

City of Glendale Council Workshop Agenda

April 1, 2014 – 1:30 p.m.

Welcome!

We are glad you have chosen to attend this meeting. We welcome your interest and encourage you to attend again.

Form of Government

The City of Glendale has a Council-Manager form of government. Policy is set by the elected Council and administered by the Council-appointed City Manager. The Council consists of a Mayor and six Councilmembers. The Mayor is elected every four years by voters city-wide. Councilmembers hold four-year terms with three seats decided every two years. Each of the six Councilmembers represent one of six electoral districts and are elected by the voters of their respective districts (see map on back).

Voting Meetings and Workshop Sessions

Voting meetings are held for Council to take official action. These meetings are held on the second and fourth Tuesday of each month at 6:00 p.m. in the Council Chambers of the Glendale Municipal Office Complex, 5850 West Glendale Avenue. **Workshop sessions** provide Council with an opportunity to hear presentations by staff on topics that may come before Council for official action. These meetings are generally held on the first and third Tuesday of each month at 1:30 p.m. in Room B3 of the Glendale Municipal Office complex.

Special voting meetings and workshop sessions are called for and held as needed.

Executive Sessions

Council may convene to an executive session to receive legal advice, discuss land acquisitions, personnel issues, and appointments to boards and commissions. Executive sessions will be held in Room B3 of the Council Chambers. As provided by state statute, executive sessions are closed to the public.

Regular City Council meetings are telecast live. Repeat broadcasts are telecast the second and fourth week of the month – Wednesday at 2:30 p.m., Thursday at 8:00 a.m., Friday at 8:00 a.m., Saturday at 2:00 p.m., Sunday at 9:00 a.m. and Monday at 1:30 p.m. on Glendale Channel 11.

If you have any questions about the agenda, please call the City Manager's Office at (623)930-2870. If you have a concern you would like to discuss with your District Councilmember, please call the City Council Office at (623)930-2249



For special accommodations or interpreter assistance, please contact the City Manager's Office at (623)930-2870 at least one business day prior to this meeting. TDD (623)930-2197.

Para acomodacion especial o traductor de español, por favor llame a la oficina del administador del ayuntamiento de Glendale, al (623) 930-2870 un día hábil antes de la fecha de la junta.

Councilmembers

Cactus District – Ian Hugh
Cholla District – Manuel D. Martinez
Ocotillo District – Norma S. Alvarez
Sahuaro District – Gary D. Sherwood
Yucca District – Samuel U. Chavira



MAYOR JERRY P. WEIERS

Vice Mayor Yvonne J. Knaack – Barrel District

Appointed City Staff

Brenda S. Fischer – City Manager
Michael D. Bailey – City Attorney
Pamela Hanna – City Clerk
Elizabeth Finn – City Judge

Meeting Agendas

Generally, paper copies of Council agendas may be obtained after 4:00 p.m. on the Friday before a Council meeting from the City Clerk Department inside Glendale City Hall. Additionally, the agenda and all supporting documents are posted to the city's website, www.glendaleaz.com

Public Rules of Conduct

The presiding officer shall keep control of the meeting and require the speakers and audience to refrain from abusive or profane remarks, disruptive outbursts, applause, protests, or other conduct which disrupts or interferes with the orderly conduct of the business of the meeting. Personal attacks on Councilmembers, city staff, or members of the public are not allowed. It is inappropriate to utilize the public hearing or other agenda item for purposes of making political speeches, including threats of political action. Engaging in such conduct, and failing to cease such conduct upon request of the presiding officer will be grounds for ending a speaker's time at the podium or for removal of any disruptive person from the meeting room, at the direction of the presiding officer.

How to Participate

Voting Meeting - The Glendale City Council values citizen comments and input. If you wish to speak on a matter concerning Glendale city government that is not on the printed agenda, please fill out a blue Citizen Comments Card. Public hearings are also held on certain agenda items. If you wish to speak on a particular item listed on the agenda, please fill out a gold Public Hearing Speakers Card. Your name will be called when the Public Hearing on the item has been opened or Citizen Comments portion of the agenda is reached. **Workshop Sessions** - There is no Citizen Comments portion on the workshop agenda.

When speaking at the Podium - Please state your name and the city in which you reside. If you reside in the City of Glendale, please state the Council District you live in.

Regular Workshop meetings are telecast live. Repeat broadcasts are telecast the first and third week of the month – Wednesday at 3:00 p.m., Thursday at 1:00 p.m., Friday at 8:30 a.m., Saturday at 2:00 p.m., Sunday at 9:00 a.m. and Monday at 2:00 p.m. on Glendale Channel 11.



Council District Boundaries





GLENDALE CITY COUNCIL WORKSHOP SESSION
Council Chambers – Room B3
5850 West Glendale Avenue
April 1, 2014
1:30 p.m.

One or more members of the City Council may be unable to attend the Workshop or Executive Session Meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).

CALL TO ORDER

WORKSHOP SESSION

1. ADOPT AN ORDINANCE AMENDING GLENDALE CITY CODE, CHAPTER 2, ARTICLE V., DIVISION 5 (RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND)
PRESENTED BY: Jim Brown, Executive Director, Human Resources & Risk Management; and Dianne Shoemake, Risk Manager
2. COUNCIL ITEM OF SPECIAL INTEREST: DOWNTOWN PARKING
PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services
3. PROCUREMENT PROCESS
PRESENTED BY: Tom Duensing, Executive Director, Financial Services; and Michael Bailey, City Attorney

CITY MANAGER'S REPORT

This report allows the City Manager to update the City Council. The City Council may only acknowledge the contents to this report and is prohibited by state law from discussing or acting on any of the items presented by the City Manager since they are not itemized on the Council Workshop Agenda.

COUNCIL ITEMS OF SPECIAL INTEREST

Councilmembers may indicate topic(s) they would like to have discussed by the Council at a future Workshop and the reason for their interest. The

Council does not discuss the new topics at the Workshop where they are introduced.

EXECUTIVE SESSION

1. LEGAL MATTERS

A. The City Council will meet with the City Attorney for legal advice, discussion and consultation regarding the city's position in pending or contemplated litigation, including settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. § 38-431.03(A)(3)(4))

2. PERSONNEL MATTERS

A. Various terms have expired on boards, commissions and other bodies. The City Council will be discussing appointments involving the following boards, commissions and other bodies. (A.R.S. § 38-431.03 (A)(1))

1. Arts Commission
2. Audit Committee
3. Aviation Advisory Commission
4. Board of Adjustment
5. Citizens Bicycle Advisory Committee
6. Citizens Transportation Oversight Commission
7. Commission on Persons with Disabilities
8. Community Development Advisory Committee
9. General Plan Steering Committee
10. Glendale Municipal Property Corporation
11. Historic Preservation Commission
12. Industrial Development Authority
13. Judicial Selection Advisory Board
14. Library Advisory Board
15. Parks and Recreation Advisory Commission
16. Personnel Board
17. Planning Commission
18. Public Safety Personnel Retirement Board/Fire
19. Public Safety Personnel Retirement Board/Police
20. Risk Management/Workers Compensation Trust Fund Board
21. Water Services Advisory Commission

Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (i) discussion or consideration of personnel matters (A.R.S. § 38-431.03(A)(1));
- (ii) discussion or consideration of records exempt by law from public inspection (A.R.S. § 38-431.03(A)(2));
- (iii) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3));

- (iv) discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolve litigation (A.R.S. § 38-431.03(A)(4));
- (v) discussion or consultation with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. § 38-431.03(A)(5)); or
- (vi) discussing or consulting with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. § 38-431.03(A)(7)).

Confidentiality

Arizona statute precludes any person receiving executive session information from disclosing that information except as allowed by law. A.R.S. § 38-431.03(F). Each violation of this statute is subject to a civil penalty not to exceed \$500, plus court costs and attorneys' fees. This penalty is assessed against the person who violates this statute or who knowingly aids, agrees to aid or attempts to aid another person in violating this article. The city is precluded from expending any public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced for violation of the statute unless the City Council takes a legal action at a properly noticed open meeting to approve of such expenditure prior to incurring any such obligation or indebtedness. A.R.S. § 38-431.07(A)(B).

Items Respectfully Submitted,



Brenda S. Fischer, ICMA-CM
City Manager



WORKSHOP COUNCIL REPORT

Meeting Date: **4/1/2014**
Meeting Type: **Workshop**
Title: **ADOPT AN ORDINANCE AMENDING GLENDALE CITY CODE, CHAPTER 2, ARTICLE V., DIVISION 5 (RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND)**
Staff Contact: **Jim Brown, Executive Director, Human Resources & Risk Management**
Presented by: **Dianne Shoemake, Risk Manager**

Purpose and Policy Guidance

Staff is requesting council consideration for recommended changes to Glendale City Code, Chapter 2, Article V, Division 5, Risk Management and Workers' Compensation Trust Fund (RM WC TF). The purpose is to separate the Risk Management and Workers' Compensation Trust Funds into two distinct operating funds and describe the requirements of each Fund.

Background

Arizona Revises Statutes Section 11-981, copy attached, authorizes Glendale to establish a self-insurance program for the management and administration of payment of losses or claims or any combination of insurance and direct payments, including benefits, liability and property loss exposures. The city code was established to define the use and oversight of the funds.

The current city code states that the RMTF is established for the payment of defense, anticipated losses and insurance premiums related to losses for personal injury or property damage and shall not be used for any other purpose. The code does not indicate what types of claims or costs can be paid for workers' compensation claims. The code isn't specific to the types of claims that can be paid. It references personal injury and property damage. Personal injury claims are usually those claims involving discrimination, wrongful termination, etc. Property damage can mean anything. A third party's property, the city's property or both. The code is silent as to who should be covered and what funds should be deposited. It is silent as to the types of funds to be deposited into the funds, including interest, investment on income and amounts recovered for the benefit of the trust fund, salaries, claims adjusting, actuarial, office expenses, legal defense etc. There are no terms for Trustee's service, what happens if they resign or what their responsibilities are. There is no language for service of a notice of claim, claims handling, litigation management, contractual indemnification and termination of the trusts. A copy of the current ordinance is attached. Staff worked with the City Attorney's office and RM and WC Trust Fund Boards to develop and agree on the recommended changes to the code. The specific changes being recommended are as follows:

- Create separate code citations for Risk Management and Workers' Compensation Trust Funds. These funds should be treated and addressed separately in the code due to the



WORKSHOP COUNCIL REPORT

types of claims and laws that apply separately to tort claims versus workers' compensation claims.

- Add and update definitions for better clarification.
- Clarify the roles of risk management and city attorney's office.
- Provide clear definition of a covered entity and person and definition of a claim.
- Clarify what is covered and what should be excluded.
- Address definition of funding, allocation, use of the funds and termination.
- Address Trustees terms, when they end, what constitutes a quorum, how often they should meet and their responsibilities.
- Expand on responsibilities for claims and litigation management and referrals to outside law firms.
- Address insurance or other alternative risk management financing
- Address appropriate expenditures and clarify when and type of audits needed
- Provision for indemnification language in City contracts and filing a notice of claim.

A red-lined version of the ordinance changes is attached for discussion. The changes are supported by RM and -WC Trust Fund Board and City Attorney's Office.

Analysis

Staff reviewed other cities codes and analyzed how their trust funds are organized. Generally, other self-insured cities account separately to pay for their liability versus workers' compensation claims.

Costs charged to the Funds also varied. Generally for those cities that have a cost allocation system, where departments are charged an insurance premium to pay for losses, the allocation included administrative costs and expenses in the Fund. Those cities that do not use a cost allocation system generally paid the administrative costs separate from the fund.

Some of the cities defined the roles and responsibilities of the Trustees in their code, while others simply restated the statutory requirements and developed policies stating the roles and responsibilities.

Staff's recommendation provides detailed definitions, establishes the types of losses and expenses that can and cannot be paid out of the trust funds, provides terms, roles and responsibilities of Trustees, and clarifies claims and lawsuit management, expense and audit requirements. The changes are supported by RM-WCTF Trustees and City Attorney. Boards met on November 6, 2014 and agreed to the changes staff recommended.



WORKSHOP COUNCIL REPORT

Previous Related Council Action

None.

Budget and Financial Impacts

Staff is conducting a mid-year actuarial analysis to determine if there will be any financial impact to the minimum balances required in each of the funds.

Cost	Fund-Department-Account

Capital Expense? Yes No

Budgeted? Yes No

Requesting Budget or Appropriation Transfer? Yes No

If yes, where will the transfer be taken from?

Attachments

- ARIZONA REVISED STATUTES – Article 5
- PART II–CODE OF ORDINANCES – Chapter 2
- DIVISION 5-- RISK MANAGEMENT TRUST FUND
- DIVISION 6 – WORKERS’ COMPENSATION TRUST FUND

ARIZONA REVISED STATUTES – Article 5 – City, Town or County Employee Benefits,
Property Loss and Liability Claim Coverage

11-981. Payment of benefits, losses and claims; establishment of trust funds

A. In addition to authority granted pursuant to other provisions of law or city charter, any city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors may procure insurance from any insurer authorized by the director of the department of insurance or may establish a self-insurance program for the management and administration of a system for direct payment of benefits, losses or claims or any combination of insurance and direct payments, and including risk management consultation, to provide:

1. Health, accident, life or disability benefits for employees and officers of the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors and their dependents.

2. Payment of any property loss sustained or lawful claim of liability or fortuitous loss made against the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors or its elected or appointed officials, employees or officers if such elected or appointed officials, employees or officers are acting within the scope of employment or authority.

B. If any city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors establishes a self-insurance program for the management and administration of a system for direct payment of benefits, losses or claims pursuant to subsection A, the governing body of such city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors shall place all funds into a trust fund for the purposes of this section in amounts as determined appropriate by the governing body of the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million

persons and whose governing body is composed of members of a county board of supervisors, except that any city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors establishing such a trust fund shall:

1. Designate a risk management consultant or insurance administrator licensed pursuant to title 20, chapter 2, article 3 or 9, and such license shall be verified by the governing body of the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors.

2. The trust shall be administered by at least five joint trustees, of whom no more than one may be a member of the governing body of the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors and no more than one may be an employee of the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors.

3. The trustees of the trust must be bonded, a stop-loss provision must be incorporated in the trust agreement and an annual audit must be performed by an external auditor and a copy of the report kept on file in the offices of the governing body of the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors for a period of not less than five years.

4. Not make any expenditure from the trust fund for any purpose not specified in this article.

C. Expenditures during the fiscal year from the trust fund and monies in the trust fund at the close of the fiscal year shall not be subject to the provisions of title 42, chapter 17, article 3.

D. In the event that such a trust fund is no longer used by the city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors for the purposes herein set forth, it shall revert during that fiscal year to the general fund of such city, town, county, any special

health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors.

E. The authority granted to a city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors by this section is not subject to title 20, except that any health, life, accident or disability benefit plan shall conform to the benefits required by title 20.

F. This section shall not be construed to authorize any city, town, county, any special health care district organized pursuant to title 48, chapter 31 or other political subdivision that is located in a county with a population of more than one million persons and whose governing body is composed of members of a county board of supervisors to procure insurance from any insurer not authorized by the director of the department of insurance.

PART II - CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 5. RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND

DIVISION 5. RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND

Sec. 2-201. Definitions.

Sec. 2-202. Established; size.

Sec. 2-203. Use.

Sec. 2-204. Trustees.

Sec. 2-205. Risk manager.

Sec. 2-206. Referral of claims to private law firms.

Sec. 2-207. Insurance.

Sec. 2-208. Exemption of expenditures and audit.

Sec. 2-209. Employee safety coordinator; third party administrator.

Secs. 2-210—2-215. Reserved.

Sec. 2-201. 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: The city, including public officials, boards, commissions, employees and supervised volunteers while performing duties for the city within the scope of employment.

Property: Buildings and other improvements to real estate, inventories, vehicles and equipment other than shrubbery, landscaping, traffic signals, street improvements and water and sewer lines.

Property loss: Damage to tangible city-owned property by an accidental event but not property of officials, boards, commissions, employees or volunteers.

Risk management loss: Defense and damages for losses to persons or property for which the city is liable.

Workers' compensation loss: Defense, losses, damages, and awards by the industrial commission of Arizona for injuries incurred by an employee or volunteer as covered by the Arizona Workers' Compensation laws and statutes.

(Ord. No. 1254, § 2, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-202. Established; size.

(a) A fund to be known as the "risk management trust fund" established for the payment of defense, losses, anticipated losses and insurance premiums related to losses for personal injury or property damage, and that such fund shall not be used for any other purpose. The amount of money to be appropriated to the fund will be based on:

(1) Prior loss experience of the fund;

PART II - CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 5. RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND

- (2) Projected exposure of risk assumed;
 - (3) Insurance premium costs, if any.
- (b) A fund to be known as the "worker's compensation trust fund" is hereby established for the payment of workers' compensation losses and any insurance premiums for workers' compensation coverage. The amount of money to be appropriated to the fund shall be based on:
- (1) Prior loss experience of the fund;
 - (2) Projected exposure of risk assumed; and
 - (3) Insurance premium costs, if any.
- (Ord. No. 1254, § 1, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-203. Use.

- (a) The risk management trust fund shall provide defense and payment of claims and losses for personal injury and property damage liability and payment of insurance premiums, if any, subject to the following exceptions:
- (1) Claims or punitive damages arising out of the willful violation of a penal statute or ordinance;
 - (2) Claims arising out of acts of bad faith and/or fraud committed by or at the direction of an individual with affirmative dishonesty or actual intent to deceive or defraud;
 - (3) Claims which are covered by a valid insurance policy or which shall be deemed uninsurable under law;
 - (4) Any claim based upon an individual gaining in fact any personal profit or advantage to which they were not legally entitled;
 - (5) Any claim when a service was allegedly rendered for compensation from a source other than the city and when the city is not liable;
 - (6) Inventory shrinkage and damages to city property that has customarily been repaired by city employees;
 - (7) Lost wages not covered under the workers' compensation laws of the state or any other state.
- (b) The workers' compensation trust fund shall provide defense and payment of claims and awards pursuant to the workers' compensation laws and statutes of the state of Arizona, and the payment of insurance premiums, if any, for workers' compensation coverage.
- (Ord. No. 1254, § 3, 10-4-93; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-204. Trustees.

The city council shall appoint five (5) joint trustees, of whom no more than one (1) shall be a member of the city council and no more than one (1) shall be a city employee, to serve as trustees for both the risk management and workers' compensation trust funds. The city's risk manager shall be an ex officio member of the risk management trust fund and the employee safety coordinator shall be an ex officio member of the workers' compensation trust fund. The trustees shall be responsible for recommendations to the city council regarding the administration of the trust fund. The trustees shall meet at least once a year and submit a report to the city council as to the status of the trust fund. Such report shall include recommendations the trustees deem necessary. The trustees shall be bonded in a minimum amount of

PART II - CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 5. RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND

ten thousand dollars (\$10,000.00). Costs for bonding will be paid by the city. The trustees shall be appointed for terms of three (3) years and a chairman shall be designated by the mayor.

(Ord. No. 1254, § 4, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Cross reference— Boards, commissions, etc., generally, § 2-266 et seq.

Sec. 2-205. Risk manager.

- (a) The city shall designate a risk manager who shall be licensed pursuant to title 20, chapter 2, Arizona Revised Statutes [A.R.S. § 20-201 et seq.]. The risk manager, in matters of claims and litigation, will maintain a client/attorney relationship with an attorney or attorneys representing the city. The decision to effect claims and lawsuit settlements or to try lawsuits rests with the risk manager subject to the approval of the city attorney.
- (b) Claims management and lawsuit fiscal responsibility rests with the risk manager. The responsibility for response to questions of law and trial legal services rests with the city attorney.
- (c) The risk manager, with the approval of the city manager, shall have the authority to settle claims against the city in an amount to be determined by the city manager.
- (d) The risk manager shall consult with the city attorney when claims are likely to involve litigation. The city attorney may provide defense for damage suits against the city if he determines that his department has the necessary expertise in that particular area of defense.

(Ord. No. 1254, §§ 5-8, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-206. Referral of claims to private law firms.

Claims referred to outside law firms for defense shall be the responsibility of the city attorney. Referral to particular outside firms shall be based upon their expertise and experience in the particular type of litigation and past performance. Expenses for the above shall be charged to the applicable trust fund.

(Ord. No. 1254, § 9, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-207. Insurance.

The city may purchase excess insurance for risk management or workers' compensation losses as determined by the city council.

(Ord. No. 1254, § 10, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-208. Exemption of expenditures and audit.

The expenditures during the fiscal year from the trust fund and monies in the trust fund at the close of the fiscal year shall not be subject to the provisions of Title 42, chapter 2, article 4, Arizona Revised Statutes [A.R.S. Sec. 42-301 et seq.]. An audit shall be performed annually by an external auditor and the report shall be kept on file for a minimum of five (5) years.

(Ord. No. 1254, § 11, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

PART II - CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 5. RISK MANAGEMENT TRUST FUND AND WORKERS' COMPENSATION TRUST FUND

Sec. 2-209. Employee safety coordinator; third party administrator.

- (a) The city's employee safety coordinator, or successor, shall be responsible for administering the city's self-funded workers' compensation program. The decision whether or not to settle claims and lawsuits relating to workers' compensation claims rests with the employee safety coordinator subject to the approval of the city attorney. The limitation on the amount the employee safety coordinator can settle claims on lawsuits shall be set by the city manager.
- (b) The city may contract with a third-party administrator to administer the investigation and payment of workers' compensation claims. The third-party administrator shall report to and be directed by the employee safety coordinator.

(Ord. No. 1826, § 1, 12-13-94)

Secs. 2-210—2-215. Reserved.

PART II – CODE OF ORDINANCES
 CHAPTER 2 – ADMINISTRATION
 ARTICLE V – FINANCIAL AFFAIRS

DIVISION 5. RISK MANAGEMENT TRUST FUND

- ~~Sec. 2-201 – Definitions.~~
- ~~Sec. 2-202 – Established; size.~~
- ~~Sec. 2-203 – Self-insurance; funding, allocation and use.~~
- ~~Sec. 2-204 – Trustees.~~
- ~~Sec. 2-205 – Claims, litigation management; claims committee.~~
- ~~Sec. 2-206 – Referral of claims to private law firms.~~
- ~~Sec. 2-207 – Insurance.~~
- ~~Sec. 2-208 – Exemption of expenditures and audit.~~
- ~~Sec. 2-209 – Agent for service of claims and process.~~
- ~~Sec. 2-210 – Contract provisions, indemnification prohibition.~~
- ~~Sec. 2-211 – Risk Management Loss Control.~~
- ~~Sec. 2-212 – Limitation of provisions.~~
- ~~Sec. 2-213 – Termination.~~
- ~~Sec. 2-214 – Reserved.~~

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Sec. 2-201. Definitions.

The following definitions, 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: The City of Glendale, Arizona, including elected officials, members of boards and commissions, employees and supervised volunteers while performing duties for the city within the scope of employment.

City Attorney: City Attorney or designee.

City Manager: City Manager or designee.

City Risk Manager: City Risk Manager or designee

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Finance Department Director: Finance Department Director or designee.

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Claim: Any Insured Claim, Liability Claim, Personal Injury Claim or Property Claim as defined herein.

Claim cost: Any internal or external cost or expense, Property Damage Cost incurred by the City for any Claim, as defined herein, against the City, Covered Corporation, Covered City Entity or Covered Individual as defined herein, including claim adjustment costs; appraisals, contractual services costs; legal defense costs; and attorneys' fees and costs and judgments awarded against the City.

Covered City entity: Any board, commission, committee, subcommittee, agency, trust, authority or joint powers authority created by City Charter provision, City ordinance, resolution, or formal action of the City Council for the exclusive benefit of the City as a public municipality.

Covered corporation: Any corporation, partnership, or limited liability company created for the purpose of assisting the City in capital acquisitions and other exclusively municipal purposes.

Covered Individual: Any individual falling within the following classes applicable to a date of loss.

A. Any elected official of the City;

B. Any individual appointed to any covered City entity or any member of a board of a covered corporation;

C. Any employee of the City, including any officer of the City, carried on the City payroll and subject to City personnel rules, whether full-time, part-time permanent or short-term;

D. Any individual contracting to perform services for and on behalf of the City and regularly performing such services on City property or City control sites and performing such services under the continuing actual direction and control of an individual described in sub-section A, B or C of this definition;

E. Any individual who, at the time and place of the occurrence, event, act or omission alleged to have formed the basis of any claim, was acting as a volunteer for or on behalf of the City, and further who was at such time and place acting under the actual direction and control of an individual described in subsection A, b or C of this definition.

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Deductibles: Any Claim covered by insurance, but subject to a deductible will be covered by the trust funds.

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Employment practice liability: Any Claim or suit by a past, present, or prospective employee of the City, arising out of wrongful employment practices. Employment practices liability shall include actions, and also complaints to the Federal EEOC and Arizona Attorney General, brought under state, local or federal law, whether common or statutory and shall include, but not be limited to allegations of violations of the following federal laws, as amended, including but not limited to, regulations promulgated thereunder.

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1. Americans With Disabilities Act of 1992 (ADA);
2. Civil Rights Act of 1991;
3. Age Discrimination in Employment Act of 1967 (ADEA), including the Older Workers Benefit Protection Act of 1990;
4. Title VII of the Civil Rights Law of 1964; as amended (1983), including Pregnancy Discrimination Act of 1978;
5. Civil rights Act of 1866; Section 1981; and
6. Fifth and Fourteenth Amendments of the U.S. Constitution.

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Insured claim: Any claim that falls within the coverage provisions of any insurance policy that indemnifies the City, Covered Corporation, Covered City Entity, or Covered Individual; or a claim for damage to City-owned property that falls within the coverage of a first-party commercial property insurance policy.

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Liability claim: Any claim or demand including any legal action and counter demand or counter claim in the nature of a tort or employment law claim made by any person or entity for the payment of money damages for which the City self-insures through the trust. The following types of claims are excluded:

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- 1) Claims or punitive damages arising out of the willful violation of a penal statute or ordinance;

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- 2) Claims arising out of acts of bad faith and/or fraud committed by or at the direction of an individual with affirmative dishonesty or actual intent to deceive or defraud;

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- 3) Claims which are covered by a valid insurance policy or which shall be deemed uninsurable under law;

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- 4) Any claim based upon an individual gaining in fact any personal profit or advantage to which they were not legally entitled;

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5) Inventory shrinkage and damages to city property that has customarily been repaired by city employees;

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6) Lost wages not covered under the workers compensation laws of the state or any other state;

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7) Any demand based solely on the assertion of a claim with the jurisdiction of the Personnel Board;

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8) Any demand based solely on contract rights or issues;

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9) Any demand based on taxes;

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10) Any solely non-monetary demand; except declaratory judgments that may be related to claims for injury or damages;

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11) Damages as a result of loss of any property, business advantage or economic interest caused by inverse condemnation, relocation, eminent domain or by governmental action.

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Personal Injury claim: Injury, including consequential Bodily Injury or Property Damage arising out of false arrest, detention or imprisonment or malicious prosecution; publication or utterance of libel or slander, including disparaging statements concerning the condition, value, quality or use of real or personal property, or publication or utterance in violation of rights of privacy; wrongful entry or eviction, or other invasion of the right of private occupancy; assault and battery committed or directed for the purpose of protecting persons or property from injury or death; or discrimination on any basis, including but not limited to: race, religion, nationality, national origin, color, creed, sex, sexual orientation, age, nature of employment, or disability.

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Property: Property of every description both real and personal (including improvements, betterments and remodeling or property of others in the care, custody or control of the City) for which the City is liable or under the obligation to insure.

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Property Damage Costs: Physical injury to, or destruction of, tangible Property, including the loss of use of tangible Property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence which the City is liable.

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Property Claim: Any claim or demand, including any legal action and counter demand or counter claim in the nature of a tort made by any person or entity for the payment of money damages for which the City self-insures through the risk management trust fund.

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Risk Management Expenses: Insurance premiums, brokerage fees and costs, adjusting, appraisal, City Risk Manager salary and benefits, city deductibles or self-insured retentions, legal fees and costs, defense fees and costs.

Property: Buildings and other improvements to real estate, inventories, vehicles and equipment other than shrubbery, landscaping, traffic signals, street improvements and water and sewer lines.

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Property loss: Damage to tangible city-owned property by an accidental event but not property of officials, boards, commissions, employees or volunteers.

Risk management loss: Defense and damages for losses to persons or property for which the city is liable.

Workers' compensation loss: Defense, losses, damages, and awards by the industrial commission of Arizona for injuries incurred by an employee or volunteer as covered by the Arizona Workers' Compensation laws and statutes.

(Ord. No. 1254, § 2, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-202. Established; size.

(a) A Trust Fund to be known as the "risk management trust fund" shall be established and used for the purpose of providing the City Risk Manager with funds to pay the City's Claims, Claim Costs, Risk Management Expenses, for the payment of defense, losses, anticipated losses and insurance premiums related to losses for personal injury or property damage, and that Such fund shall not be used for any other purpose. The amount of money to be appropriated to the fund will be based on:

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(b) All monies received by the City for the purpose of funding the risk management trust fund shall be deposited into the trust fund, including all departmental contributions, refunds, interest, investment income and amounts recovered for the benefit of the trust fund.

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(1)

Prior loss experience of the fund;

(2)

Projected exposure of risk assumed;

(3)

Insurance premium costs, if any.

(b)

A fund to be known as the "worker's compensation trust fund" is hereby established for the payment of workers' compensation losses and any insurance premiums for workers' compensation coverage. The amount of money to be appropriated to the fund shall be based on:

- (1) Prior loss experience of the fund;
- (2) Projected exposure of risk assumed; and
- (3) Insurance premium costs, if any.

(Ord. No. 1254, § 1, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-203. – Self-insurance; funding, allocation and use.

a) Through the Trust the City shall act as a self-insurer for all Claims, other than those falling within the coverage provisions of an insurance policy or surety bond. The liability of the City for such costs shall be established by law. The Risk Manager shall cause the City to comply with all requirements for self-insurers as may be contained in applicable law, to obtain for the City, all benefits of self-insurance status, and to maintain such status for as long as it is in the City's interests to do so.

b) The risk management trust fund shall be funded as part of the annual budgetary and appropriation process of the City in such amounts as to provide sufficient monies to pay all reasonably anticipated Claim Costs, Property Damage Costs and Risk Management Expenses against the City for the ensuing fiscal year.

c) The City Council shall determine the funding level of the trust fund based on the recommendations of the City Manager and the Finance Director. The cost of the trust set for the in the annual budget shall be allocated among departments of the City by the Risk Manager and the Finance Director based on:

- 1) Prior loss experience of the fund;
- 2) Projected exposure of risk based upon actuarial analysis;
- 3) Insurance premium costs, if any;
- 4) Risk Management Expenses

d) The risk management trust fund shall provide for all Claims, legal defense and payment of Claims Costs, Property Claim Costs, Risk Management Expenses, and costs as described in 2-202 above subject to the exceptions as defined in this Chapter.

~~(a) The risk management trust fund shall provide defense and payment of claims and losses for personal injury and property damage liability and payment of insurance premiums, if any, subject to the following exceptions:~~

- (1) Claims or punitive damages arising out of the willful violation of a penal statute or ordinance;
- (2)

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- Claims arising out of acts of bad faith and/or fraud committed by or at the direction of an individual with affirmative dishonesty or actual intent to deceive or defraud;
- (3) Claims which are covered by a valid insurance policy or which shall be deemed uninsurable under law;
- (4) Any claim based upon an individual gaining in fact any personal profit or advantage to which they were not legally entitled;
- (5) Any claim when a service was allegedly rendered for compensation from a source other than the city and when the city is not liable;
- (6) Inventory shrinkage and damages to city property that has customarily been repaired by city employees;
- (7) Lost wages not covered under the workers' compensation laws of the state or any other state.
- (b) The workers' compensation trust fund shall provide defense and payment of claims and awards pursuant to the workers' compensation laws and statutes of the state of Arizona, and the payment of insurance premiums, if any, for workers' compensation coverage.

(Ord. No. 1254, § 3, 10-4-93; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-204. Trustees.

a) The city council shall appoint five (5) joint Trustees, of whom no more than one (1) shall be a Member of the city council and no more than one (1) shall be a city employee, to serve as Trustee for both the risk management and workers' compensation trust fund. The City Risk Manager shall be technical advisor of the risk management trust fund, and the employee safety coordinator shall be an ex officio member of the workers' compensation trust fund. The Trustees shall be responsible for recommendations to the city council regarding the administration of the risk management trust fund. The trustees shall meet at least twice a year. Annually the Trustees shall and submit a report to the city council as to the status of the trust fund. Such report shall include recommendations the Trustees deem necessary. The Trustees shall be bonded in an amount satisfactory to the City Risk Manager but not less than the minimum amount of ten thousand dollars (\$10,000.00). Costs for bonding will

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be paid by the ~~city risk management trust fund~~. The ~~Trustees~~ shall be appointed for terms of three (3) years and a chairman shall be designated by the mayor.

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b) The term of any Trustee automatically ends:

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1. On death of the Trustee.

2. On submittal of a written resignation to the Board Chair or the mayor.

3. On failure to attend three (3) consecutive regular meetings of the Board.

4. On termination of City employment.

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c) Three (3) Trustees shall constitute a quorum for the exercise of the powers and duties conferred upon the Board.

d) Conflict of interest laws shall apply to each of the Trustees.

e) Trustees shall serve on the Board without salary or compensation.

f) The Trustees shall:

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1. Provide financial oversight of the risk management trust fund and make recommendations.

2. Review the trust fund balance and make recommendations to ensure adequate funds exist to pay outstanding and future Claims, Claim Costs, Property Damage Costs and Risk Management Expenses.

3. Meet at least twice per year, or more frequently as the Chair of the Board deems necessary or upon request of the City Risk Manager.

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g) The Trustees may:

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1. Adopt rules or policies for the operation of the Board, which are not inconsistent with this chapter, Federal law, Arizona laws, the City Charter or any City ordinances or administrative regulations.

2. Appoint committees.

3. Recommend City staff hire independent consultants to perform assignments necessary for the administration of the trust fund.

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(Ord. No. 1254, § 4, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Cross reference— Boards, commissions, etc., generally, § 2-266 et seq.

Sec. 2-205. — Claims, litigation management, claims committee.

(a) The city shall designate a City Risk Manager who shall be licensed pursuant to title 20, chapter 2, Arizona Revised Statutes [A.R.S. § 20-201 et seq.]. The City Risk Manager, in matters of claims and litigation, will maintain a client/attorney relationship with an attorney or attorneys representing the City. The decision to settle Claims and lawsuits settlements or to try lawsuits rests with the City Risk Manager subject to the approval of the City Attorney.

(b) ~~Claims management, and lawsuit fiscal responsibility rests with the City Risk Manager. The responsibility for response to questions of law and trial legal services rests with the city attorney. Tactical decisions during litigations shall be the responsibility of the City Attorney. The City Attorney shall consult with the Risk Manager regarding litigations expenses.~~

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(c) ~~The City Risk Manager, with the approval of the City Manager, shall have the authority to settle claims against the city in an amount to be determined by the City Manager. The City Risk Manager, acting within the parameters set by the City Attorney for determining that the City has exposure to legal liability, may authorize and pay Claims whether or not in litigation for any single demand for any single Claim. The City Risk Manager shall consult with the City Attorney prior to any determination to pay any Claim for which the exposure to legal liability is unclear. No Claim in litigation can be settled or paid without prior approval by the City Risk Manager.~~

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(d) ~~The City Attorney is responsible for all legal actions resulting from Claims, assessing the legal liability of the City with respect to any Claim, including any decision to file suit, defend a suit or prosecute an appeal. risk manager shall consult with the city attorney when claims are likely to involve litigation. The City Attorney may choose to provide defense for damage suits against the city based upon available specific expertise and available resources, if he determines that his department has the necessary expertise in that particular area of defense.~~

(e) ~~The City Attorney and the City Risk Manager shall create and staff a Claims Committee to evaluate legal actions resulting from Claims and lawsuits and assignment of outside legal counsel. The City Risk Manager and City Attorney shall each be a fully participating member of such committee.~~

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(f) ~~The City Risk Manager may authorize such emergency remediation and response as made necessary by water main breaks or sewer backups or risk to public health or safety without a prior determination of liability by the City Attorney.~~

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~~(Ord. No. 1254, §§ 5-8, 10-4-83; Ord. No. 1826, § 1, 12-13-94)~~

Sec. 2-206. Referral of claims to private law firms.

Claims referred to outside law firms for defense shall be the responsibility of the City Attorney in consultation with the City Risk Manager. Referral to particular outside firms shall be based upon their expertise and experience in the particular type of litigation and past performance. Expenses for the above shall be charged to the risk management trust fund.

~~(Ord. No. 1254, § 9, 10-4-83; Ord. No. 1826, § 1, 12-13-94)~~

Sec. 2-207. Insurance.

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~~The city may purchase excess insurance for risk management or workers' compensation losses as determined by the city council.~~

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~~The City Risk Manager, acting for the City Manager, is authorized to enter into, on behalf of the City, any appropriate commercial insurance, alternative risk financing and surety bonding contracts to provide such risk insurance as determined to be in the best interests of the City.~~

(Ord. No. 1254, § 10, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-208. Exemption of expenditures and audit.

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The expenditures during the fiscal year from the risk management trust fund and monies in the trust fund at the close of the fiscal year shall not be subject to the provisions of Title 42, chapter 2, article 4, Arizona Revised Statutes [A.R.S. Sec. 42-301 et seq.]. An internal financial audit shall be performed annually by the Finance Director which can be satisfied by Comprehensive Audit and Financial Report. A performance audit shall be performed every five (5) years by an external auditor or more often as requested by Trustees or City Risk Manager. ~~The report shall be kept on file for a minimum of five (5) years.~~

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(Ord. No. 1254, § 11, 10-4-83; Ord. No. 1826, § 1, 12-13-94)

Sec. 2-209. ~~Agent for service of claims and process~~

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~~The City Clerk is hereby designated as the proper and appropriate party upon whom claims against the City shall be served under the provisions of Section 12-821.01, Arizona Revised Statutes, and upon whom service of process in litigation shall be served to comply with the provisions of State and Federal Rules of Civil procedure, as such statutes and rules now exist or as they may be hereafter amended. city's employee safety coordinator, or successor, shall be responsible for administering the city's self-funded workers' compensation program. The decision whether or not to settle claims and lawsuits relating to workers' compensation claims rests with the employee safety coordinator subject to the approval of the city attorney. The limitation on the amount the employee safety coordinator can settle claims on lawsuits shall be set by the city manager.~~

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~~(b)~~

~~The city may contract with a third-party administrator to administer the investigation and payment of workers' compensation claims. The third-party administrator shall report to and be directed by the employee safety coordinator.~~

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(Ord. No. 1826, § 1, 12-13-94)

Sec. 2-210 Contract provisions; indemnification prohibition. ~~40-2-215. Reserved.~~

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Unless expressly authorized by law, no City contract or agreement shall contain any provision, and the City shall not be bound by any provision of any such agreement,

whereby the City, its agents, officer or employees agree to provide any indemnity or assume any liability for any omission, act or activity of the City, its agents, servants or employees, beyond such liability as may be imposed as a matter of law upon the City by reason of such omission, act or activity existing in the absence of any contractual provision relating thereto.

Sec. 2-211 – Risk Management Loss Control.

- A. The City Risk Manager shall provide direction of the risk management loss control function of the City to all of its departments, divisions and functions.
- B. Risk Management shall have responsibility for coordination and control of all efforts of the City to protect against liability and loss or damage to city-owned property. The division may establish regulations and requirements designed to protect the City from Claims, and damage to City property.

Sec. 2-212 – Limitation of provisions.

Nothing in this chapter shall be construed to have any effect or impact on, or derogate from, any other power given elsewhere in the Charter or this Code to other departments or entities of the City with respect to any health, disability, life, workers' compensation, or unemployment insurance or coverage. Nothing in this chapter shall be deemed to have any effect upon any bonds provided in connection with public works contracts, any fidelity bonding contracts, provisions or requirements or any performance or delivery agreements which include performance or delivery bond or insurance provisions.

Sec. 2-213 – Termination

The City Council may determine that it will no longer maintain self-insurance, and will otherwise manage its risk of liability, at which time the risk management trust fund shall be dissolved after the payment of outstanding claims. Any trust funds remaining shall become part of the City's general fund unless otherwise required by law.

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QUESTION: DO WE REFERENCE THIS AS DIVISION 6?, -WORKERS' COMPENSATION TRUST FUND >>

DIVISION 6. - WORKERS' COMPENSATION TRUST FUND

Sec. 2-215. - Definitions.

Sec. 2-216. - Established; size.

Sec. 2-217. - Self Insurance: funding, allocation and use

Sec. 2-218. - Trustees.

Sec. 2-219. - Administration of the self insured Workers' Compensation Program; third party administrator

Sec. 2-220. - Insurance.

Sec. 2-221. - Exemption of expenditures and audit.

Sec. 2-222. - Termination

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Sec. 2-215 - Definitions.

As used in this chapter, the following definitions shall apply:

Finance Director: Finance Director or designee.

City: The City of Glendale, Arizona.

City Attorney: City Attorney or designee.

City Manager: City Manager or designee.

City Risk Manager: City Risk Manager or designee.

Workers' Compensation Loss: Workers' compensation losses, damages, defense and awards by the Industrial Commission of Arizona for injuries incurred by an employee or volunteer as covered by the Arizona Workers' Compensation laws and statutes.

Risk Management Expenses: Any and all costs and expenses for City workers' compensation program, including but not limited to workers' compensation analyst, claim adjustment expenses, self-insured premiums, excess insurance or reinsurance, broker fees, actuarial fees, third party administration fees and legal fees and expenses.

Comment [SD1]: This works for now. But what happens after the reorganization? Do we just go with Finance Director?
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Sec. 2-216. - Established; size.

(a) A trust fund to be known as the "workers' compensation trust fund" shall be established and used for the purpose of providing the City with funds used to pay the City's Workers' Compensation Loss and

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As of 11-13-13

Risk Management Expenses, taxes, administrative tax and special fund tax as required by the Industrial Commission of Arizona;

b. All monies received by the City for the purpose of funding the workers' compensation trust fund shall be deposited into the trust fund, including all departmental contributions, refunds, interest, investment income and amounts recovered for the benefit of the trust fund.

~~(Ord. No. 1254, § 1, 10-4-83; Ord. No. 1826, § 1, 12-13-94)~~

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Sec. 2-217. – Self Insurance: funding, allocation and use

(a) Through the workers' compensation trust the City shall act as a self-insurer for all Workers' Compensation Loss and Claims. The liability of the City for such costs shall be established by law. The Director shall cause the City to comply with all requirements for self-insurers as may be contained in applicable law, to obtain for the City, all benefits of self-insurance status, and to maintain such status for as long as it is in the City's interests to do so.

(b) The workers' compensation trust fund shall be funded as part of the annual budgetary and appropriation process of the City in such amounts as to provide sufficient monies to pay all reasonably anticipated Workers' Compensation Loss and Risk Management Expenses for the ensuing fiscal year.

(c) City Risk Manager and Finance Director shall determine the funding level of the trust fund. The cost of the trust set forth in the annual budget shall be allocated among departments of the City by the

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Finance Director based on:

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- (1) Prior loss experience of the fund;
- (2) Projected exposure of risk based upon actuarial analysis;
- (3) Workers' compensation loss;
- (4) Risk Management Expenses

(d) The workers' compensation trust fund shall provide for all claims, and payment of Workers' Compensation Losses, Risk Management Expenses, legal fees and expenses, insurance premiums, if any, subject to the exceptions as defined in this Chapter.

Sec. 2-218. - Trustees.

(a) The city council shall appoint five (5) joint Trustees, of whom no more than one (1) shall be a Member of the city council and no more than one (1) shall be a city employee, to serve as Trustee for the workers' compensation trust fund. The City Risk Manager shall be ~~technical advisor~~ of the workers' compensation trust fund. The Trustees shall be responsible for recommendations to the city council regarding the administration of the workers' compensation trust fund. The Trustees shall meet at least twice a year and submit a report to the city council as to the status of the trust fund. Such report shall include recommendations the Trustees deem necessary. The Trustees shall be bonded in an amount satisfactory to the City Risk Manager but not less than the minimum amount of ten thousand dollars (\$10,000.00). Costs for bonding will be paid by the workers' compensation trust fund. The Trustees shall be appointed for terms of three (3) years and a chairman shall be designated by the mayor.

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As of 11-13-13

(b) The term of any Trustee automatically ends:

1. On death of the Trustee.
2. On submittal of a written resignation to the Board Chair or the mayor.
3. On failure to attend three (3) consecutive regular meetings of the Board.
4. On termination of City employment.

(c) Three (3) Trustees shall constitute a quorum for the exercise of the powers and duties conferred upon the Board.

(d) Conflict of interest laws shall apply to each of the Trustees.

(e) Trustees shall serve on the Board without salary or compensation.

(f) The Trustees shall:

1. Administer the trust fund pursuant to this chapter.
2. Provide financial oversight of the workers' compensation trust fund by evaluating liabilities, other expenses and reserve amounts.
3. Review the trust fund to ensure adequate funds exist to pay outstanding and future Workers' Compensation Losses and Risk Management Expenses.
4. Meet at least twice per year, or more frequently as the Chair of the Board deems necessary or upon request of the City Risk Manager.

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(g) The Trustees may:

1. Adopt rules or policies for the operation of the Board, which are not inconsistent with this chapter, Federal law, Arizona laws, the City Charter or any City ordinances or administrative regulations.
2. Appoint committees.
3. Recommend City staff hire independent consultants to perform assignments necessary for the administration of the trust fund.

Sec. 2-219. – Risk manager

(a) The city shall designate a City Risk Manager who shall be licensed pursuant to title 20, chapter 2, Arizona Revised Statutes [A.R.S. § 20-201 et seq.].

(b) Claims management lawsuit fiscal responsibility rests with the City Risk Manager. -

(c) The City Risk Manager shall be responsible for administering the city's self-funded workers' compensation program. The decision whether or not to settle claims and lawsuits relating to workers' compensation claims rests with the City Risk Manager.

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(d) The city may contract with a third-party administrator to administer the investigation and payment of workers' compensation claims. The third-party administrator shall report to and be directed by the City Risk Manager.

Sec. 2-220. - Insurance.

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The City Risk Manager, acting for the City Manager, is authorized to enter into, on behalf of the City, any appropriate commercial insurance, alternative risk financing as determined to be in the best interests of the City

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Sec. 2-221. - Exemption of expenditures and audit.

The expenditures during the fiscal year from the workers' compensation trust fund and monies in the trust fund at the close of the fiscal year shall not be subject to the provisions of Title 42, chapter 2, article 4, Arizona Revised Statutes [A.R.S. Sec. 42-301 et seq.]. An internal financial audit shall be performed annually by the Finance Director which can be satisfied by Comprehensive Audit and Financial Report. A performance audit shall be performed every five (5) years by an external auditor or more often as requested by Trustees or City Risk Manager. The report shall be kept on file for a minimum of five (5) years.

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Sec. 2-222. - Termination

The City may determine that it will no longer maintain self-insurance, at which time the Worker's Compensation Trust Fund shall be dissolved after the payment of outstanding claims. Any trust funds remaining shall become part of the City's general fund unless otherwise required by law.

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WORKSHOP COUNCIL REPORT

Meeting Date: **4/1/2014**
Meeting Type: **Workshop**
Title: **COUNCIL ITEM OF SPECIAL INTEREST: DOWNTOWN PARKING**
Staff Contact: **Cathy Colbath, Interim Executive Director, Transportation Services**

Purpose and Policy Guidance

This report is a follow-up to the Council workshop of December 3, 2013. At that time, Council directed staff to solicit input from the downtown businesses regarding the existing two-hour parking restrictions and report back with the results.

Background

The city conducted a parking survey to solicit input from the downtown merchants in February 2014. City staff distributed the survey to 95 businesses, and a total of 14 merchants responded. Of those responses, nine supported removing all parking restrictions in downtown Glendale, citing their main concern as the two-hour restriction limiting shopping time for customers.

The remaining five respondents supported the two-hour restriction, claiming that employees from other businesses were parking in front of their business all day. The parking restriction is their only recourse to address the issue.

There are approximately 450 parking spaces located in private lots in the downtown area, and roughly 608 on-street spaces. Of the on-street spaces, 488 are posted with two-hour limits and 120 have no parking restrictions. There are also many free parking options for visitors to the downtown area, including covered parking in both the Glendale Municipal Office Complex parking structure at 59th and Glendale avenues, and the Promenade at Palmaire parking structure at 5835 West Palmaire Avenue. These parking garages have no time limit imposed.

Analysis

Staff received responses from less than 15 percent of the downtown merchants that were surveyed, and only nine of 95 businesses expressed concerns about the existing parking restriction.

Based on the level of response from the downtown businesses, staff does not recommend that resources be used to modify or remove the parking restrictions for all of downtown Glendale. Rather, staff recommends that each request to add or remove parking restrictions be reviewed on a case-by-case basis.



WORKSHOP COUNCIL REPORT

Previous Related Council Action

At the December 3, 2013 Council Workshop, City Council directed staff to solicit input from the downtown merchants regarding parking limits downtown.

On June 14, 2011, City Council approved the Glendale Overlay District. The Overlay District is part of the city's redevelopment initiative and long-range redevelopment vision for Glendale Avenue. Participation in the Overlay District is voluntary and acts as a zoning tool for the downtown area.

Community Benefit/Public Involvement

Customers enjoy convenient parking in close proximity to the businesses they patronize.

Budget and Financial Impacts

Financial impacts will depend on Council's direction.

Approximately 150 two-hour parking signs are located downtown. If new decals are placed on existing signs to indicate a change in parking time limits, the material and labor costs would be approximately \$1,100. If the signs are replaced, approximately \$3,600 would be needed to fabricate and erect them.

Attachments

None



WORKSHOP COUNCIL REPORT

Meeting Date: **4/1/2014**
Meeting Type: **Workshop**
Title: **PROCUREMENT PROCESS**
Staff Contact: **Michael D. Bailey, City Attorney**
Tom Duensing, Executive Director, Financial Services

Purpose and Policy Guidance

The purpose of this presentation is to bring information to the City Council regarding the city's procurement process governed by Article VIII of the Glendale City Charter and Chapter 2, Article V of the Code of Ordinances. This presentation will provide information to the City Council with regard to procurement rules and the different types of processes the city can use to purchase goods and services.

Background

The City of Glendale must adhere to state law and the Glendale City Code (City Code) when procuring goods and services. There are two types of purchasing procedures that are followed: 1) procurement of construction contracts and 2) procurement of goods and services used in City operations. Construction contracts are governed by Title 34 of the Arizona Revised Statutes. All other procured goods and services are governed by the City Code with additional guidance provided through City Manager Directives (CMD's).

Analysis

The focus of the presentation will be the procurement of goods and services used in City operations governed by the Glendale City Code. Procurement is defined as "*purchasing, renting, leasing, or otherwise obtaining any supplies, or service. The term includes all functions that pertain to the obtaining of any supply, or service, including description of requirements, selection and solicitations of sources, preparation and award of contract, and all phases of contract administration.*"

Article VIII of the City Charter states that formal competitive bidding guidelines shall be established by ordinance. The Code of Ordinances, Chapter 2, Article V outlines the different types of procurement methods available at the City of Glendale and includes:

- Formal purchase procedures (goods and services in excess of \$50,000),
- Informal purchase procedures (goods and services of \$50,000 or less),
- Emergency purchases,
- Sole source procurements, and



WORKSHOP COUNCIL REPORT

- Cooperative purchasing.

The presentation will give an overview of the procurement methods available and the different types of formal and administrative purchasing procedures utilized to obtain goods and services.

Community Benefit/Public Involvement

Proper procurement of goods and services ensures the city receives the best possible value for goods and services purchased through a fair process.

Attachments

Glendale City Charter, Article VIII – Contracts

Glendale City Code, Part II, Chapter 2, Article V – Purchasing Procedure

PART I - THE CHARTER

ARTICLE VIII. CONTRACTS

ARTICLE VIII. CONTRACTS

[Sec. 1. Preparation.](#)

[Sec. 2. Competitive bidding.](#)

[Sec. 3. Purchases.](#)

[Sec. 4. Bids.](#)

[Sec. 5. Transfer and sale of property.](#)

[Sec. 6. Contracts for official advertising.](#)

[Sec. 7. Fraud and collusion.](#)

[Sec. 8. Avoidance of contracts made through fraud and collusion.](#)

[Sec. 9. Personal interest.](#)

Sec. 1. Preparation.

All contracts shall be drawn under the supervision of the city attorney, must be in writing, executed in the name of the City of Glendale by the mayor or the city manager, except as it may be otherwise provided either by this charter or by law, and must be countersigned by the city clerk, who shall number and register the same in files or in books kept for that purpose.

(3-16-76)

Sec. 2. Competitive bidding.

The city council shall establish by ordinance formal guidelines regulating the purchase of goods and services by the city. Such ordinance shall specify the conditions pursuant to which formal competitive bidding shall be required, conditions pursuant to which informal competitive bidding shall be required and those conditions under which no bidding for city contracts shall be required.

(3-15-88)

Sec. 3. Purchases.

The council, by ordinance, not inconsistent with this charter, shall provide for the organization, conduct and operation of a purchasing department.

(5-25-70; 3-16-76)

Sec. 4. Bids.

The advertisement for bids shall distinctly and specifically state the character of the city improvement contemplated and/or the kind of supplies, materials, equipment and services required. Such notice shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of bids. Bidding will be by sealed proposals only and under such regulations as may be prescribed by the council or in compliance with the laws of this state.

PART I - THE CHARTER

ARTICLE VIII. CONTRACTS

(3-16-76)

Sec. 5. Transfer and sale of property.

The city manager may transfer to or between offices, departments and agencies, or sell surplus or obsolete supplies, materials and equipment, subject to such regulations as the council may prescribe.

Sec. 6. Contracts for official advertising.

The city manager shall let annually contracts for official advertising for the ensuing fiscal year. For this purpose he or she shall submit to each legal newspaper published in the city, a notice describing the contemplated advertising and asking for sealed proposals. The proposals shall specify the type and spacing to be used at the rate or rates named in the bid. The city manager shall let the contracts for such official advertising to the lowest and best bidder publishing a newspaper of general circulation in the city; provided that in his or her discretion he or she may reject any and all bids and proceed to secure new bids in the manner provided herein. This section shall not preclude the city council from executing a contract for more than one year subject to annual appropriation. (3-15-88)

The newspaper to which the award for such advertising is made shall be known and designated as the official newspaper.

Sec. 7. Fraud and collusion.

Any member of the council or any officer or employee of the city who shall aid or assist a bidder in securing a contract to furnish labor, materials, equipment, supplies or services at a higher price than proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information or who shall willfully mislead any bidder in regard to the character of the labor, material, equipment, supplies or services called for or the conditions under which the proposed work is to be done, or who shall knowingly accept materials, supplies or equipment of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor or service performed than has been actually performed, or to receipt of a greater amount or different kind of material, supplies or equipment than has been actually received, shall be guilty of a misdemeanor and shall be removed from office.

Sec. 8. Avoidance of contracts made through fraud and collusion.

If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bid being made, then the contract so awarded shall be null and void, and the city manager shall advertise for new bids for said city improvements and/or supplies, materials, equipment and services required, or the council may provide for such public work to be done by the city under the direction of the city manager.

Sec. 9. Personal interest.

No member of the council or any officer or employee of the city shall have a financial interest as defined by the laws of this state pertaining to conflict of interest of officers and employees, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, material, supplies, equipment or services. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation

PART I - THE CHARTER

ARTICLE VIII. CONTRACTS

of this section with the knowledge express or implied of the person or corporation contracting with the city shall render the contract voidable by the city manager or the council.

(3-16-76)

PART II - CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

DIVISION 2. PURCHASING PROCEDURE [71](#)

[Sec. 2-136. Short title.](#)

[Sec. 2-137. Scope.](#)

[Sec. 2-138. Definitions.](#)

[Sec. 2-139. Materials manager generally.](#)

[Sec. 2-140. Inspection and testing.](#)

[Sec. 2-141. Requisitions and estimates.](#)

[Sec. 2-142. Standards and specifications.](#)

[Sec. 2-143. Modification of contracts.](#)

[Sec. 2-144. Unauthorized purchases.](#)

[Sec. 2-145. Formal purchase procedure.](#)

[Sec. 2-146. Informal purchase procedures.](#)

[Sec. 2-147. Emergency purchases.](#)

[Sec. 2-148. Sole source procurements.](#)

[Sec. 2-149. Cooperative purchasing.](#)

[Sec. 2-150. Warehousing stores.](#)

[Sec. 2-151. Pool stock.](#)

[Secs. 2-152—2-154. Reserved.](#)

[Sec. 2-155. Bidding.](#)

[Sec. 2-156 Approval of change orders.](#)

[Secs. 2-157—2-165. Reserved.](#)

Sec. 2-136. Short title.

This division shall be known and may be cited as the "Purchasing Ordinance 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.

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.

(Ord. No. 1233, § 3.101, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

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.

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 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 real estate; rentals; maintenance agreements; letter contracts; and purchase orders. The term also includes supplemental agreements with respect to any of the foregoing.

Contract modification: Any written alteration in the terms and conditions of any contract accomplished by mutual action 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 or services are needed for a situation where the health, safety or welfare of the public is endangered if immediate corrective or preventive action is not taken.

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.

Procurement: The purchasing, renting, leasing, or otherwise obtaining any supplies, or service. The term includes all functions that pertain to the obtaining of any supply, 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 has the capability to perform fully the contract requirements, and the reliability, which will assure good faith performance.

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

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

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.

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

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

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

Sec. 2-139. Materials manager generally.

- (a) The materials manager 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 shall have general supervision of the purchasing department. The materials manager shall have the powers and duties prescribed by this division.
- (b) The materials manager shall have the power and it shall be his duty:
 - (1) To procure and contract for supplies and services including rentals, service agreements, and leases needed by any using agency, in accordance with purchasing procedures as prescribed by this division and such rules and regulations as the materials manager shall adopt for the internal management and operation of the purchasing department and such other rules and regulations as shall be prescribed by the city manager. The authority of the materials manager to make procurements and contract for all using agencies shall not be abridged by excepting any particular using agency, except with the authorization of the city manager, when it is determined that such action would be in the best interest of the city.
 - (2) To establish and amend, when necessary, all rules, forms and regulations authorized by this division and any others necessary to its operation.
 - (3) To recommend the debarment of vendors. When debarment is recommended, a statement of the reason for placing the vendor on debarment shall be prepared by the materials manager in writing and transmitted to the city attorney. Upon the city attorney's approval, the materials manager shall notify the vendor by letter containing an option to appeal and appear before a review board committee consisting of materials manager, city manager or designee, and the participating city agency.

(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 shall supervise the inspection or testing of deliveries of supplies or performance of services to determine their conformance with specifications.

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

- (b) The materials manager shall have authority to authorize using agencies having staff and facilities for adequate inspection to inspect all deliveries made to such using agencies.
- (c) The materials manager 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 shall have the authority to make use of laboratory facilities of any agency of the city or of any outside laboratory.
- (d) The materials manager shall have authority to monitor and inspect the performance of a contractor at the using agency to determine compliance to service 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 shall file with the materials manager, requisitions of the requirements in supplies and services, 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 may not issue an order for delivery until the requesting agency 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 shall prepare in cooperation with the city departments written standards and specifications for supplies 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.

The materials manager, after consultation with the city attorney, may modify or delete existing and add new contractual provisions and clauses for all forms of supply and service contracts utilized by the city, provided that such modification, deletions or additions are supported by a written determination.

(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 provided in this division, it shall be unauthorized for any city employee to order the purchase of supplies or services or make contracts within the purview of this division other than through the purchasing department and purchase orders. Purchases or contracts made contrary to the provisions hereof may not be approved, and the city may 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)

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

Sec. 2-145. Formal purchase procedure.

Procurement of supplies and services, when the cost will exceed the formal purchase dollar threshold of fifty thousand dollars (\$50,000.00), shall be made using either formal written request for proposal (RFP) or invitation for bid (IFB), except as otherwise provided in this division.

The materials manager shall determine which procurement method (RFP or IFB) will be most practicable and advantageous to the city for the procurement of supplies or services.

(1) General:

- a. Public notice of an IFB or RFP shall be in accordance with the City Charter.
- b. The materials manager 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.
- c. 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 in the best interest of the city.
- d. The materials manager shall have the authority to refuse an award to any vendor or contractor who 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.
- e. Budgeted line items specifically identifying products or services, which have been approved by the city council in their 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 and deputy city manager. At the discretion of the city manager, the award of an IFB or RFP may be submitted for the approval of the city council. Awards that exceed the allocated expenditure shall require the approval of the city council.
- f. No contract or procurement shall be subdivided to avoid the requirements of this section.
- g. With the approval of the city manager, formal purchase procedures of [section 2-145](#), may be waived when there has been a written determination that the formal purchase procedures of [section 2-145](#), would not be likely to result in a lower price to the city or would cause unnecessary expense or delay under the circumstances.
- h. The amount of any applicable 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.
- j. 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))

(2) Sealed bidding (IFB):

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

- a. An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.
- b. Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified by the materials manager, together with the name of each bidder shall be recorded as determined by the materials manager. This record shall be open to public inspection after the bid opening in a manner prescribed by the materials manager. 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.
- c. Bids shall be evaluated based on the requirements set forth in the invitations for bids. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids or this subsection (2).
- d. 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.
- e. The contract shall be awarded to the lowest 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 responsible and responsive bidder, the materials manager may consider the following:
 1. The ability, capacity and experience of the bidder to perform the contract.
 2. Whether the bidder can perform the contract promptly, or within the time specified, without delay or interference.
 3. The quality of performance of previous contracts.
 4. The sufficiency of the financial resources of the bidder to perform the contract.
 5. The quality and adaptability of the materials, supplies or services to the particular use required.

(Source: A.R.S. § 41-2533(G))

 6. The number and scope of conditions attached to the bidder's offer.
- f. If an award is not given to the lowest 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.

(3) Sealed proposals (RFP):

- a. Proposals shall be solicited through a request for proposals.
- b. 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 shall designate shall be publicly read and recorded as required by the materials manager. 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 shall not be open for public inspection until after contract award. Except to the extent the proposer designates, and the city concurs, trade secrets or other proprietary data contained in the proposal shall remain confidential.

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

- c. 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 award 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))
- d. 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 as set forth in the request for proposals or in this subsection (3). In addition to the criteria set forth in the request for proposals, the materials manager may also consider the following:
1. Price.
 2. The ability, capacity and experience of the proposer to perform the contract.
 3. Whether the proposer 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 offer, and conformance of proposer's offer to material aspects of the request for proposal.
- (Source: A.R.S. § 41-2534(G))
- e. 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)

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

Sec. 2-146. Informal purchase procedures.

- (a) Procurement of supplies and services, when the total cost will not exceed the formal purchase dollar threshold of [section 2-145](#), shall be made using informal purchase procedures.
- (b) All informal purchase procurements, wherever practical, are to be based on at least three (3) quotations. City manager directives prescribe procedures for the procurement of supplies and services, which do not exceed the established informal purchase procedure amount, and because of specific circumstances competition is not applicable.
- (c) Quotations shall be solicited from prospective vendors.

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

- (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 may also consider the following:
 - 1. Price.
 - 2. The ability, capacity and experience of the proposer to perform the contract.
 - 3. Whether the proposer 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 offer, and conformance of proposer's offer to material aspects of the quotation.
- (e) The materials manager shall keep a record of all informal purchase awards and the responses submitted in competition thereon, and such records shall be part of the public record.
- (f) The materials manager shall prescribe an amount which qualifies as a small purchase. 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 which do not exceed the established small purchase amount. Such 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 ten thousand dollars (\$10,000.00) shall be made using written quotations.
- (h) Procurement of supplies 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.

(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 may procure and contract for supplies 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.
- (b) The requesting department head shall be responsible for determining the validity of all emergency purchase requests.
- (c) Emergency purchases shall be confirmed by filing a purchase requisition marked "emergency" to the materials manager no later than noon the next working day. A complete written explanation shall be signed by the department head and transmitted with the requisition.

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

- (d) City manager directives for emergency purchases of material and services prescribe procedures for emergency purchases.

(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 may procure and contract for supplies and services without compliance 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 or service.
- (b) The agency requesting a sole source procurement shall provide a written determination, in such manner and on such form as the materials manager shall prescribe, justifying the basis for the sole source procurement.
- (c) Award of a sole source procurement which exceeds the formal purchase dollar threshold shall require the approval of the city council. City manager directives for sole source procurements of materials 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 shall have the authority to participate with other units of government for the procurement of supplies or services in cooperative purchasing agreements when the best interests of the city would be served thereby.
- (b) The materials manager shall have the authority to enter into agreements, independent of the requirements of sections [2-145](#) and [2-146](#), established with other units of government for the cooperative use of supplies or services provided the actions of the other party comply with the intent of said sections.
- (c) The materials manager shall 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.

(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 hereby appropriated from the city treasury a funding which shall be known as the warehouse revolving fund.
- (b) Supplies to be added into an inventory administered by the materials manager shall be charged against the revolving fund. Requisitions for withdrawal of supplies in an inventory shall be credited to the revolving fund by a charge against the appropriation of the requesting agency.
- (c) The materials manager shall maintain a perpetual inventory record of supplies charged against the revolving fund and be responsible for the receipt, storage, issuance and distribution of supplies contained therein.

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

PART II - CODE OF ORDINANCES

Chapter 2 - ADMINISTRATION

ARTICLE V. - FINANCIAL AFFAIRS

DIVISION 2. PURCHASING PROCEDURE

Sec. 2-151. Pool stock.

The materials manager 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 designated time. The materials manager shall maintain pool stock in such condition that it is fit for its intended purpose.

(Ord. No. 1233, § 3.115, 6-7-83; Ord. No. 1605, § 1, 6-13-89; Ord. No. 2184, § 1, 2-13-01)

Secs. 2-152—2-154. Reserved.

Sec. 2-155. Bidding.

All construction contracts shall be awarded only after a public competitive bid in compliance with title 34, Arizona Revised Statutes.

(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 fifty thousand dollars (\$50,000.00).

(Ord. No. 2211, § 2, 9-25-01)

Secs. 2-157—2-165. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 2184, § 1, 2-13-01, amended Div. 2 completely; repealed §§ 2-155 and 2-156 derived from Ord. No. 1767, § 1, 5-11-93. ([Back](#))

Charter reference— Purchasing ordinance required, Art. VIII, § 3; other purchasing rules, Art. VIII, § 4 et seq. ([Back](#))