



City Council Report

Date: May 2, 2022
To: City Council
Through: Michael Kennington, Deputy City Manager/Chief Financial Officer
From: Ed Quedens, Business Services Director
Kristy Garcia, Procurement Administrator
Subject: Ordinance to Submit a Proposed City Charter Amendment to the Mesa Voters– Section 609 – Procurement (Citywide)

Purpose and Recommendation

Council is requested to approve an ordinance authorizing a City Charter Amendment to be submitted to the City of Mesa voters for their consideration on the November 8, 2022 General Election, regarding Section 609 – Procurement.

Background

The Mesa City Charter was established by the Freeholders in 1967. Amending the Charter requires approval of a majority of the qualified electors in a general or special election.

Included in the original Charter was Section 609 entitled “Competitive Bidding and Quotations”. Section 609 originally contained three paragraphs: (A) Informal Bidding or Quotations, (B) Formal Bidding, and (C) Acceptance of Bids or Quotations. The threshold for City Council approved purchases was set at anything over \$10,000. A Charter Amendment was approved by the voters in 2004 to update the text and the amendment included an increase to the threshold for City Council approved purchases to \$25,000.

Proposal

The proposal is to amend Section 609 as detailed in the attached Ordinance to update and modernize the Charter to clarify certain text and reflect current, best practice. Below is a synopsis of the changes.

Paragraph (A) INTENT: The changes proposed do not change the overall intent that the Charter requires open and competitive bidding, rather it modifies the language to expand the intent and state that it is the City’s policy that all procurements, not just bids, require open competitive procurements. The proposed changes update the language to replace the term “bids” with “purchases” and “responses” to not exclude Requests for Proposals (RFP) and Requests for Qualifications (RFQ).

Paragraphs (B) CITY COUNCIL APPROVED PURCHASES and (C) SMALL DOLLAR PROCUREMENT PROCEDURES: These paragraphs specify the threshold for Council approval for the purchase of materials that exceed \$25,000 and the formal procurement processes, and the requirement to establish processes for small dollar purchases (those for \$25,000 and under).

The proposed language seeks to combine Paragraphs (B) and (C) to simplify the language defining Large Dollar Procurements subject to Council approval and public notice, and for all other procurements, to require the City Manager to establish procurement policies and procedures to provide efficient and cost-effective purchases.

The proposed amendment also continues the \$25,000 threshold but would allow the Council to modify the amount by adopting an ordinance through its public Council meeting processes. The Charter amendment does not require the Council to change the threshold, the threshold would remain at \$25,000 unless an ordinance is adopted by Council.

Paragraph (C) EMERGENCY PROCUREMENTS: This paragraph allows Large Dollar Procurements to bypass normal formal procurement processes and prior Council approval in instances of an emergency related to the public peace, health, or safety. The only change proposed is to require Council “ratification” of emergency procurements at the next reasonably available Council meeting rather than “discussion”.

Paragraph (D) COOPERATIVE PURCHASING: The proposed language broadens the description of cooperative purchases and agencies. In 2004 cooperatives that set up cooperative purchases were largely government entities. In today’s model, we still use cooperative contracts established by government entities, such as the State of Arizona Maricopa County, and other municipalities, but many of the cooperatives themselves are non-government entities who market and make available contracts done by other government agencies. And the modifications clarify that cooperative contracts are authorized for all procurements and that, for Large Dollar Procurements done using cooperative purchases, Council approval is required.

Paragraph (F) ELECTRONIC BIDDING: The text is being updated. In 2004, electronic bidding was new and innovative. Today electronic procurements are a standard practice for various types of procurements, not just bids; it is simply a way of conducting an authorized procurement process.

Paragraph (G) PUBLIC NOTICE: This paragraph defines public notice for Section 609 of the City Charter. The changes proposed intend to make the paragraph clearer and add specifically the use of the City’s website as an example of a public notice method as it has largely replaced newspaper advertisements as a repository of available opportunities. Mesa maintains a list of vendors who have registered to receive email notifications of solicitations. We also use the State of Arizona’s vendor registration lists for email notifications. Organizations have registered such as the Mesa Chamber of Commerce to republish our notices. The reference to “electronic” or “paper” methods as examples of types of public notice methods is also being removed because those methods are covered by the addition of the term “other” as a part of any other methods that may be available.

Discussion

In addition to the discussion of the purpose of the changes stated above, the amendment to allow the Council approval threshold to be set by ordinance relates directly to the time it takes to obtain the materials and services departments need to provide services to our citizens. The efforts to comply with the threshold are also an overhead cost to the organization.

Mesa's threshold for a purchase requiring approval by the governing body has fallen behind other local agencies.

- Phoenix - \$100,000
- Tempe - \$100,000
- Gilbert - \$100,000
- Maricopa County – Formal Solicitation \$50,000, \$100,000 for construction – County Board approval \$250,000
- Chandler - \$50,000 Bid and Council - \$30,000 for Consulting
- Scottsdale - \$25,000 Formal Solicitation, \$15,000 for Professional Services. Council approves all construction and professional services, everything else is administrative.
- Queen Creek - \$25,000
- Mesa - \$25,000

With a set amount in Section 609 of the Charter and no language for the Council to adjust, there is no method available to change the threshold except through a Charter amendment with a vote of the people. The proposed change does not specify a new threshold, it only provides Council with the option to change the threshold with an ordinance.

If the voters agree with this Charter amendment, in the future Council could consider an ordinance to modify the threshold. Ordinances appear on two separate City Council meeting agendas (introduction and consideration for adoption) that requires public notice.

It is important to note that the Charter language on procurements is the base language for procurement requirements, but that more detailed procurement policies and procedures are also used to determine how procurements must be done by the City, including the City Code, a Management Policy from the City Manager, Mesa's Procurement Rules (modeled after the ABA model procurement code and State Procurement Code), and Procurement Bulletins issued by Purchasing management which provide more detailed policies and procedures on certain topics.

Any change made to the City Charter proposed by the amendment, including a future ordinance modifying the threshold, will follow with changes to these other codes and policies to maintain and ensure consistent best practices, best use of City funds, and appropriate controls.

Alternatives

Council could decide not to adopt the ordinance with the proposed Charter amendment, resulting in the proposed amendments not being placed on the ballot at the upcoming election or, even if the Council adopts the ordinance and places the Charter amendment on the ballot, the voters of Mesa could decide against the measure. For both alternatives, the City would continue under the existing Charter language.

Fiscal Impact

If approved, there would be operational efficiencies in acquiring materials needed for City operations, however there is no direct budgetary impact.

Coordinated With

The City Attorney's Office