

RESOLUTION R23-05-08

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED “AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, MARICOPA COUNTY, ARIZONA, AMENDING THE CITY OF EL MIRAGE PROCUREMENT CODE, CHAPTER 30, SECTION § 30.21 (DEFINITIONS), § 30.23 (PURCHASING AUTHORITY), § 30.25 (PROFESSIONAL SERVICES), § 30.28 (MUNICIPAL CONSTRUCTION PROJECTS) AND § 30.35 (DISPOSITION OF SURPLUS PROPERTY)”.

NOW, THEREFORE, be it resolved by the Mayor and Council of the City of El Mirage, Arizona, as follows:

Section 1. That certain document entitled “AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, MARICOPA COUNTY, ARIZONA, AMENDING THE CITY OF EL MIRAGE PROCUREMENT CODE, CHAPTER 30, SECTION § 30.21 (DEFINITIONS), § 30.23 (PURCHASING AUTHORITY), § 30.25 (PROFESSIONAL SERVICES), § 30.28 (MUNICIPAL CONSTRUCTION PROJECTS) AND § 30.35 (DISPOSITION OF SURPLUS PROPERTY)” attached to this Resolution as Exhibit A, three copies of which are on file in the Office of the El Mirage City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED this 16th day of May 2023.

Alexis A. Hermosillo, Mayor

ATTEST:

APPROVED AS TO FORM:

Sharon Antes, City Clerk

Justin Pierce, City Attorney

EXHIBIT A
Resolution R23-05-08

“AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, MARICOPA COUNTY, ARIZONA, AMENDING THE CITY OF EL MIRAGE PROCUREMENT CODE, CHAPTER 30, SECTION § 30.21 (DEFINITIONS), § 30.23 (PURCHASING AUTHORITY), § 30.25 (PROFESSIONAL SERVICES) AND § 30.25 (MUNICIPAL CONSTRUCTION PROJECTS)”

NEW TERMS ARE SHOWN AS ALL CAPS AND UNDERLINED AND DELETED TERMS ARE SHOWN AS ~~STRUCK THROUGH~~.

§ 30.21 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply.

REQUEST FOR QUALIFICATIONS (RFQ). A FORMAL SOLICITATION DOCUMENT REQUESTING PROVIDERS OF SERVICES TO SUBMIT THEIR QUALIFICATIONS AND DEMONSTRATE THEIR ABILITIES AND COMPETENCY TO PERFORM THE SERVICES NEEDED.

RESPONSIBLE. A CONTRACTOR, SUPPLIER, AND/OR FIRM THAT HAS THE LEGAL AUTHORITY TO DO BUSINESS IN THIS STATE; THE FINANCIAL AND ORGANIZATIONAL CAPACITY; AND SUCCESSFUL PERFORMANCE ON OTHER GOVERNMENT CONTRACTS.

§ 30.23 PURCHASING AUTHORITY.

(A) The City Manager shall authorize purchases up to and including \$30,000; these purchases are deemed "informal" purchases.

(1) The City Manager may establish procedures for "informal" purchases as deemed necessary.

(2) Purchases up to \$5,000 do not require quotations; purchases in excess of \$5,000 and up to \$30,000 require a minimum of three telephone quotations.

(3) Violation of division (A) will be administered according to the City of El Mirage Personnel Policy Manual.

(B) The City Council shall approve all purchases greater than \$30,000. These purchases shall constitute "formal" purchases.

(1) "Formal" purchases shall be sought through one of the following:

(a) Invitation for Bid (IFB); or

(b) Request for Proposal (RFP); OR

(c) RFQ AS APPROPRIATE.

(2) All formal purchases shall be published in accordance with the A.R.S. § 41-2533; § 41-2579; and §§ 39-202 through 39-205.

(3) The Council may waive "formal" purchase requirements when it determines it is in the best interest of the city.

(4) Purchases may not be artificially separated, fragmented, or split to bypass "formal" purchase requirements.

(5) The City Manager may authorize increases up to \$30,000 for "formal" purchases previously approved by Council before seeking additional approval.

(6) Sealed bid procedures.

(a) A request for sealed bids may include the requirement that each bidder furnishes a performance bond, AND/OR PAYMENT BOND AND/OR BID SECURITY AS STATED IN THE PUBLISHED FORMAL PURCHASE AND/OR AS ~~in cash or otherwise, sufficient to secure the performance sought~~ PRESCRIBED IN A.R.S TITLE 34.

1. Sealed bids shall be received on behalf of the Council by the City Clerk. Each bid shall be identified, on its envelope, as a bid. Bids shall be opened in public at the time and location designated in the "advertisement for bids." A tabulation of all bids received shall be submitted for action to the Council at a regular or special meeting. The City Manager shall report to the Council his or her findings as to whether each bid meets the city's requirements and shall further advise the Council on issues relative to awarding the contract. A tabulation of all bids received shall be retained on file for public inspection during regular business hours following the bid opening. A public records request may be required for viewing bid documents.

(b) Awarding of contracts based upon sealed bids shall be by Council action and the Council shall retain the right to reject any or all bids. Notice of the provisions of this section shall be included in the call for bids. In the event of the rejection of all bids received by the Council, or of partial rejection of any bid, the Council may have the City Manager negotiate the terms of a contract on behalf of the Council.

(c) Contracts shall be awarded by Council to the lowest responsive and ~~best bidder~~ RESPONSIBLE BIDDER, except as otherwise provided herein.

(d) If two or more bids received are determined to be the lowest responsive and ~~best~~ RESPONSIBLE, and if the public interest will not permit the delay of re-advertising for bids, Council shall determine the successful bidder by lot.

(e) The city may provide additional notice to foster and promote competition such as direct mailing, telephoning, or emailing notice to prospective bidders.

(f) Unless the right of rejection is exercised as provided by § 30.23(B)(~~56~~)(c) or § 30.32(C), the purchase or contract shall be made from and with the lowest responsive and ~~best~~ RESPONSIBLE bidder for the entire purchase, contract or for any part thereof. In determining the lowest responsive and ~~best~~ RESPONSIBLE bidder, the Council shall consider:

1. The best overall value for the city provided by the bidder;
2. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
3. The ability of the bidder to perform the contract or provide the services promptly or within the specified time, without delay or interference;
4. The quality of performance of previous contracts;
5. The compliance with previous and existing compliance by the bidder with laws and regulations of the federal, state, and/or city by the bidder;
6. The financial resources and/or ability of the bidder to perform the contract; and/or
7. The quality, availability, and adaptability of the supplies or services.

§ 30.25 PROFESSIONAL SERVICES.

(A) The procurement of professional services, including but not limited to accounting, auditing, engineering, ARCHITECT SERVICES, LANDSCAPE ARCHITECT SERVICES, ASSAYER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES AND ~~or~~ legal services, are hereby exempt from the requirements of § 30.23(B) when it is determined by the City Manager that it is in the city's best interest to procure these professional services by direct selection. The exemption

applies to both the "formal" purchase process and Council action except as provided in division (B) below.

(B) ~~Contracts for construction and for the PROFESSIONAL services of architects~~ FOR A SINGLE JOB SHALL NOT EXCEED \$250,000 AND \$500,000 FOR OTHER PROFESSIONAL SERVICES ~~and engineers to be used in connection with construction contracts are AS governed by PER the provisions of A.R.S., Title 34~~ AND WILL BE PROCURED SEPARATELY.

~~—(1) The following professional services shall be procured in accordance with A.R.S. § 34-603:~~

- ~~—(a) Architect services;~~
- ~~—(b) Assayer services;~~
- ~~—(c) Construction manager at risk construction services;~~
- ~~—(d) Design build construction;~~
- ~~—(e) Engineer services;~~
- ~~—(f) Geologist services;~~
- ~~—(g) Job order contracting construction services;~~
- ~~—(h) Landscape architect services; or~~
- ~~—(i) Land surveying services.~~

§ 30.28 MUNICIPAL CONSTRUCTION PROJECTS.

The City of El Mirage shall complete construction projects in compliance with A.R.S TITLE 34 AND SHALL EITHER BE COMPETITIVELY BID AND AWARDED TO THE LOWEST RESPONSIBLE BIDDER OR AWARDED BASED ON QUALIFICATIONS IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED IN A.R.S TITLE 34 FOR ALTERNATE CONTRACTING. IN ACCORDANCE WITH SAID TITLE 34, THE LIMIT FOR INDIVIDUAL JOB ORDERS IS TWO MILLION DOLLARS (\$2,000,000). ~~§ 34-204.~~

§ 30.35 DISPOSITION OF SURPLUS PROPERTY.

(A) ~~The sale and disposition of property by a city or town is governed by A.R.S. § 9-402.~~ THE CITY IS GOVERNED BY A.R.S. TITLE 9 CHAPTER 4 ARTICLE 1.

(B) THE TRADE OF PERSONAL PROPERTY WILL BE PROVIDED FOR AS IN A.R.S. 41-2511 (C)(3).

~~(C)~~ (B) The sale and disposition of property must be advertised for bid in accordance with A.R.S. § 39-204.

~~(D)~~ (E) The City Manager may act on behalf of the city in all matters pertaining to the disposition of excess or surplus equipment material, and property.

~~(E)~~ (F) Unless otherwise authorized by law, city code, ordinances, or regulations no department shall transfer, sell trade, donate, or otherwise dispose of supplies, equipment, materials, or property owned by the city without authorization from the City Manager.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)