods and services. All construction related procurement (including architectural professional services) shall be conducted under ARS Title 34 requirements independent of this City Procurement Code. ¹

Section 3-5-2 Scope of Article

This Article shall govern the procedure for purchase of any goods or services for, or on behalf of, the City. This Article is intended to supplement State law, however, should applicable State law provide more strict provisions regarding any proposed transaction those more stringent provisions shall apply.

¹ Editor's Note: Amended by and through Ordinance No. 860, 12/3/2019

Section 3-5-3 General Provisions

The following policies govern the procurement of all supplies, materials, equipment, property and services for the offices, departments and agencies of the City.

Section 3-5-4 Purpose and Goals

The purpose is to allow the City to procure the highest quality goods and services for the City while receiving the best value within a reasonable time period in order to best meet the operational needs of the City.

The goal of the City is to:

- A. Purchase quality goods and services based on City needs
- B. Pay a competitive or market price
- C. Enhance value by maintaining a professional, consistent, and timely procurement process
- D. Provide oversight and accountability on all purchases
- E. Enhance transparency and maintain confidence in the procurement process
- F. Maintain a fair and equitable competitive solicitation process that treats all vendors the same

Section 3-5-5 Definitions

In this Article, unless otherwise specifically provided, the following words, terms and phrases, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "City Manager's designee" means any agent or employee of the City designated by the City Manager to serve in a particular capacity.
2. "Bid or proposal bond/guarantee" means a form of security that indemnifies the City against a successful bidder's or proposer's failure to execute the contract documents and proceed with performance.
3. "Bid or proposal opening" means the date and time set forth in the solicitation for opening of sealed bids or proposals.

4. "Bidder," "Offeror" or "Respondent" means any individual, corporation, partnership business, organization or agency which responds to an invitation for bids, request for qualifications, request for proposals, solicitation or any other invitation or request by which the City invites a person or entity to participate in a City procurement solicitation.
5. "Change order" means a written order executed by an authorized agent of the City which directs the contractor to make changes that are authorized by the City.
6. "Closing date" means the date and time set forth by the City for the receipt of bids, proposals or offers, after which no bid, proposal or offer shall be accepted or considered.
7. "Confidential information" means that portion of a bid, proposal, offer, specification or protest that contains information that the person submitting the information believes should be withheld, provided (a) such person submits a written statement advising the City of the existence of such confidential information at the time of the submission and (b) the confidential information shall be so identified wherever it appears. Any purported confidential information shall be subject to the Arizona Public Records Act (A.R.S. Section 39-101 *et seq.*
8. "Construction" means the process of building, altering, repairing, improving or demolishing any public structure or building, and job order contracts, design build contracts, construction manager at risk, or other public improvements of any kind, as per Title 34 of the Arizona Revised Statutes, but does not include the routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property.
9. "Construction Services Contract" is a contract for material, goods and labor services used for the construction, building, altering, repairing (other than routine repair), improving or demolishing any public structure or building or public improvements of any kind to any public real property.
10. "Contract Agreement Form" is the contract form used when utilizing a cooperative agreement, a vendor has with an entity that allows for cooperative use language in their original contract with a vendor, and providing all parties are members of the same cooperative.
11. "Contract" means all types of City agreements, regardless of what they may be called, for the procurement of materials and services, the demolition or construction of public facilities.
12. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit in accordance with a Contract Agreement Form entered into between the participants.

13. "Credentialed" means anyone with a professional or technical Certification such as architects and engineers, CPA, or certified IT professionals.
14. "Debarment" means the disqualification of a vendor to receive solicitations or the award of a contract by the City for a specified period of time, not to exceed three years, commensurate with the seriousness of the offense resulting from conduct or failure or inadequacy of performance.
15. "Emergency or Public Necessity " means a threat to the public health, welfare, property, safety, financial stability or if a situation exists which makes compliance with the provisions of this procurement code impracticable, unnecessary or contrary to the public interest.
16. "Employee" means an individual drawing a wage or a salary and retirement through the payroll process of the City.
17. "Goods and Services Contract" means a contract form utilized when a procurement is needed for either "Goods" only, meaning materials, or "Services" only meaning labor, or both "Goods and Services" are needed. A Goods and Services Contract is not a Construction Services Contract.
18. "Interested Party" means an actual or prospective bidder, offeror or respondent whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract.
19. "Invitation for Bids" means all documents, including those attached or incorporated by reference, utilized for soliciting bids.
20. "Labor" means any actions by a contractor, tradesmen craftsman, laborer or other person engaged in construction activities. It does not mean delivering, unpacking, placing, making connections by hand or installations of goods where basic hand tools are used, and no modifications are made to any existing buildings, structures, or property.
21. "Local Business" shall be defined as businesses physically located within the jurisdictional boundaries of the City of Globe.
22. "Materials" means all property (other than real property), including equipment, supplies, printing, insurance and leases of personal property, but not leases of space.
23. "Minor Informalities": Nonmaterial errors in scope, descriptions, explanations language, address, contact information or inconsistencies in the bid or solicitation other than mathematical or costing errors or inconsistencies.
24. "Ongoing Relationship" is defined as a vendor who is currently doing business with the City which allows the City to receive increased benefits and cost savings by

extending or expanding the City's relationship due to the vendor's 1) knowledge of current operations, systems, projects, partners, and history 2) understanding of the processes preferred by the City and 3) relationships with key stakeholders and individuals involved in projects with the City.

25. "Person" means any individual, business, corporation, partnership, sole proprietorship, joint stock company, joint venture, limited liability company or any other legal entity, governmental entity, union, committee, club, other organization or group of individuals. The term "person" shall include a trustee, receiver or similar representative.
26. "Price" means the total expenditure for a defined quantity of a commodity or service but does not include taxes.
27. "Prior Experience" with respect to a vendor in which the City has recent (within the past two years) direct knowledge of the vendor's 1) quality of work, 2) reliability 3) staff expertise and; 4) experience working in the City or region, to the point that the City would receive increased benefit and reduced cost by utilizing such a vendor.
28. "Procurement" means the buying, purchasing, renting, leasing or otherwise obtaining of any materials, services, construction or construction services, but procurement of construction and construction services shall be governed by Title 34 of the Arizona Revised Statutes. The term includes all functions that pertain to the obtaining of any materials, services, construction or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
29. "Construction Professional Services Contract" is the contract form used when the City is contracting with a service that falls under the definition of "Professional Services" as per ARS §34-603.
30. "Non-Construction Professional Services" means those services requiring specialized knowledge, education, skill or expertise and where the qualifications of the person(s) rendering the services are of primary importance. Non-Construction Professional services shall include, but not be limited to, services provided by architects (other than professional services provided under Title 34 of the Arizona Revised Statutes), attorneys, accountants, auditors, administrative, budgeting, clergy, landscape architect services, assayer services, project managers, dentists, design professionals, engineer services, executive coaching, event planners, geologist services, land surveying services, information technology professionals, telecommunications professionals, radio communication professionals real estate agents, physicians, nurses, psychologists, teachers, veterinarians and health care providers, which provide a combination of professional and para-professional services or any other professions and services defined as professional services by state law.

31. "Proposal" means a written offer, solicited or unsolicited, for consideration as a basis for awarding or modifying a contract.
32. "Purchasing Director" staff member designated by the City Manager who controls all purchases of goods and services.
33. "Request for Proposal" means all documents, including those attached or incorporated by reference, utilized for soliciting proposals.
34. "Responsible Bidder, Offeror or Respondent" means a bidder, offeror or respondent who has (a) the qualifications and capability to fully perform the contract requirements and (b) the reliability that will ensure good faith performance.
35. "Responsive Bidder, Offeror or Respondent" means a bidder, offeror or respondent who has submitted a bid, proposal or offer that conforms in all material aspects to the solicitation.
36. "Service" means the furnishing of labor, time or effort by a contractor, other than the delivering, unpacking, placing, making connections by hand or installations of goods where basic hand tools are used This term does not include "professional services" provided by those persons as defined in this chapter.
37. "Single Point of Contact" The City may take into account the productivity, economy of scale, and enhanced quality of oversight gained by awarding bids or solicitation to vendors with knowledge of our current operations under contract with the City.
38. "Solicitation" means an invitation for bids, a request for qualifications (technical registrants), a request for proposals, a request for quotations, or any other invitation or request by which the City invites a person to participate in a procurement.
39. "Specification" means any description of the physical characteristics, functional characteristics, or the nature of a supply or service item. The term may include brand requirements necessary to maintain compatibility or warranties or a description of any requirements for inspecting, testing, or preparing a supply, or service item for delivery.
40. "Statement of Qualifications" means unpriced, written information from a prospective contractor or vendor, stating the manner in which the prospective contractor or vendor intends to perform certain professional or other services or deliver certain materials and its qualifications for performing services or delivering materials.
41. "Subcontractor" means a person who contracts to perform work or render services to a contractor or to another subcontractor as a part of a contract with the City.
42. "Suspension" means an action taken by the Purchasing Director or authorized designee disqualifying a person or entity from participation in City procurement.

43. "Vendor" means any person doing business with the City.
44. "Technology Service Provider" means anyone in the informational technology, radio, or telecommunications field.

Section 3-5-6 Applicability

- A. This code applies to contracts or purchases solicited or entered into after the adoption of this code. Renewal of existing contracts shall also be subject to this code.
- B. This code shall apply to all expenditures of public funds regardless of source, including state and federal assistance monies, by this City. Nothing in this code shall prevent the City from complying with the terms and conditions of any grant, gift or bequest or cooperative agreement.
- C. All City employees or appointed or elected officials that order the procurement of materials, supplies or services, or make contracts within the purview of this code, must do so in accordance with this code and any regulations or directives promulgated pursuant to this code. Contracts or purchase orders made contrary to the provisions hereof may not be approved and the City may not be bound thereby. Unauthorized contracts or purchases may result in disciplinary action or personal liability.
- D. The authority granted to purchasing agents by the City Manager shall be limited by available funds having been budgeted by the City of Globe.
- E. This code does not apply to financial stipend, grants, or allowances if compliance with restrictions of such grants, allowances, or stipend would be jeopardized.

Section 3-5-7 Purchasing Director; Duties

- A. The City Manager is vested with the authority for procurement. The City Manager may designate a Purchasing Director who may be vested with the authority for procurement as the Purchasing Director for the City.
- B. The Purchasing Director shall approve or deny all purchase requests on behalf of the City Manager and shall report to the Council and obtain Council approval for any purchase requiring Council approval.
- C. The City Manager is hereby empowered to adopt rules and regulations relating to purchases and the entering into of contracts, which rules and regulations are not otherwise inconsistent with the provisions of this code.

Section 3-5-8 Requirements of Good Faith

- A. This code requires all parties involved in the negotiation, performance or administration of City contracts or purchases to act in good faith.
- B. City employees and elected or appointed officials must discharge their duties impartially so as to ensure fair competitive access to City procurement by responsible suppliers of goods and services.
- C. Any City employee, appointee, or elected official who knowingly violates any of the provisions of this code shall be subject to disciplinary action and/or termination depending upon the severity of the violation, in accordance with City Code personnel provisions, and any and all other applicable local, state and federal laws, rules, regulations and policies.
- D. A person who is not an employee of the City, who violates any provision of this code may be subject to debarment from having the opportunity to bid or be awarded any City contracts for a period of up to twenty-four (24) months, depending upon the severity of the violation, at the sole discretion of the City Manager. Any individual, organization or entity so debarred shall be advised in writing by the City of the debarment, the period thereof, and the reason therefor. Any appeal of the City Manager's determination of debarment must be presented to the City Council, in writing, within ten (10) days of the notice of debarment.

Section 3-5-9 Fraud and Collusion

- A. Where competitive solicitations are required pursuant to this code, no City employee or elected or appointed official shall assist a supplier of goods or services in securing a contract or purchase order by prejudicing the selection of that supplier or the price paid for goods or services sold to the City.
- B. Prices offered by suppliers of goods and services procured by the City shall be independently developed without consultation or collusion with other suppliers, potential suppliers, or City representatives when responding to bids, quotes or requests for proposals.

Section 3-5-10 Conflict of Interest

- A. It shall be the policy of the City of Globe that all officers, employees, agents, contractors and other representatives of the City make every effort to assure the public that measures are in place to identify and prevent conflicts of interest in the implementation, acquisition and award of contracts or in the sale or purchase of

property or services to, or for, the City. The conflict of interest provisions of State and federal law, as applicable, shall be adhered to in all instances.²

- B. It shall be the policy of the City to avoid even the appearance of impropriety by its officers, employees, agents, contractors or other representatives in any transaction regarding the City, including the awarding of contracts or the purchase or sale of any real or personal property or services.
- C. The City Manager and City Attorney shall be responsible for insuring that the applicable provisions of the conflicts of interest laws are made known to all public officers, employees, agents, contractors, representatives and all persons or companies who may have an interest or submit a proposal or bid on any contract, sale, purchase or service with the City of Globe.

Section 3-5-11 Gifts and Gratuities

- A. No person shall solicit, offer, give or accept money, credits, gifts, entertainment, discounts, favors or services in connection with recommendations or decisions pertaining to any procurement.
- B. It shall be conclusively presumed that the value of any gifts or gratuities given in violation of Section 3-5-10.A is included in the price of the contract, subcontract or order resulting from such violation and ultimately borne by the City and shall be paid to the City on demand by the person violating Section 3-5-10.A or the recipient
- C. Exceptions to this section are A) unsolicited advertising or promotional materials such as pens, pencils, calendars shirts and other items of nominal intrinsic value offered on infrequent occasions in the ordinary course of business, B) customary meals during business hours or sponsored meals at an event or conference; provided that such expenditures may not violate the Arizona conflict of interest statutes at A.R.S. Section 38-501 *et seq.*

Section 3-5-12 Specifications

- A. When drafting specifications for the purchase of supplies or equipment, the purchasing agent should take into account all important factors for the intended purchase, including price, quality, lifespan, warranties, repair and replacement cost, functionality, regional availability of parts and services, prior experience with regional limitations, regional experience and relationships, and performance

² Editor's Notes: State law reference: A.R.S. § 38-501 *et. seq.*

history from previously purchased similar supplies and equipment.

- B. All specifications, including those prepared by architects, engineers, consultants and others for procurement by the City, shall not be unduly restrictive, except in the case of sole source procurement authorized pursuant to Section 3-5-21, and shall encourage maximum participation by vendors and practical competition among suppliers.
- C. Specifications for goods and services that exclude suppliers offering comparable performance or functional characteristics shall not be used unless authorized pursuant to Section 3-5-21.

Section 3-5-13 Council Approval; When Required

No purchases shall be made by or on behalf of the City without first obtaining Council approval in the following instances:

- A. Where prior approval is required by State statute, Federal Statute or this Code;
- B. Where the purchase of the item is not provided for in the budget as adopted;
- C. Where funds for the purchase are not provided in the budget as adopted;
- D. For the expenditure of funds in an amount in excess of Twenty-Five Thousand (\$25,000) dollars. Expenditures under Twenty-Five Thousand (\$25,000) dollars may be authorized by the City Manager if subsections A, B, C and F of this Section 3-5-13 are satisfied.
- E. All service contract change orders, or changes in purchase quantities bids, in an amount of \$2,000 or more that modify contracts, bids, or solicitations approved by Council. Contract modifications under an amount of Two Thousand (\$2,000) may be authorized by the City Manager, if there is no significant in location, material and method and if the subsections A, B, C and F of this Section 3-5-13 are satisfied.
- F. Any purchase that requires the transfer of funds between departments or funds from contingency.

Section 3-5-14 Emergency Purchases; Procedure

In case of an emergency which requires immediate purchase of supplies or services due to a threat to public health, welfare or safety that makes compliance with this Code impracticable, unnecessary or contrary to the public interest, and when time is of the

essence and applicable State law does not provide otherwise, the Mayor shall be empowered to authorize the Purchasing Director to acquire goods or services without complying with the requirements and procedures in this Article but with such competition as is practicable under the circumstances. A full report of the circumstances of such emergency and the goods or services obtained shall be made to the Council at its next regular meeting.

Section 3-5-15 Purchases in General; Solicitations

- A. Purchases of \$5,000.00 or less: Any procurement that results in an expenditure of five thousand dollars (\$5,000.00) or less shall be made by the Department Director, unless otherwise directed by the City Manager, with as much inquiry as to the fair market value of such purchase as practicable in the open marketplace at the prevailing price, without further formality.
 - a. The City Manager or Department Directors may add additional requirements to justify lowest price, best value within the administrative requirements of the department.
- B. Purchases \$5,000.00 to \$25,000.00 Inclusive: Any procurement resulting in an expenditure from five thousand dollars and one cent (\$5,000.01) to twenty-five thousand dollars (\$25,000.00), may be made by the Purchasing Director or his/her designee without the requirements of public notification by advertisement, but subject to subsections a through d below.
 - a. The Purchasing Director or his/her designee shall obtain or be provided with three (3) current documented informal competitive written/email quotations, print or web-based price listings, or publicly advertised internet pricing from available suppliers including the name, address, and contact email/phone, and any necessary assurances of the validity of the quote including company logo or letterhead.
 - b. Documentation of the quotes are to be maintained on a "Requisition Form A".
 - c. Upon review of the quotes, the Purchasing Director shall award the purchase or contract to the lowest responsible bidder.
 - d. Additional documentation indicating itemized product description or scope of work may be required if not clearly indicated in quotes.
- C. Purchases of \$25,000.01 to \$50,000.00 Inclusive: Expenditures of Twenty-Five Thousand Dollars and One Cent (\$25,000.01) to Fifty Thousand Dollars (\$50,000.00), may be made without the requirements of public notification by advertisement, but subject to subsections a through d below.

- a. After completion and submission of a "Contract Request Form" and a "Request for Quotes Form B" by the staff member initiating the purchase, the Purchasing Director or his/her designee shall obtain current, responsive written prices, bids, or quotes from suppliers for materials and labor.
 - b. The Requisition Form is to be used to document the written price bids or quotes.
 - c. Upon review of the written bids or quotes, the Purchasing Director or his/her designee shall award the purchase or contract to the lowest responsible, qualified proposer.
 - d. The purchase must also meet requirements listed in Section 3-5-13(D) Council Approval
- D. In Excess of \$50,000: Whenever any contemplated purchase or contract is for a sum in excess of Fifty Thousand (\$50,000.00) dollars, in one transaction or in aggregate, the purchase shall have been made only after formal competitive solicitation, including public notification, and awarded by the City Council.
- a. A "Contract Request Form" shall be submitted by the staff member initiating the purchase and then submitted to the Finance Department.
 - b. The Purchasing Director or his/her designee shall advertise for competitive solicitations according to the procedures established in this Article.
 - c. Council Approval to advertise for competitive solicitations is required unless the solicitation for purchase or contract has been identified in the current budget and sufficient funding has been appropriated and approved by the Council during the current budget year.
 - d. The Purchasing Director shall present all the solicitations obtained to the Council with a recommendation of award.
 - e. The purchase or contract shall be awarded by Council to the lowest responsible, responsive, and qualified proposer. The Council reserves the right to reject any and all bids and re-advertise.
 - f. In addition to the foregoing requirements, if the bids received for the purchase or contract are in excess of Fifty Thousand (\$50,000.00) dollars, no purchase or contract may be made without prior Council approval. The Purchasing Director shall present all quotes and or bids obtained to the Council and shall report to them on the need for the goods or service and the advantages or disadvantages of the contract and bid proposals. The Council reserves the right to reject any and all bids and re-advertise.
- E. Local Business Preference: On all purchases, local businesses shall be entitled to a preference equal to the combined City and County transaction privilege tax

rate to the extent allowable by law.

- F. Artificial Division: Request for purchases of goods, or contracts for services, or construction projects, shall not be artificially divided in order to circumvent the requirements of procurement codes, bidding requirements, or requirements for Council approval.³

Section 3-5-16 Competitive Solicitation/Bidding Procedure

Except as otherwise exempted from solicitation requirements within this code or State law, the Purchasing Director shall follow the procedure set forth in this Section for all purchases and contracts exceeding fifty thousand dollars (\$50,000.00):

- A. A notice of solicitation for bids and proposals shall state the date, time and place of opening, and the place and time period within which bids shall be submitted.
- B. The notice shall state, with particularity, the goods or services required and shall state the place where specifications may be examined.
- C. Bids and solicitations shall be submitted in a sealed envelope clearly identified as a bid on the front of the envelope. Any bid or solicitation not received within the time period allowed shall be rejected.
- D. All bids and solicitations shall be opened in public at the time and place specified, in the presence of one (1) or more witnesses, and a tabulation of all bids and solicitations shall be available from the City Clerk.
- E. All bidders and proposers shall be notified in writing of the award or rejection of any and all bids and proposals.
- F. The City shall post the award of contract on the City website for a minimum period of two weeks (14 calendar days).
*
- G. All invitations for bids and solicitations shall be published 30 days prior to bid opening. Publication, in matching form, will include publication in local print media, posting on the City website, and paper postings at City Hall and Library. Amendments to invitations to bid and solicitations shall be issued in writing by the purchasing agent, with a copy to the City Clerk, within a reasonable time before the bid or proposal opening, to all suppliers to whom the purchasing agent has distributed invitations to submit bids or proposals and to all suppliers who have requested solicitation documents or specifications. Respondents shall be deemed to have received the notice upon publication on the City website and transmittal by email. All respondents must acknowledge receipt of amendments prior to proposal

³ Editor's Note: Originally amended and adopted by and through Ordinance No. 841, 2/15/17

opening.

- H. Sealed proposals shall be considered properly received only when submitted in a sealed envelope clearly identified as a proposal on the front of the envelope and marked in accordance with the request for proposal and delivered by or before the specified time and designated place as advertised in the public notice. Proposals shall be time-stamped and stored unopened in a secure place until the public bid opening.

Any proposal not received within the time period or at the location allowed shall be rejected, with the exception of proposals that are received by City personnel before the proposal opening that would have been timely received if not for the action or inaction of City personnel directly serving the procurement function. These proposals may be received and considered.

Minor informalities may be waived by the City Manager in consultation with the purchasing agent and City Attorney if the waiver is deemed to be in the best interest of the City.

A modification, or withdrawal, of a proposal must be received before the time and date set for proposal opening in the location designated for receipt of proposals. The modification or withdrawal shall be time-stamped and recorded.

- I. Mistakes in the proposal discovered after the proposal opening based on an error in judgment may not be corrected or withdrawn except as set forth herein:
 - (a) After proposal opening, the City Manager, in consultation with a purchasing agent and the City Attorney, may waive minor informalities in a proposal.
 - (b) After proposal opening, the proposal may not be withdrawn and shall be corrected to the intended proposal only if a proposal mistake and the intended proposal are evident on the face of the proposal, as determined solely by the City.
 - (c) After proposal opening, the City Manager, in consultation with a purchasing agent and City Attorney, may permit a proposer to withdraw a proposal when:
 - (1) A nonjudgmental mistake is evident on the face of the proposal and the intended proposal is not clear; or
 - (2) The proposer establishes by clear and convincing evidence in the sole opinion of the City that a nonjudgmental mistake was made; or
 - (3) The proposal is so low as to create a likelihood that the contract cannot be completed and to enforce compliance with the proposal would be unconscionable.

Section 3-5-17 Solicitation Awards; Most Responsible Proposer

- A. Authorized awards shall be made to the lowest and most qualified and responsible supplier whose bid, quotation or offer conforms to the procurement requirements and criteria set forth in the City's solicitation and is deemed to be in the best interest of the City.
- B. The evaluation methods to determine the conformity of the procurement requirements and criteria shall be uniform for each responding supplier.
- C. In determining the lowest price, most responsible, and most qualified solicitation that is in the best interest of the City, the Council or the Purchasing Director shall consider:
 - 1. The ability, capability and skill of the proposers to perform the contract or provide the services required in a timely manner;
 - 2. The quality of performance in previous contracts with the City, together with previous and existing compliance with the ordinances of the City; The Purchasing Director or Council, as the case may be, reserves the right to request references from other public projects or contracts;
 - 3. The financial resources and ability of the bidder;
 - 4. The quality, availability and adaptability of the goods or service;
 - 5. The value and benefit gained by utilizing a consultant, vendor, service provider or trades person with which the City has significant prior experience or ongoing relationship;
 - 6. The value and benefit gained by utilizing a consultant, vendor, service provider or trades person provides the City with a Single Point of Contact;
 - 7. Factors that satisfy the particular function at the lowest overall cost to the City;
 - 8. Additionally, the City may include in its evaluation managerial or technical capabilities, comparative feasibilities of the approach to be used (if applicable), prompt service, accessibility, delivery, travel, or any other factors which may reduce or offset the cost of goods or services solicited by the City as determined by the Purchasing Director;
 - 9. Each Request for Proposal shall establish relative weights for each evaluation criteria.

D. In reviewing bids, and/or proposals, and/or estimates, and determining whether or not a proposed service provider or vendor is responsible and/or a qualified responder, the City shall consider, among other factors:

1. Costs incurred by the City or other governmental entities in contested change orders by the service provider or vendor;
2. Litigation in which the contractor or vendor was involved with the City or other governmental entities relative to contract performance;
3. Failure of the service provider or vendor to have met bid specifications or time limits in previous contracts;
4. Abandonment of a contract or refusal to perform without legal cause after submission of a bid or proposal;
5. A record of bidding or proposal errors or omissions in two (2) or more bids or proposal submissions in a thirty-six (36) month period;
6. A record of failure to perform, or unsatisfactory performance, of two (2) or more contracts within a thirty-six (36) month period;
7. Inadequate equipment, lack of expertise or insufficient personnel to complete the proposed contract;
8. A record of safety violations in two (2) or more contracts within a thirty-six (36) month period;
9. Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private service provider or subcontract, or in the performance of such contract or subcontract within a ten (10) year period;
10. Conviction of a criminal offense within a ten (10) year period of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which might affect responsibility as a municipal contractor;
11. Conviction of state or federal antitrust statutes within a ten (10) year period arising out of the submission of bids or proposals;
12. Any other cause that the City determines to be so serious and compelling as to affect responsibility as a municipal contractor, including debarment or similar proceedings by another governmental entity.

E. Amounts in equal to and in excess of \$50,000 may be reviewed and rejected by Council and amounts under \$50,000 may be reviewed and rejected by the Purchasing Director.

- F. If only one (1) responsive proposal, quotation or offer is received from a competitive solicitation:
1. An authorized award may be made to the single responsible proposer if the price is determined to be fair and reasonable; or
 2. The proposal may be rejected; or
 3. New competitive solicitation may be made; or
 4. If the solicitation is not advantageous to the City, but the need for the procurement continues. The procurement may be made under provision for sole source or emergency as defined in this code. OK
- G. If no response is received from competitive solicitation, the purchasing agent may resolicit, terminate further solicitation, or procure under the provisions for emergency or sole source, whichever is applicable.
- H. If all proposals received exceed available monies as certified by the City Manager or his designee, including the lowest and most qualified proposal, the purchasing agent may negotiate an adjustment of the proposal price, including changes in the proposal requirements and specifications, with the lowest responsive and responsible proposer, to bring the proposal within the amount of available monies.
- I. The Purchasing Director shall select providers of goods and services without regard to race, color, national origin, ethnicity, religion or creed, sex, handicap, age, marital or familial status as required by the City policy of equal opportunity and non-discrimination.
- J. A submitter or offeror may be required to submit to the purchasing agent a certification of current cost or pricing data used to price the proposal or offer prior to an award to determine if the price is fair, reasonable, and in the best interests of the City.
- K. The City Manager retains the authority to debar or suspend any potential supplier of goods or services from consideration of award if the potential supplier is in default of any obligation, taxes or fees due and owing the City, until such time as the breach or default is cured.

Section 3-5-18 Bid Bond

The Purchasing Director shall have the authority to require a bid bond, in such amount as he/she may deem sufficient, to secure the execution of a contract for goods and services, provided however, that in a contract in excess of Fifty Thousand (\$50,000.00) dollars, such a bond may be required.

Section 3-5-19 Competitive Solicitation Requirements – Exemptions

Exemptions from competitive solicitation requirements include, but are not necessarily limited to:

- (A) Technical, Artistic, Specialized or Professional Services;
- (B) Insurance and bonds;
- (C) Procurements funded by grants, donations, or gifts when the special conditions attached to the grants, donations or gifts require the procurement of particular goods and/or services;
- (D) Works of art, entertainment or performance;
- (E) Intergovernmental payments, purchases and agreements;
- (F) Membership dues, conventions, training, and travel arrangements;
- (G) Advertisements in magazines, newspapers, or other media;
- (H) Goods procured for resale to the public;
- (I) Public utility purchases of water, power, and related services;
- (J) The purchase of ancillary services related to real property, such as title insurance, appraisals or environmental assessments to the extent that they are negotiated as a part of the contract for purchase of real property.
- (K) Agreements negotiated by legal counsel representing the City in settlement of pending litigation or threatened litigation.

Section 3-5-20 Procurement of Used and Time Sensitive Purchased Items

Procurements in an amount of more than five thousand dollars and one cent (\$5,000.01) and under fifty thousand dollars (\$50,000.00) may be solicited from suppliers without bidding or competition, but with as much competition as practicable, with the prior approval of the City Manager for used vehicles, used equipment and other occasionally available or used personal property, upon written substantiation that the item or items to be purchased are only sporadically or occasionally available for purchase, and due to the sporadic nature of availability, the purchase via bidding or other competition would not be advantageous.

Section 3-5 21 Sole Source Procurement

(A) Generally, procurements become a sole source procurement because there is only one (1) known source that exists, or only one (1) single supplier that can fulfill the requirements, such as with brand name parts, equipment, system or product maintenance, or information technology. When only one (1) manufacturer or distributor sells/provides the name brand only material or service, this is a sole source procurement. Sole source procurement should be avoided, unless there is only one (1) source for the required material or service and no other type of material or service will satisfy the requirements of the City.

(B) A contract may be awarded for a material or service without competition if the Purchasing Director or his/her designee determines there is only one (1) source for the required material or service and the sole source procurement is approved by the City Manager.

(C) City departments seeking a sole source procurement will prepare the sole source procurement form "Sole Source form", which is available from the Finance Department, documenting why there is only one (1) source for the required material or service including:

1. Why no other type of material or service will satisfy the needs of the City; and
2. Why a specific material or service must be purchased to the exclusion of others; and
3. What were the specific efforts made to determine the availability of any other source.

(D) The form shall be approved by the City department head, pursuant to the threshold levels set forth in this section and the memo submitted to the City Manager for approval of the request.

(E) When possible, City departments seeking a sole source procurement must submit a letter from the manufacturer/distributor of the material, or the provider of the service, indicating the identified vendor as the sole source of the material or service being purchased.

(F) The provisions of this section apply to all sole source procurements unless emergency conditions exist as defined.

Section 3-5-22 Purchases of Merchandise for Resale

All purchases intended for resale to the general public shall be exempt from the provisions of Sections 3-5-15 for said purchases; provided, however, that any purchases which exceed the dollar amount as set forth in Section 3-5-13 shall still require City Council approval and provided further that any sale shall comply with ARS Sections 9-402 and 9-403 Ok

Section 3-5-23 Professional, Technical, Credentialed, and Technology Services

- A. The provisions of A.R.S. Title 34 shall govern the selection of architects, engineers and other technical registrants for construction related professional services.
- B. No person or firm practicing in a professional, credentialed, technology, or technical field for which a license is required by State law shall be engaged by the City unless possessing a current license in good standing.
- C. Upon engagement, the City shall enter into a written agreement or contract for the performance of the services for which engaged, setting forth the scope of services and the unit or total price, therefore.
- D. The purchasing agent may award a contract to a provider of professional services. Any contract for professional services equal to or in excess of \$25,000 must be approved by the City Council. Any contract for professional services, excluding attorneys, estimated to exceed \$50,000 must be procured through a Request for Statement of Qualifications and approved by the City Council.

Section 3-5-24 Forms

The Purchasing Director shall be responsible for the preparation and distribution of forms and documentation to carry out the provisions of this Article.

- A. Contract Request Form: The Contract Request Form shall state the requesting department, the contract title, the estimated start and end dates of the project, the estimated cost, the general ledger account number for which the funds were budgeted in, a statement of purpose and need, and a scope of work. Once completed the Contract Request Form shall be submitted to the Finance Department for the commencement of the procurement process. When the Finance Department has completed their review of the Contract Request Form, the original document shall be submitted to the City Clerk for retainage.
- B. Requisition Form: The Requisition Form shall be completed by those authorized to purchase supplies, materials or services, prior to any purchase, and shall be reviewed and approved in writing by the Department Head. The Requisition Form shall be submitted to the purchasing department to review for completeness and

for approval by the City Manager. The Requisition Form shall be used to document phone, verbal or written bids solicited from suppliers.

- C. Notice to Proposers: The Notice to Proposers shall set forth the goods or services sought, the day, time and place when proposals will be opened, the dates and times within which proposals will be received, when specifications may be reviewed and where available and such other information as may be required to secure the most advantageous proposal.
- D. Purchase Order Form: The Purchase Order form shall be completed by the Finance Department, upon review of a duly authorized Requisition Form.

Section 3-5-25 Purchase Orders

- A. In General: The Purchasing Director shall provide forms for purchase orders which shall be used for the purchase of all goods and services for, or on behalf of, the City.
- B. Open Purchase Orders: Open purchase orders may be provided by the Purchasing Director for the routine purchase of regularly supplied items costing not more than One Thousand (\$1,000.00) dollars per invoice in the aggregate. An open purchase order shall be limited to a single source. All open purchase orders shall expire at the end of the fiscal year of issuance and the expiration date shall be plainly stated on its face.⁴

Section 3-5-26 Procurement Methods

(A) The cost of an item, not the method of payment, determines the method of procurement. Artificial division, splitting or fragmentation of a transaction to circumvent source selection or to avoid requirements for bidding or authorization of procurements is prohibited.

(B) Procurements of over \$5,000 made for the City shall be documented by a Requisition Form and a purchase order or a written contract that has been authorized and issued prior to receipt of the goods or services or prior to payment for goods and services, except as otherwise provided for in this code.

(C) Purchasing agents are encouraged to participate with the state of Arizona, or any other public entity, for the cooperative purchasing of goods and services that have been obtained in accordance with the State Procurement Code or in substantial compliance with the provisions of this code.

⁴ Editor's Notes: Originally amended and adopted by and through Ordinance No. 829, 04/29/15

Section 3-5-27 Procedure on Requests for Payment

- A. All requests for payment for purchases shall be in writing and may be in the form of a bill, invoice, payroll or formal demand with proper reference to an authorized purchase order, where applicable. Notwithstanding the above, all contract payment requests from the City shall be in writing, in a form acceptable to the City Manager, or designee, and in as many copies as the City Manager may require. Every claim shall set forth all the details pertaining to the purchase, including, but not limited to:
1. A complete description of the goods or services furnished, or the circumstances giving rise to the claim.
 2. The quantities of goods furnished.
 3. The unit price of goods furnished.
 4. The total cost to the City, including applicable taxes, service charges, delivery charges, and all other charges.
 5. A reference to any purchase orders, written or oral, which may have been issued by the City with reference to the purchase.
- B. All requests for payment shall be audited by the Manager or his/her representative prior to payment. Such audit shall satisfy the Manager that the following elements are accounted for:
1. The goods or services covered by the claim were ordered by authority of a properly designated City official.
 2. The goods or services were actually received.
 3. The price charged the City is the price that was agreed to at the time the order was placed.
 4. The claim is mathematically correct.
- C. After audit by the Manager, all claims shall be approved by the Council prior to payment.
- D. In the event that a contractual dispute continues or arises after exhausting these procedures, a claim against the City shall be made pursuant to Section 3-4-1.