

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PROPOSING TO AMEND ARTICLE VI, SECTION 609 OF THE MESA CITY CHARTER RELATED TO CERTAIN REQUIREMENTS FOR CITY PROCUREMENTS.

WHEREAS, City of Mesa purchases are generally governed by the Mesa City Charter, the Mesa City Code, Management Policy 200, and the City Procurement Rules (collectively, the “Purchasing Requirements”). The Purchasing Requirements lay out various conditions and requirements that must be met by the City when procuring certain types of services and/or materials.

WHEREAS, for charter cities in Arizona, the charter frames the governance of the city. As a result, Section 609 of the City Charter titled “Procurements” (“Section 609”), lays out the framework for procurements by the City of Mesa.

WHEREAS, the goal of proposed modifications to Section 609 is to allow City procurements to continue to evolve with modern purchasing practices and procedures, and to simplify and update the language in the City Charter.

WHEREAS, Section 609 has been a part of the City Charter since the granting of the original City Charter on August 18, 1967. The 1967 Section 609 language laid out bidding and quote requirements for purchases, including that City Council approve purchases of tangible personal property or insurance exceeding \$10,000. In 2004 City of Mesa voters approved Proposition 102 amending Section 609 to completely replace the original 1967 language. The 2004 voter approved language, which governs procurements today, modified the original City Council approved purchases language to require City Council approval for the procurement of materials that exceed \$25,000 with “materials” defined as materials, supplies, commodities, equipment, insurance, and capital improvements.

WHEREAS, the City Council has determined that an amendment to Section 609 of the City Charter is appropriate to: (i) state the policy of the City that all open, competitive procurement methods for materials are permissible, not just bids, as more methods of procurement are available; (ii) allow the City Council flexibility to determine by ordinance the dollar amount for the procurement of materials requiring City Council approval to take into account that over time the cost of materials fluctuates due to a variety of factors including inflation and supply chain costs; (iii) identify that cooperative purchases may be used for all procurements; (iv) change the “electronic bidding” reference to “electronic procurement methods” because with the advancement of technology all procurement methods are commonly done electronically, not just bids; (v) broaden the list of methods that may be used to provide public notice of procurements; and (vi) to make other changes as set forth herein.

WHEREAS, if the proposed amendment to Section 609 described in this Ordinance is approved by Mesa voters it would not modify the requirement that City procurements must follow the Purchasing Requirements, and any proposed dollar amount increase for the procurement of materials requiring City Council approval would require an ordinance that would appear on two separate City Council meeting agendas for which the City is required to provide public notice.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. That, subject to approval by the voters of the City of Mesa and the Governor of the State of Arizona, Article VI, Section 609 of the Mesa City Charter is amended as follows, with text written in **BOLD AND CAPITALIZED** indicating new language and text written in ~~strikethrough~~ representing removed language:

ARTICLE VI – FINANCE AND TAXATION

Section 609: PROCUREMENT

- (A) INTENT. It is the general intent **AND POLICY** that open, competitive **PROCUREMENT METHODS ARE** ~~bidding~~ be followed in the purchase of materials, supplies, commodities, equipment, insurance and capital improvements (collectively the "materials") whenever possible. The City Council shall establish by ordinance a procedure to implement this policy and may determine exceptions thereto. For **CITY COUNCIL APPROVED PURCHASES IN** Section 609(B), the City Council shall accept those **PROCUREMENT RESPONSES** ~~bids~~ that, under all circumstances, appear to be in the best interest of the City unless all **RESPONSES ARE** ~~bids~~ be rejected.
- ~~(B) CITY COUNCIL APPROVED PURCHASES. Procurement of materials, when the cost will exceed twenty five thousand dollars (\$25,000), shall be made after giving public notice, as defined in Section 609(G), using either formal written invitation for bid (IFB), or request for proposal (RFP). The City Manager or designee shall determine which procurement method (IFB or RFP) will be most practicable and advantageous to the City for the procurement of materials.~~
- ~~(C) SMALL DOLLAR PROCUREMENT PROCEDURE. Procurement of materials, when the cost will not exceed twenty five thousand dollars (\$25,000) shall be made using small dollar purchase procedures to be developed and implemented by the City Manager or designee. For purchases of less than five thousand dollars (\$5,000), the City Manager or designee shall adopt policies and procedures to provide for efficient and cost effective purchasing practices and the maintaining of appropriate records of such purchases.~~
- (B) PROCUREMENT METHODS. PROCUREMENT OF MATERIALS EXCEEDING TWENTY-FIVE THOUSAND DOLLARS (\$25,000) OR OTHER AMOUNT AS CITY COUNCIL MAY ESTABLISH BY ORDINANCE ARE LARGE DOLLAR PROCUREMENTS REQUIRING PUBLIC NOTICE AND CITY COUNCIL APPROVAL; FOR ALL OTHER PROCUREMENTS OF MATERIALS, THE CITY MANAGER OR DESIGNEE WILL DETERMINE THE PROCUREMENT METHODS THAT ARE THE MOST PRACTICABLE AND ADVANTAGEOUS TO THE CITY. THE CITY MANAGER OR DESIGNEE SHALL ADOPT POLICIES AND PROCEDURES TO PROVIDE FOR EFFICIENT AND COST-EFFECTIVE PURCHASING PRACTICES.**
- ~~(C)~~ **EMERGENCY PROCUREMENTS.** Notwithstanding any other provisions of this

Section, the City Manager or designee may make or authorize others to make emergency procurements of materials where necessary for the immediate preservation of the public peace, health, or safety and compliance with established procurement procedures are impracticable or contrary to the public interest. An emergency procurement shall be limited to those materials necessary to satisfy the emergency. Any emergency procurement exceeding the dollar limit for City Council approval shall be scheduled for **RATIFICATION** discussion at the next reasonably available City Council meeting.

- (DE) **COOPERATIVE PURCHASING.** The City Manager or designee shall have the authority to participate **IN COOPERATIVE PURCHASES FOR ALL PROCUREMENTS** with the State of Arizona or other political subdivisions of this State, or any other State and its political subdivisions and the Federal Government for the procurement of materials in cooperative purchasing agreements. Participation in cooperative **PURCHASES** purchasing agreements shall be deemed to be compliance **COMPLY** with this Section. Any **LARGE DOLLAR PROCUREMENT USING** cooperative purchasing agreement exceeding the dollar limit for City Council approval shall be approved **BY CITY COUNCIL** prior to commencing any purchase.
- (EF) **ELECTRONIC PROCUREMENT METHODS BIDDING.** If the City Manager or designee determines that electronic bidding is more advantageous than other procurement methods provided in this Section, a procurement officer may use electronic bidding to obtain bids **ELECTRONIC PROCUREMENT METHODS MAY BE USED** for the purchase of materials using procedures developed and implemented by the City Manager or designee. If electronic **PROCUREMENT METHODS** bidding **ARE** is used for the purchase of materials requiring City Council approval, public notice shall be given as defined in Section 609(FG).
- (FG) **PUBLIC NOTICE.** Notwithstanding Section 211(D) of this Charter, **F**for **THE** purposes of this Section, “public notice”, ~~publish or advertising~~ shall mean the distribution or dissemination of information to interested parties at least one (1) time using methods that are reasonably available. Such methods may include, but are not limited to, publication **ON THE CITY’S WEBSITE OR** in newspapers of general circulation, ~~electronic or paper~~ mailing lists, or any **OTHER** ~~electronic~~ method providing widespread circulation.

SECTION 2. **BALLOT MEASURE LANGUAGE.** The City Clerk is directed to provide to the Maricopa County Recorder’s Office, in substantially the form set forth in this Section 2, the official title, descriptive title and questions, and ballot tagline for the City Charter amendment proposed by this Ordinance to be placed on the ballot at the next general election. Notwithstanding the foregoing, the City Council acknowledges that the Maricopa County Recorder’s Office, Arizona Secretary of State’s Office, or other office/agency of a governmental unit may require or reasonably request a modification to the language in this Section 2 based on election requirements, including spacing availability on a ballot; therefore, the City Clerk is authorized to modify the language set forth in this Section 2 at her discretion, for any reasonable purpose related to elections.

OFFICIAL TITLE: Ordinance No. _____ - An Ordinance of the City Council of the City of Mesa, Maricopa County, Arizona, proposing to amend Article VI, Section 609 of the Mesa City Charter related to certain requirements for City procurements.

DESCRIPTIVE TITLE: Amend Section 609 of the City Charter to state the City’s policy of open and competitive procurements for materials, allow the value of Council approved purchases to be set by ordinance, require efficient and cost-effective policies and procedures for all procurements, and modify cooperative purchase and public notice requirements.

A “YES” vote shall have the effect of amending the existing Mesa City Charter Section 609 provisions related to certain requirements for City procurements.

A “NO” vote shall have the effect of retaining the existing Mesa City Charter Section 609 provisions related to certain requirements for City procurements.

BALLOT TAGLINE: Amend Section 609 of the City Charter to state the City’s policy of open and competitive procurements for materials, allow the value of City Council approved purchases to be set by ordinance, require efficient and cost-effective policies and procedures for all procurements.

SECTION 3. RECITALS. The recitals above are fully incorporated in this Ordinance by this reference.

SECTION 4. ADOPTION OF AMENDMENT. In accordance with Section 903(C) of the Mesa City Charter, if a majority of the qualified electors of the City voting upon the proposed City Charter amendment vote in favor of it, the amendment shall become effective the first day after approval by the Governor of the State of Arizona.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 16th day of May, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk