

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2 OF THE NIXA CITY CODE BY REPEALING SECTION 2-150 AND ADDING A NEW ARTICLE THERETO TO ESTABLISH REGULATIONS RELATED TO THE CITY'S PROCUREMENT PROCEDURES AND CONTRACT PROCEDURES.

Background:

Generally, the term procurement process, when discussing government contracting, refers to utilizing a competitive bid process, a request for proposal process, or a request for qualification process. Under Missouri Law, there is no general requirement that cities employ a competitive procurement process when contracting. Despite the lack of State mandate most cities, including Nixa, adopt policies and procedures to mandate the use of competitive procurement.

Competitive procurement serves several public policy objectives. Such requirements help ensure that City funds are used as efficiently as possible, that the way in which the City seeks goods and services is conducted in a transparent fashion, that transactions involving the City are fair, avoid cronyism, and avoid graft, and that goods and services are obtained at a fair and reasonable price.

The City's current procurement policy achieves a number of these stated objectives, but the current policy is unclear and difficult to interpret. As a result, the current policy hinders the achievement of these policy goals.

To address the deficiencies of the current purchasing policy, City staff, after several months of research and discussion, have prepared the regulations contained within Council Bill 2023-27.

Analysis:

The provisions of Council Bill 2023-27 make several changes to the City's competitive procurement and contracting process.

First, the Bill adopts the City's procurement regulations by ordinance and places them within the City Code (Chapter 2, Article V). This will give the provisions the force and effect of law. Currently, the City's purchasing provisions are adopted by resolution. This is an important change for several reasons. First, it makes the provisions more accessible to the public as they will now be published within the City Code.

Second, adopting the provisions by ordinance gives these provisions more formality and authority. This is important as the proposed provisions delegate authority to the City Administrator. When delegating durable authority to make decisions or implement a policy, it is recommended to enshrine such authority in an ordinance rather than a resolution or motion of the City Council.

Perhaps the most substantive change made by this Bill is the clearer delegation of authority to the City Administrator to make contracting decisions. The City's current purchasing provisions are ambiguous as to which arm of the City has the power to make a contracting decision. This has led to an interpretation where every contract, regardless of the subject matter or amount, is brought to the City Council for formal approval. One of the main objectives of this Bill is to provide crystal clear direction on this question.

Under the provisions of the Bill, the City Administrator is delegated with the authority to make contracting decisions upon the occurrence of certain conditions. The Administrator's ability to enter into contracts can only be exercised if: (1) the City Council has appropriated funds in the current budget which covers the proposed contract; (2) a competitive procurement process has been conducted; (3) and the selected contractor is the most qualified contractor.

Any contracts which do not meet these conditions will require formal action from the City Council.

Those contracts which do meet the criteria for City Administrator approval can be approved without Council action. Authorizing the City Administrator to execute certain contracts without a specific vote from Council provides a more efficient contract approval process. This will help ensure that projects stay on track. Currently projects cannot begin until the item is presented and approved by Council.

The provisions of the Bill establish a tiered system of formality when it comes to the required competitive procurement process. The level of formality for each competitive procurement process depends on the amount of the contract in question. The Bill establishes three levels of formality.

Contracts which will total \$20,000 or more can only be made after a sealed and publicly advertised competitive procurement process has been utilized. Contracts which total \$5,000 or more and less than \$20,000 may be made after the City Administrator acquires at least 3 sealed bids from qualified firms. A formal public advertisement is not required. If three firms cannot be found, a formal

public advertisement would then be required. Contracts totaling less than \$5,000 may be made without acquiring any bids or proposals.

Additionally, the contracts that can be entered into under the provisions of the Bill are limited to five-year terms. The City Administrator must report to Council on all purchases made under the authority of the provisions of the Bill which exceed \$5,000.

Importantly, this Bill makes no changes to the City's budget process nor the Capital Improvements Program, leaving intact Council authorizations which are needed for the City Administrator to enter into a contract.

Outside of the competitive procurement piece, this Bill adds additional authorization to the City Code that is worth mentioning. First, this Bill codifies two requirements contained in the City's current procurement regulations but broadens their applicability. These requirements being that the Finance Director must certify an unencumbered balance in the budget to cover a charge and that the City Attorney must approve all contracts as to form. Adopting these requirements by ordinance adds an additional layer of scrutiny to City expenditures. If the Bill is approved, these requirements will be an ordinance requirement meaning it will be a violation of the law for a charge or expenditure to be authorized without these approvals.

Also, this Bill contains authority for the City Administrator to apply for non-matching grants of up to \$5,000 without specific Council authorization.

Recommendation:

Staff recommends approval of this Bill.

MEMO SUBMITTED BY:

Nick Woodman | City Attorney

1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2
2 OF THE NIXA CITY CODE BY REPEALING SECTION 2-150 AND ADDING A NEW
3 ARTICLE THERETO TO ESTABLISH REGULATIONS RELATED TO THE CITY’S
4 PROCUREMENT PROCEDURES AND CONTRACT PROCEDURES.

5 _____
6

7 **WHEREAS** the City’s current competitive procurement regulations are enshrined
8 by a Resolution of the Council; and
9

10 **WHEREAS** the City’s current competitive procurement regulations are unclear and
11 difficult to interpret; and
12

13 **WHEREAS** the City Council desires to adopt the City’s competitive procurement
14 regulations by ordinance and to codify said ordinance into the City Code; and
15

16 **WHEREAS** the Council also desires to update the City’s competitive procurement
17 regulations in an attempt establish a more efficient and clear process; and
18

19 **WHEREAS** as part of these updates and amendments, the Council also desires
20 to codify certain requirements and authorities related to City’s contract procedures
21 generally.
22

23 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
24 **NIXA, AS FOLLOWS, THAT:**
25

26 **SECTION 1:** Chapter 2, Article IV, Section 2-150 of the Nixa City Code is hereby
27 amended by repealing said Section in its entirety.
28

29 **SECTION 2:** Chapter 2 of the Nixa City Code is hereby amended by adding thereto
30 a new Article, Article V, which said Article shall read as follows:
31

32 (Note: Language to be added is indicated by being underlined. Language to be removed
33 is indicated by being ~~stricken~~.)
34

35 Article V. – Procurement and contract regulations.

36 Division 1 – Procurement regulations.

37 Sec. 2-160. – Definitions.
38

39 As used in this Division the following terms and phrases shall have the meaning ascribed
40 to them unless the context indicates otherwise:
41

42 (1) “Competitive bid” is a competitive procurement process in which the specifications or
43 description of the purchase is definite and specific and where the evaluation of
44 submitted bids and the award of a contract is primarily based on the bidder providing
45 _____
46

47 the lowest-priced bid and being the most responsive and qualified amongst the
48 bidders.

49
50 (2) “Competitive procurement process” means competitive bid, request for proposals, and
51 request for qualifications.

52
53 (3) “Emergency purchases” are purchases necessitated by nonrecurring emergencies
54 posing a substantial danger to the health, safety, and welfare of the public or of a risk
55 of substantial financial loss to the city or of a risk of the interruption of public services
56 unless the required supplies, materials, equipment, or services are not obtained as
57 expeditiously as possible.

58
59 (4) “Public improvements” are those fixed works constructed for public use or benefit or
60 improvements upon the property of the city which serve to further the operations of
61 the city.

62
63 (5) “Request for proposals” is a competitive procurement process in which the
64 specifications or description of the purchase are not definite or specific and the nature
65 of the purchase is such that subjective evaluation criteria other than cost is necessary
66 to determine the best approach for the city’s needs.

67
68 (6) “Request for qualifications” is a qualification-based competitive procurement process
69 in which firms submit their qualifications to be considered for providing a service
70 requested by the city.

71
72 (7) “Sole-source suppliers” are suppliers of supplies, materials, equipment, or services
73 that are unique, or which are not available from more than one competitive source in
74 the normal course of business.

75
76 Sec. 2-161. – Purpose.

77
78 This Division has been adopted to ensure that the procurement of supplies, materials,
79 equipment, and services on behalf of the city is timely, cost-effective, and allows for the
80 most open, competitive purchasing process practicable, while also treating all vendors
81 equitably; to ensure that the public has confidence in the city’s procurement processes;
82 to ensure that the highest quality goods and services are secured at the lowest possible
83 price; and to clearly define the authority for exercising purchasing functions on behalf of
84 the city. The provisions of this Division shall be interpreted consistent with the purposes
85 articulated herein.

86
87 Sec. 2-162. – Scope of division; rules and procedures; delegation authorized.

88
89 (a) This Division delegates authority to the city administrator to contract for the purchase
90 of supplies, materials, equipment, and services on behalf of the city. This Division
91 does not impose procedural limitations on the city council or otherwise limit the power

92 of the city council to contract for the purchase of supplies, materials, equipment, and
93 services.

94
95 (b) The city administrator is authorized to establish additional rules and procedures to
96 implement the provisions of this Division. Such additional rules and procedures shall
97 be in writing and filed with the city clerk and be made available for public inspection.

98
99 (c) The city administrator is authorized to delegate the authority granted in this Division
100 to other city officials or employees provided that such delegation is made in writing
101 and filed with the city clerk who shall maintain a copy of such delegation in their office.

102
103 Sec. 2-163. – Authority of city administrator to contract on behalf of the city – General
104 provisions.

105
106 (a) Subject to the requirements of this Division, the city administrator is authorized to
107 contract for the purchase of supplies, materials, equipment, and services when funds
108 for such purpose have been appropriated by the city council and a competitive
109 procurement process is utilized.

110
111 (b) The city administrator is authorized to execute change orders and contract
112 amendments in connection with any contract entered into under the authority of this
113 Division, provided that the total amount of all such change orders or contract
114 amendments shall not exceed fifteen percent of the original contract price.

115
116 (c) The city administrator is authorized, when utilizing a competitive procurement process,
117 to award a contract to a contractor that is, in the judgment of the city administrator,
118 provides the lowest cost and the best, most responsive, and is the most responsible
119 contractor. The city administrator may split the award between two or more contractors
120 if, in the judgment of the city administrator, it is in the best interest of the city to split
121 the award.

122
123 (d) The city administrator is authorized to accept or reject all bids, proposals, or other
124 responses submitted as part of a competitive procurement process and to waive any
125 technical deficiencies in any submitted bid, proposal, or other response. Nothing in
126 this Division shall be construed as requiring the city administrator to accept the lowest
127 priced bid, proposal, or response or to accept any bid, proposal, or response.

128
129 (e) The city administrator, when utilizing a competitive procurement process, shall keep
130 all bids, proposals, or responses submitted to the city closed and confidential to
131 preserve the competitive nature of the competitive procurement process undertaken.
132 Such bids, proposals, or responses shall be open and available for public inspection
133 once the need to close the documents is no longer present. This subsection shall be
134 construed subject to sections 610.010 through 610.035 of the Revised Statutes of
135 Missouri.

136

- 137 (f) The city administrator shall not enter into any contracts pursuant to the authority
138 granted by this Division which have a term exceeding five years. This subsection shall
139 not apply to contracts for the purchase or maintenance of software.
140
- 141 (g) The city administrator may utilize an electronic solicitation system if the system is
142 secure and allows for bids or proposals to be opened only at the time designated for
143 opening.
144
- 145 (h) The purchase of supplies, materials, equipment and services shall not be split into
146 multiple contracts or transactions to avoid the requirements of this Division.
147
- 148 (i) The city administrator shall report to the City Council on all purchases made utilizing
149 the authority of this Division which exceed \$5,000.00. Said report shall be provided to
150 the City Council at regular meetings of the Council. The city administrator shall be
151 required to provide the procurement method, the contract amount, the total number of
152 qualified responses received, the Contractor, and other information that the city
153 administrator desires to report. The reporting term of this subsection shall cover
154 contracts entered into in the 30 days prior to the regular City Council meeting in which
155 the report is offered.
156
- 157 Sec. 2-164. – Competitive procurement process required; exceptions.
158
- 159 (a) Except as otherwise provided by ordinance, all contracts for the purchase of supplies,
160 materials, equipment, and services shall be entered into only after a competitive
161 procurement process has been utilized.
162
- 163 (b) The city administrator may enter into contracts for emergency purchases without
164 following a competitive procurement process. The city administrator shall certify in
165 writing that the purchase is an emergency within the meaning of this Division by a
166 memorandum that sets forth the nature of the emergency.
167
- 168 (c) The city administrator may enter into contracts with sole-source suppliers without
169 following a competitive procurement process. The city administrator shall certify in
170 writing that each purchase from a sole source supplier under this subsection meets
171 the requirements of this Division.
172
- 173 (d) The city administrator may enter into contracts for professional services without
174 following a competitive procurement process when factors such as prior experience,
175 skills, education, local knowledge, or unique knowledge are considerations in
176 selecting the contractor. This subsection shall not apply to contracts for architectural,
177 engineering, and land surveying services.
178
- 179 (e) The city administrator may enter into contracts for insurance without following a
180 competitive procurement process when said insurance has a standard premium set
181 by the State of Missouri, or which is exempted from competitive procurement by
182 section 537.620 RSMo.

183
184 (f) The city administrator may enter into contracts for the purchase of items or services
185 for data processing, software, or electronic databases without following a competitive
186 procurement process when the city administrator has determined that the item,
187 service, or software is convenient for the continuing operations of the city or a city
188 department.

189
190 (g) The city administrator shall, when time and business conditions permit, and to the
191 greatest extent possible, utilize the procurement process established in section 2-166
192 when a purchase falls within the above categories.

193
194 Sec. 2-165. – Contracts of twenty thousand dollars or more

195
196 (a) The city administrator shall not contract for the purchase of any supplies, materials,
197 equipment, or services costing \$20,000.00 or more unless a competitive procurement
198 process has been utilized and the provisions of this section have been followed.

199
200 (b) The city administrator shall advertise for sealed competitive bids or proposals in a
201 manner reasonably calculated to provide notice of the purchase at least five days
202 before the time set for the opening of bids or proposals.

203
204 (c) All bids or proposals must be sealed and addressed to the city and must be received
205 at the designated location, by the designated time for receipt, and on the day specified
206 in the solicitation issued by the city.

207
208 (d) The bids or proposals shall be opened by the city administrator at a location specified
209 in the solicitation issued by the city during normal city business hours on the day
210 specified in the solicitation, if practicable. If not practicable, then the bids or proposals
211 shall be opened on the earliest day thereafter.

212
213 Sec. 2-166. – Contracts of five thousand dollars or more but less than twenty thousand
214 dollars.

215
216 (a) The city administrator shall not contract for the purchase of any supplies, materials,
217 equipment, or services costing \$5,000.00 or more but less than \$20,000.00 unless a
218 competitive procurement process has been utilized and the provisions of this section
219 or the procurement process of section 2-165 have been followed.

220
221 (b) The city administrator shall solicit by telephone, written notice, or other reasonable
222 means, at least three competitive written bids or proposals, if three independent
223 vendors are available.

224
225 (c) All bids or proposals must be sealed and addressed to the city.

226
227 Sec. 2-167. – Records related to procurement processes and contracts.

228

229 The city administrator shall maintain records related to and documenting the procurement
230 processes authorized herein and contracts entered into by the city pursuant to the
231 authority granted by this Division. The records to be maintained pursuant to this section
232 shall include the reason for the specific procurement process utilized, the basis for the
233 award and contract pricing, as well as documentation evidencing the basis for other
234 significant decisions that were part of the procurement process. These records shall be
235 maintained pursuant to the State of Missouri’s records retention schedules or for the
236 duration of time required by the federal government if required due to the utilization of
237 federal funds.

238
239 Sec. 2-168. – Request for proposals – authorized when.

240
241 (a) The city administrator may utilize a request for proposals procurement process for the
242 purchase of supplies, materials, equipment, or services, subject to the requirements
243 of this section.

244
245 (b) The city administrator may utilize a request for proposal procurement process when a
246 combination of the following factors indicate that said process is the most
247 advantageous procurement process for the purchase:

248
249 (1) Definite specifications for the purchase cannot be reasonably determined in
250 advance.

251
252 (2) Several methods of performance related to the purchase may satisfy the city’s
253 requirements.

254
255 (3) The qualifications of firms and the quality of their service are more motivating
256 factors than price.

257
258 (4) The nature of the purchase is such that subjective evaluation criteria other than
259 cost are necessary to determine the best method of performance.

260
261 (c) When utilizing a request for proposal procurement process, subjective criteria may be
262 used in the evaluation of competing proposals, however the criteria in which proposals
263 are to be evaluated and the relative value of such evaluation criteria shall be
264 established in the invitation for proposals issued by the city.

265
266 (d) All qualifications must be sealed and addressed to the city.

267
268 Sec. 2-169. – Request for qualifications – authorized when.

269
270 (a) The city administrator may authorize a request for qualification process for consulting
271 services and whenever the city administrator has determined that such a process is
272 advantageous to the city.

273

274 (b) The most qualified firm shall be selected based on their qualifications alone. The fee
275 for services may be negotiated but it shall not be the sole determining factor in the
276 selection of the most qualified firm.

277
278 (c) If terms cannot be negotiated between the city and the most qualified firm, the city
279 administrator may then proceed to negotiate with the next qualified firm and so on,
280 until a final contract is negotiated.

281
282 (d) This method shall be utilized when contracting for professional architectural,
283 engineering, and land surveying services and shall comply with sections 8.285 and
284 8.291 of the Revised Statutes of Missouri, and other applicable provisions of state law.

285
286 Sec. 2-170. – Cooperative purchasing.

287
288 The city administrator is authorized to participate in cooperative purchasing programs
289 with the United States or any agency of the United States, with the State of Missouri or
290 any agency, municipality, or political subdivision of the State of Missouri, with other states
291 or any agency, municipality or political subdivision of any of the state, or with any
292 association of municipalities or political subdivisions, provided that the cooperative
293 purchasing program of the other entity or agency followed is substantially similar to a
294 competitive procurement process.

295
296 Sec. 2-171. – Sale of surplus material.

297
298 (a) A department head having charge of any surplus, obsolete, or unused supplies,
299 materials, or equipment may request that the city administrator dispose of the
300 property. The city administrator is authorized to sell the property in any form of open
301 market competition to the highest bidder. The city administrator may set a minimum
302 sale price and reject any bid that, in the city administrator’s judgment, is not a fair sale
303 price.

304
305 (b) The city administrator is authorized to sell or dispose of any surplus, obsolete or
306 unused supplies, materials, or equipment to any governmental entity without open
307 market competition.

308
309 Sec. 2-172. – Debarment.

310
311 (a) The city administrator is authorized to debar a person, firm, business, or organization
312 from consideration for award of contracts issued pursuant to this Division for any of
313 the following reasons:

314
315 (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain
316 a public or private contract or subcontract, or in the performance of such contract
317 or subcontract.

318

319 (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery,
320 falsification or destruction of records, receiving stolen property, or any other
321 offense indicating a lack of integrity or honesty or negatively affects responsibility
322 as a city contractor or vendor.

323
324 (3) Conviction under state or federal antitrust statutes arising out of the submission of
325 bids or proposals.

326
327 (4) Deliberate failure without good cause to perform in accordance with contract
328 specifications or within the time limit provided in the contract.

329
330 (5) A recent record of failure to perform or of unsatisfactory performance in
331 accordance with the terms of one or more contracts; provided that failure to
332 perform or unsatisfactory performance caused by acts beyond the control of the
333 contractor or vendor shall not be considered as a basis for debarment.

334
335 (6) The person is in arrears on any debt owed to the city or has a history of being in
336 arrears on debts owed to the city.

337
338 (7) Any other cause so serious and compelling as to affect responsibility as a city
339 contractor or vendor, including debarment by another governmental entity for any
340 reason.

341
342 (b) A person debarred pursuant to this section shall be ineligible to bid or submit proposals
343 for a city contract while debarred. The debarred person may request reinstatement
344 with the city administrator and the city administrator may lift the debarment status upon
345 a showing that the debarred person is not a risk regarding their ability to faithfully and
346 adequately perform under a city contract. Such determinations may be appealed in
347 the same manner as set forth herein.

348
349 (c) The city administrator shall initiate a debarment by serving written notice of the
350 debarment to the person the city administrator intends to debar. The notice shall set
351 forth the specific grounds for the debarment. The notice shall be served by regular or
352 certified mail or by hand delivering a copy of the notice to the person subject to the
353 debarment or the person's agent or employee. The debarment shall take effect ten
354 days from the service of the notice unless an appeal is taken. If an appeal is taken,
355 the debarment shall take effect unless a final order overturning the debarment is
356 entered by the hearing officer.

357
358 (d) Within 10 days after service of a written notice of debarment, the person affected by
359 the notice may file a written request with the city clerk for a hearing.

360
361 (e) The city clerk shall inform the hearing officer of the notice for a hearing and shall set
362 the matter for a hearing as soon as practicable. At least 10 days' notice of the hearing
363 date shall be given to the affected person and the city administrator.

364

365 (f) At the hearing, each party shall have the right to call and examine witnesses, introduce
366 exhibits, cross-examine opposing witnesses, and impeach any witness. Oral evidence
367 shall be taken on oath or affirmation. All evidence shall be suitably recorded and
368 preserved. The technical rules of evidence shall not apply, but the hearing officer may
369 exclude evidence that is irrelevant or repetitious. Each party shall be entitled to
370 present oral arguments or written briefs at or after the hearing.

371
372 (g) Within 10 working days after the hearing is concluded, the hearing officer shall make
373 written findings of fact and conclusions of law and issue a final order. Findings of fact
374 shall be based upon competent evidence. The final order shall be delivered or mailed
375 to the city administrator and the affected person.

376
377 (h) An appeal from the hearing officer's order shall be to the circuit court pursuant to
378 chapter 536, RSMo.

379
380 (i) Nothing in this section shall limit the authority of the city administrator to accept a bid
381 or proposal which in the judgment of the city administrator is the lowest and best, or
382 to reject any and all bids or proposals or to reject a bid or proposal on grounds which
383 could have been used to debar the person, firm, or business.

384
385 (j) The city administrator is authorized to appoint a hearing officer for the purposes of this
386 section.

387
388 Sec. 2-173. – Public improvement contracting process.

389
390 (a) The city administrator is authorized to contract for the construction or improvement of
391 public improvements in accordance with the procedures established in this section.

392
393 (b) The authority granted to the city administrator herein shall only apply to those public
394 improvements included in the city's most recently adopted Capital Improvement
395 Program and for which appropriated funds for such public improvement have been
396 provided by city council.

397
398 (c) The city administrator is authorized to contract for the construction or improvement of
399 public improvements utilizing a competitive procurement process authorized in this
400 Division.

401
402 (d) The city administrator is authorized to accept the public improvement on behalf of the
403 city when the improvement has been completed and is in substantial conformance
404 with the plans and specifications for the improvement.

405
406 Division 2 – General contract provisions.

407
408 Sec. 2-180. – General contracting authority of the city administrator.

409

410 In addition to any other authority that may be granted to the city administrator by the city
411 council or by specific ordinance, including Division 1 of this Article, the city administrator
412 is authorized to enter into contracts on behalf of the city in an amount not exceeding
413 \$5,000, provided that such contract is within the scope of an appropriation in the currently
414 adopted city budget, if applicable. Any contract entered into under authority of this section
415 shall not have a term in excess of five years.

416
417 Sec. 2-181. – Authority to apply for certain grants by the city administrator.

418
419 The city administrator is authorized to apply for and accept grant funding on behalf of the
420 city provided that no matching funding or other expenditure is required of the City in an
421 amount greater than \$5,000 as part of the grant award.

422
423 Sec. 2-182. – City attorney shall approve all contracts as to form.

424
425 The city attorney, before the execution of any contract by the appropriate city official, shall
426 approve the contract as to form. No contract shall be valid and binding on the city unless
427 the city attorney’s approval as to form has been obtained. The city attorney is authorized
428 to promulgate rules, regulations, and procedures to implement the provisions of this
429 section.

430
431 Sec. 2-183. – Finance director certification.

432
433 No contract or order purporting to impose any financial obligation on the city shall be
434 executed, nor shall the same be binding and valid upon the city, unless the director of
435 finance shall first certify in writing that such contract or order is within the purpose of the
436 appropriation to which it is to be charged and that there is an unencumbered balance to
437 the credit of such appropriation sufficient to pay therefor. The director of finance is
438 authorized to promulgate rules, regulations, and procedures to implement the provisions
439 of this section. Such rules, regulations, and procedures may include the establishment of
440 certain classes or categories of purchases which may be made by designated city
441 personnel and officials without obtaining the certification required by this section prior to
442 the purchase. However, city personnel and officials shall be personally liable and subject
443 to disciplinary action as set forth in the city’s Personnel Code for any purchases made
444 which are not within the scope of the appropriation to which it is to be charged or where
445 there is no unencumbered balance to the credit of such appropriation sufficient to pay
446 therefor.

447
448 **SECTION 3:** The City Attorney, when codifying this Ordinance, is authorized to
449 provide for different section numbers, subsection numbers, and different internal citation
450 references than those provided herein when such section numbers, subsection numbers,
451 or internal citation references are in error or are contrary to the intent of this Ordinance.

452
453 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
454 affect any suit or proceeding now pending in any court or any rights acquired, or liability

455 incurred nor any cause or causes of action occurred or existing, under any act or
456 ordinance repealed or modified hereby.

457
458 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
459 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
460 the validity of the remaining portions of this Ordinance. The Council hereby declares that
461 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
462 phrase thereof, irrespective of the fact that any one or more sections, subsections,
463 sentences, clause, or phrases be declared invalid.

464
465 **SECTION 6:** This Ordinance shall be in full force and effect from and after its final
466 passage by the City Council and after its approval by the Mayor, subject to the provisions
467 of section 3.11(g) of the City Charter.

468
469 **ADOPTED BY THE COUNCIL THIS 26th DAY OF June, 2023.**

470
471
472 ATTEST:

473
474 _____
475 PRESIDING OFFICER

476
477 _____
478 CITY CLERK

479 **APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2023.**

480 ATTEST:

481
482 _____
483 MAYOR

484
485 _____
486 CITY CLERK

487 APPROVED AS TO FORM:

488 _____
CITY ATTORNEY