Legislation Details (With Text)

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Title:	Department of Central Services - For the purpose of reconstituting the Department of Central Services in the City Charter; moving public purchasing duties from the Finance Department to the Department of Central Services, and moving facilities management, fleet operations, and fleet replacement duties from the Department of Public Works to the Department of Central Services; and generally related to Department of Central Services responsibilities.				
Sponsors:	Gavin Buckley, Elly Tierney				
Indexes:	Finance Committee, Rules and City Government Committee				
Code sections:					
Attachments:	1. O-8-24 First Reader, 2. CA-1-24 & O-8-24 Legislative Summary, 3. CA-1-24 & O-8-24 Fiscal Note, 4. CA-1-24 & O-8-24 Staff Report, 5. CA-1-24 & O-8-24 Public Hearing Notice, 6. O-8-24 Amendment 1 - Finlayson, 7. O-8-24 Signed (color), 8. O-8-24 Signed (b&w)				

Date	Ver.	Action By	Action	Result
6/17/2024	1	City Council	adopt on second reader	Pass
6/17/2024	1	City Council	amend	Pass
6/17/2024	1	City Council	adopt as amended	Pass
6/17/2024	1	City Council	adopt on third reader	Pass
6/7/2024	1	Rules and City Government Committee	recommend with amendments	Pass
6/5/2024	1	Finance Committee	recommend favorably	Pass
5/13/2024	1	City Council	declare the public hearing closed	

Department of Central Services - For the purpose of reconstituting the Department of Central Services in the City Charter; moving public purchasing duties from the Finance Department to the Department of Central Services, and moving facilities management, fleet operations, and fleet replacement duties from the Department of Public Works to the Department of Central Services; and generally related to Department of Central Services responsibilities.

CITY COUNCIL OF THE

City of Annapolis

Ordinance 8-24

Introduced by: Mayor Buckley
Co-sponsored by: Ald. Tierney

Referred to:

Finance Committee
Rules and City Government Committee

AN ORDINANCE concerning

Department of Central Services

FOR the purpose of reconstituting the Department of Central Services; moving public purchasing duties from the Finance Department to the Department of Central Services, and moving facilities management, fleet operations, and fleet replacement duties from the Department of Public Works to the Department of Central Services; and generally related to Department of Central Services responsibilities.

BY enacting with amendments the following portions of the Code of the City of Annapolis, 2024 Edition:
Chapter 2.42

BY repealing and reenacting with amendments the following portions of the Code of the City of Annapolis, 2024 Edition
2.20.030
2.40.030
6.08.030
6.08.050
6.08.090
6.08.100
6.08.110
6.08.120
6.08.130
6.08.150
6.08.190
6.08.240
6.08.270
6.08.330
6.08.360

WHEREAS, The City of Annapolis currently relies on various departments to provide essential administrative services; and

WHEREAS, The provision of these services can be streamlined and made more efficient by consolidating them into a single department; and

WHEREAS, A centralized department will improve coordination and communication between departments, leading to better service delivery;

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

Title 2 - ADMINISTRATION
Chapter 2.42 - Department of Central Services

2.42.010 - Composition. The Department of Central Services shall consist of:

1. Director of Central Services;

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2. Procurement Officer;
3. Facilities Manager;
4. Fleet Operations and Replacement Manager; and
5. Other officers and employees as may be provided by the City Council.

2.42.020 - Director of Central Services.

A. The Department shall be headed by a Director of Central Services, who the City Manager shall appoint with the approval of the City Council.

B. The Director shall be a qualified professional with experience managing central services operations.

C. The Director, before entering on the discharge of the duties of office, shall take the oath prescribed in Article IX, Section 1 of the Charter.

2.40.030 - Department Responsibilities

A. **Overall Services.**

The Department shall be responsible for providing the following central services to all departments of the City:

a. Procurement and purchasing;
b. Facilities management (including maintenance, custodial services, and utilities);
c. Fleet management and replacement; and
d. City of Annapolis television/video studio operations.

B. **Purchasing and Procurement.**

The Director shall:

a. Report to the City Manager and shall be responsible for executing the purchasing and procurement regulations established for the City.
b. Appoint a purchasing agent who shall manage all phases of the purchasing and procurement process.
c. Adopt and promulgate regulations per § 2.04.090 that:
    i. are not in conflict with the Charter, this Code, or any ordinance; and
    ii. implement a centralized purchasing and procurement process.

C. **Facilities and Real Property Management.**

The Director shall:

a. Ensure the City has an up-to-date space management plan.
b. Appoint a facilities manager who shall manage the maintenance of City facilities, including custodial services, break/fix and repair services, and replacement of core building functions such as HVAC.
c. Oversee real estate services for the City, including purchases or leasing of real property

from third parties for use by the City as needed and sale or lease of City property to third parties as directed by the Council and City Manager.

D. Fleet Management

The Director shall:

a. Coordinate and maintain the City's fleet of cars, trucks, and other vehicles; and

b. Purchase new vehicles per City needs as approved in the City's annual budget.

Title 2 - ADMINISTRATION
Chapter 2.20 - Director of Finance

~~2.20.030 Purchasing and procurement.~~

~~A. The Director of Finance shall be responsible to the Mayor for the execution of the purchasing and procurement regulations established for the City. The Director of Finance shall appoint a purchasing agent who shall manage all phases of the purchasing and procurement process.~~

~~B. The Director of Finance shall adopt and promulgate regulations, not in conflict with the Charter, this Code or any ordinance, to implement a centralized purchasing and procurement process. The regulations shall become effective not less than forty-five days following its promulgation and transmission to the City Council by the Director of Finance, unless an objection to the regulations, or any portion, is registered by the City Council by a resolution adopted prior to the effective date.~~

2.20.040 Distribution of mail.

The Director of Finance shall be responsible for City offices mail distribution.

Title 2 - Administration
Chapter 2.40 - Public Works Department
Section 2.40.030 - Director-Duties.

A. The Director of Public Works has charge of and supervision over all public property of the City, including all streets, parks, parkways, sidewalks and all other property of the City not specifically assigned to some other officer.

B. The Director of Public Works has charge of, and is responsible for the care, maintenance and operation of, the City water system, the sanitary sewer system and disposal plant, public wharves, all streets and sidewalks and the drainage of the streets and sidewalks, and shall enforce certain specified rules and regulations related to sewer pretreatment and stormwater management.

C. All construction, repair or extension of any pavement, building, sewer, water mains, highways, gutters and any appurtenances thereto, and all other construction, repair or maintenance work conducted by the City, shall be done by or under the supervision of the Director of Public Works unless specific direction to the contrary is made by the City Council.

D. The director has charge of the collection and disposal of garbage and refuse.

~~E. Except for vehicles used and maintained by the Police Department, the Fire Department and the Department of Transportation, the Director of Public Works has charge of and is responsible for the condition and maintenance of all motor vehicles and trucks.~~

F. To regulate activities impacting upon sewer pretreatment, and stormwater management and to enforce rules and regulations governing sewer pretreatment and stormwater management.

G. To enforce rules and regulations specified in Chapter 10.16 of the City Code governing refuse, recyclable materials,

and solid waste.

Title 6 - Revenue and Finance
Chapter 6.08 - PURCHASING AND PROCUREMENT

6.08.030 Definitions.

For purposes of this chapter, the following words and phrases have the meanings indicated:

~~A~~ 1. "Best and final offer" means a supplemental offer requested by the Procurement Officer as part of permitted negotiations under this chapter or from those offerors whose offers are within a close range of one another.

~~B~~ 2. "Best value basis" means evaluation of offers that allows consideration by the Procurement Officer of which offer may be in the best interests of the City regardless of lowest price.

~~C~~ 3. "Bid" means a written offer to furnish goods or services, insurance, or construction in conformity with the specifications, delivery terms, conditions, or other requirements in response to an invitation for bids.

~~D~~ 4. "Bidder" means a business that submits a bid in connection with an invitation for bids.

~~E~~ 5. "Blanket order" means a contract whereby the City agrees to purchase, and the contractor agrees to sell or provide, goods or services of a designated type that the City may require at stated unit prices without specifying an exact quantity.

~~F~~ 6. "Brand name specification" means a specification for goods by a manufacturer's name or catalogue number.

~~G~~7. "Business" means a corporation, general partnership, limited partnership, limited liability partnership, limited liability company, unincorporated association, individual, sole proprietorship, joint venture, or any other private legal entity through which business is conducted.

~~H~~8. "Change order" means a written order signed and issued by the Procurement Officer directing the contractor to make changes that the contract authorizes the City to order without the consent of the contractor.

~~I~~9. "Collusion" means a secret agreement or cooperation between two or more businesses to defraud or illegally deprive the City of its rights or to undermine the purposes of this chapter.

~~J~~10. "Competitive procurement" means either a competitive sealed bid or a competitive sealed proposal.

~~K~~11. "Competitive sealed bid" means an invitation for bids that defines in specifications the goods, services, insurance, or construction sought for which a contract award is made to the lowest responsive and responsible bidder meeting all specifications.

~~L~~12. "Competitive sealed proposal" means a request for proposals that requires the proposer to submit a cost proposal and a technical proposal for the goods, services, insurance, or construction sought, and the cost and technical proposals are evaluated based on predetermined criteria specified in the request.

~~M~~13. "Confidential information" means any information available to a City employee solely because of the employee's status as an employee of this City and that is not a matter of public knowledge or available to the public on request.

~~N~~14. "Construction" means the erection, alteration, repair, improvement, or demolition of any public structure or building, or other public improvements of any kind, including any draining, dredging, excavation, grading, or similar work on real property, but the term does not include the routine operation, routine repair, or routine maintenance of existing public facilities.

~~O~~15. "Contract" means a written agreement, regardless of form or title, between the City and a contractor for the procurement of goods, services, insurance, or construction.

~~P~~16. "Contract award" means a written notice from the Procurement Officer to the contractor selected to execute a contract with the City for a specific solicitation.

~~Q~~17. "Contract execution" means the execution of a contract by the City and a contractor.

~~R~~18. "Contract file" means all information, regardless of format or form, maintained by the Procurement Officer relating to a solicitation, an award, or the performance of a contract.

~~S~~19. "Contract modification" means a written alteration or amendment to one or more provisions of an existing contract, including alterations or amendments to specifications, delivery requirements, the period for performance, price, and quantity, whether accomplished by unilateral action in accordance with a contract provision, a change order, or mutual agreement.

~~T~~20. "Contractor" means any business having a contract with the City to furnish goods, services, insurance, or construction.

~~U~~21. "Cooperative procurement" means an arrangement with one or more public entities, including regional or national cooperatives and quasi-governmental entities established by law, under which the public entities agree to aggregate demand in order to obtain lower prices and reduce the cost of procurement, or otherwise obtain more favorable procurement terms.

22. "Director" means the director of the Department of Central Services.

~~V~~23. "Electronic communication" means a communication made by electrical, digital, magnetic, optical, electromagnetic, or other similar means.

~~W~~24. "Equal specification" means the specification of a good that is equivalent in terms of quality, performance, or other characteristics to a good with a brand name specification.

~~X~~25. "Environmentally preferable purchasing" means the procurement of goods, services, insurance, or construction in accordance with the goals, recommendations, or policies established in accordance with Section 2.48.350 of the City Code to the extent possible and practicable.

~~Y~~26. "Formal contract" means a written contract for the procurement of goods, services, insurance, or construction that includes contract provisions such as scope of work, compensation, manner, and method of payment, term, acceptance criteria, and City terms and conditions.

~~Z~~27. "Goods" means supplies, materials, equipment, and all tangible property other than real property.

~~AA~~28. "Invitation for bids" means a formal solicitation through competitive sealed bids where the contract award is made to the responsive and responsible bidder having the lowest evaluated bid price.

~~BB~~29. "Micro Purchase" means a contract documented through a purchase order for a procurement that is not more than three thousand dollars made by a using department.

~~CC~~30. "Minor informality or irregularity" means an insignificant, immaterial, or de minimis defect or variation of an offer from the exact requirements of the solicitation that does not materially affect the price, quality, quantity, or delivery schedule for the goods, services, insurance, or construction being procured.

~~DD~~31. "Multi-step sealed bidding" means a solicitation method to obtain a ready source of qualified potential offerors who can respond to a subsequent solicitation.

~~EE~~32. "Multi-year contract" means a contract entered into for more than one year in accordance with the requirements of this chapter.

~~FF~~33. "Non-appropriation clause" means language in a contract that permits the City with notice to the contractor to terminate the contract for lack of sufficient appropriations.

~~GG~~34. "Offer" means a written response by a business to a solicitation to provide the City with goods, services, insurance, or construction.

~~HH~~35. "Offeror" means a business that submits an offer in connection with a City solicitation.

~~II~~36. "Procurement" or "purchasing" means buying, purchasing, renting, leasing, or otherwise acquiring or obtaining any goods, services, insurance, or construction.

~~JJ~~37. "Procurement Officer" means the "purchasing agent" or other designee of the ~~Finance~~ Director to lead all phases of the purchasing and procurement process pursuant to Section 2.20.030.A. of this Code.

~~KK~~38. "Professional services" means services, such as accounting, financial advice, legal, architectural, actuarial, property appraisals, consulting, and lobbying, performed by a business whose specialized knowledge and academic preparation have led the business to be a recognized professional within its vocation and, as such, the services are customarily negotiated because the individuality of the service does not lend itself to a fixed-price bid.

~~LL~~39. "Proposal" means a written offer to supply or furnish goods, services, insurance, or construction in response to a request for

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proposals in which competitive sealed proposals or negotiations are used rather than the competitive bid process.

~~MM~~40. "Proposer" means a business that submits a proposal in connection with a request for proposals.

~~NN~~41. "Public entity" means any Federal, State, or local government, agency, committee, commission, board, institution, or political subdivision created by Federal, State, or local law to exercise some sovereign power or to perform some governmental duty.

~~OO~~42. "Public notice" means the City's notice of a solicitation by posting a pending procurement on the City's website and may include other notice, such as publication in a newspaper, use of an electronic mailing list, or posting on one or more additional websites.

~~PP~~43. "Purchase order" means a document issued by the City that encumbers available appropriations for the purpose of paying a contractor.

~~QQ~~44. "Request for expressions of interest" or "request for information" means a solicitation for unpriced offers when the Procurement Officer in the Procurement Officer's sole discretion determines that it is impracticable to initially prepare a purchase description to support a contract award.

~~RR~~45. "Request for Proposals" means a formal solicitation through a competitive sealed proposal under which the contract award is made to a responsible proposer through evaluation of both a cost proposal and a technical proposal.

~~SS~~46. "Responsible bidder" means a business that has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit to ensure good faith performance.

~~TT~~47. "Responsive bidder" means a bidder that has submitted a bid that conforms in all material respects to the invitation for bids.

~~UU~~48. "Responsible offeror" means the same as responsible bidder.

~~VV~~49. "Responsible proposer" means the same as responsible bidder.

~~WW~~50. "Services" means the furnishing of labor, time, or effort by a contractor that does not require the delivery of a specific end product, other than reports incidental to the required performance, but the term does not include employment agreements or collective bargaining agreements.

~~XX~~51. "Small procurement" means a procurement that is less than twenty-five thousand dollars.

~~YY~~52. "Solicitation" means a procurement request by the City for one or more contractors to provide an offer to provide goods, services, insurance, or construction in accordance with specified requirements or parameters.

~~ZZ~~53. "Solicitation method" means the manner and process by which the City seeks offers from contractors to provide goods, services, insurance, or construction under specified levels of competition.

~~AAA~~54. "Specification" means any description of the physical or functional characteristics or the nature of a good, service, insurance, or construction item, and it may include a description of any requirement for inspecting, testing, or preparing a good, service, insurance, or construction item for delivery.

~~BBB~~55. "Tie bids" are responsive bids from responsible bidders that are identical in price, terms, and conditions and that meet all the requirements and evaluation criteria set forth in the invitation for bids.

~~CCC~~56. "Using department" means any City department, office, or agency that uses goods, services, insurance, or construction procured under this chapter.

~~DDD~~57. "Written" or "in writing" includes information that is electronically transmitted or stored.

6.08.050 Authority and duties of the Procurement Officer.

The Procurement Officer shall have the authority and responsibility to:

A. Procure or supervise the procurement of all goods, services, insurance, and construction needed by the City;

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B. Exercise general supervision and control over all inventories of goods belonging to the City;

C. Pursuant to the direction and administration of the ~~Finance~~ Director develop procedures, standards, policies, and forms as may be necessary for the effective implementation of this chapter;

D. Conduct pre-bid or pre-proposal conferences when appropriate;

E. Make written recommendations for the award of contracts;

F. Keep informed of current developments in the field of purchasing, prices, market conditions, and new products or innovations;

G. Establish and maintain programs for the inspection, testing, and acceptance of goods, services, insurance, and construction;

H. Maintain contract files associated with procurements;

I. Change specifications in solicitations and terminate solicitations;

J. Make determinations of responsiveness and responsibility;

K. Require bonds, insurance, and other forms of protection for the City in connection with a procurement;

L. Ensure compliance with this chapter by reviewing and monitoring procurements conducted by any employee with delegated authority under Section 6.08.070; and

M. Perform other functions and duties as required by this chapter or as may be assigned by the ~~Finance~~ Director.

6.08.090 Claim by contractor; contract voidable.

A. A City officer, agent, or employee may not order the procurement of any goods, services, insurance, or construction except under the requirements and conditions of this chapter. Any purchase order or contract made contrary to the provisions of this chapter is voidable by the Procurement Officer with the approval of the ~~Finance~~ Director, and the City may not be bound thereby.

B. If any officer, agent, or employee of the City knowingly violates or assists in the violation of any provision of this chapter, the officer, agent, or employee may be subject to disciplinary actions as prescribed in the Charter, this Code, and City personnel regulations, and the officer, agent, or employee also may be deemed personally responsible for any costs incurred as a result of an unauthorized procurement.

6.08.100 Source selection; solicitation method.

In accordance with this chapter, the ~~Finance~~ Director or Procurement Officer may approve any method of procurement source selection or solicitation method that it deems to be in the best interests of the City.

6.08.110 Formal solicitation-Competitive sealed bid.

A. Formal contracts shall be awarded by full, fair, and open competitive sealed bids.

B. An invitation for bids shall include specifications and all contractual terms and conditions applicable to the procurement.

C. Public notice of the invitation for bids shall be given at least fifteen days prior to the date set for the opening of bids as specified in the invitation for bids, unless the Procurement Officer determines in writing that circumstances require a shorter notice period.

D. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The Procurement Officer shall ensure that all relevant information is recorded, including the amount of each bid and the name of each bidder. The record and each bid, except for information identified by the bidder as confidential or proprietary and determined by the ~~Finance~~ Director or Procurement Officer to be confidential or proprietary, shall be open to public inspection

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after contract execution.

E. Bids received after the date and time specified in the invitation for bids may not be accepted.

F. Except as authorized in this section, bids shall be accepted without alteration or correction. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. No criteria may be used in a bid evaluation that were not set forth in the invitation for bids.

G. The Procurement Officer may waive a minor informality or irregularity if the Procurement Officer determines that a waiver is in the best interests of the City. The decision of the Procurement Officer with respect to whether a requirement is a minor informality or irregularity is final and may not be challenged by a bidder.

H. Correction or withdrawal of bids; cancellation of contract awards.

1. When a mistake is discovered before bid opening, the bidder may modify or withdraw the bid by written or electronic notice received by the Procurement Officer prior to the time set for bid opening.

2. When a mistake in a bid is discovered after bid opening, but prior to contract award, the bid:

   a. May be corrected if the mistake made and the intended bid price can be determined solely from the bid documents submitted, and the Procurement Officer determines that the mistake was inadvertent and unintentional; or

   b. May be withdrawn by the bidder if the bid was submitted in good faith and the bid price is substantially lower than other bids due solely to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid and the unintentional arithmetic error or unintentional omission can clearly be shown by objective evidence drawn from an inspection of the original work papers, documents, and materials used in the preparation and submission of the bid.

3. When an error is discovered in the successful bid after the contract award and the conditions of Subsection 6.08.140.H.2.a. or 6.08.140.H.2.b. of this section are satisfied, the bid may be corrected or withdrawn, respectively, and the contract award amended or rescinded as appropriate, provided that no bid correction or contract award modification shall be permitted that would cause the contract price to exceed the next lowest bid.

4. A bid may not be withdrawn or a contract award cancelled when the result would be prejudicial to the interests of the City or fair competition.

5. If a bid is withdrawn or a contract award cancelled under the authority of this section, the lowest remaining bid from a responsive and responsible bidder shall be deemed to be the low bid.

6. Nothing in this section shall prevent the City from rejecting all bids or cancelling an invitation for bids if deemed to be in the interests of the City or fair competition.

7. A decision to permit the correction or withdrawal of a bid or cancellation of a contract award based upon bid mistakes shall be supported by a written determination made by the Procurement Officer.

I. Subject to the provisions set forth in this section, contracts shall be awarded to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

1. When the terms and conditions of the invitation for bids provide that multiple contract awards may be made, contract awards may be made to more than one bidder.

2. If the bid from the lowest responsive and responsible bidder exceeds available appropriations or is deemed excessive in the judgment of the Procurement Officer, the Procurement Officer may, in consultation with the using department, negotiate with that bidder to obtain an acceptable contract price. If the negotiations are unsuccessful, the Procurement Officer may enter into negotiations with the next lowest responsive and responsible bidder or reject all bids.

3. When the contract is not awarded to the lowest responsive and responsible bidder, the Procurement Officer shall prepare and maintain in the contract file a written statement of the reasons for awarding the contract to another bidder.

J. In the case of a tie bid for the lowest responsive and responsible bid, the Procurement Officer may negotiate with the tie bidders to obtain best and final offers from each bidder. The Procurement Officer may make the contract award to the lowest responsive and responsible bidder based on the best and final offers. The City may also reject all bids and rebid the contract.

K. When it is considered impracticable to initially prepare a purchase description to support a contract award, a request for

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expressions of interest may first be issued in accordance with Section 6.08.130.

L. The City may use multi-step sealed bidding when the City wishes to prequalify all offerors who will be permitted to respond to a subsequent solicitation. Prequalification of an offeror may not constitute a conclusive determination that an offeror is responsible, and the offeror may be rejected as non-responsible at any time on the basis of subsequently discovered information.

M. If only a single bid is received and the price is not acceptable to the City, the City may either negotiate with the bidder for a more acceptable price or reject the bid. If the bid is rejected, the City may cancel the invitation for bids, re-solicit for bids, or use any other solicitation method reasonably designed to obtain the best price.

6.08.120 Formal solicitation-Competitive sealed proposals.

A. Formal contracts may be awarded by competitive sealed proposals when the Procurement Officer, in consultation with the using department, determines that competitive sealed bidding is either not practicable or not advantageous to the City.

B. The Procurement Officer shall issue a request for proposals indicating in general terms that which is sought to be procured and the applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.

C. Public notice of the request for proposals shall be given in the manner provided in Section 6.08.110.C.

D. There shall be no public opening of proposals, and a proposal may not be handled so as to permit disclosure of the contents of any proposal to competing proposers, except for the identity of the proposer, during the evaluation process. The proposals shall be open for public inspection after contract execution, except for information identified by the proposer as confidential or proprietary information and determined by the ~~Finance~~ Director or the Procurement Officer to be confidential or proprietary information.

E. Proposals received after the date and time specified in the request for proposals may not be accepted.

F. If provided for in the request for proposals, the Procurement Officer, the using department, or both may conduct discussions with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for contract award. The purpose of the discussions is for clarification so as to ensure full understanding and accuracy of responses to the requirements in the request for proposals. Proposers shall then be afforded an opportunity to revise their proposals prior to contract award for the purpose of the City obtaining best and final proposals. In conducting discussions, the City may not disclose any information derived from proposals submitted by competing proposers.

G. The Procurement Officer in consultation with the using department shall evaluate the final proposals based on criteria contained in the Request for Proposal on a best value basis and shall rank in order of preference the most qualified proposers. The Procurement Officer may request best and final offers from one or more proposers and may negotiate contracts with the highest ranked proposer or proposers. The contract shall be awarded to the highest ranked proposer with whom a satisfactory contract has been negotiated. If a contract satisfactory to the City cannot be reached, negotiations may be terminated, and the solicitation process may start over. If at any time during the process the Procurement Officer determines in writing that only one proposer is fully qualified or that one proposer is more highly qualified than the others under consideration, the Procurement Officer may negotiate and award a contract to that proposer.

H. Multiple contract awards may be made under a single request for proposals if the request for proposals provides for multiple contract awards.

6.08.130 Formal solicitation-Selection based on qualifications.

A. Formal contracts may be awarded through qualifications-based selection when the Procurement Officer, in consultation with the using department, determines that competitive sealed bidding or competitive sealed proposals are either not practicable or not advantageous to the City. This competitive selection may be used for projects that are not well defined and need flexibility and adaptability to establish the scope of work, are of an unusual nature, or are exceptionally complex.

B. The Procurement Officer shall issue a request for statements of qualifications indicating in general terms a preliminary scope of work and the applicable contractual terms and conditions, including any unique capabilities or qualifications that will be

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required of the contractor.

C. Public notice of the request for statements of qualifications shall be given in the manner provided in Section 6.08.110.C.

D. There shall be no public opening of statement of qualifications proposals, and a proposal may not be handled so as to permit disclosure of the contents of any proposal to competing proposers, except for the identity of the proposer, during the evaluation process. The proposals shall be open for public inspection after contract execution, except for information identified by the proposer as confidential or proprietary information and determined by the ~~Finance~~ Director or the Procurement Officer to be confidential or proprietary information.

E. Proposals received after the date and time specified in the request for proposals may not be accepted.

F. If provided for in the request for statement of qualifications proposals, the Procurement Officer, the using department, or both may conduct discussions with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for contract award. The purpose of the discussions is for clarification so as to ensure full understanding and accuracy of responses to the requirements in the request for proposals. Proposers shall then be afforded an opportunity to revise their proposals prior to contract award for the purpose of the City obtaining best and final proposals. In conducting discussions, the City may not disclose any information derived from proposals submitted by competing proposers.

G. The Procurement Officer in consultation with the using department shall evaluate the final proposals based on criteria contained in the request for statement of qualifications and shall rank in order of preference the most qualified proposers. The Procurement Officer may request best and final offers from one or more proposers and may negotiate contracts with the highest ranked proposer or proposers. The contract shall be awarded to the highest ranked proposer with whom a satisfactory contract has been negotiated. If a contract satisfactory to the City cannot be reached, negotiations may be terminated, and the solicitation process may start over. If at any time during the process the Procurement Officer determines in writing that only one proposer is fully qualified or that one proposer is more highly qualified than the others under consideration, the Procurement Officer may negotiate and award a contract to that proposer.

H. Multiple contract awards may be made under a single request for proposals if the request for proposals provides for multiple contract awards.

6.08.150 Small procurements.

A. A procurement that is less than twenty-five thousand dollars may be made in accordance with small procurement procedures established by the Procurement Officer and approved by the ~~Finance~~ Director without soliciting competitive sealed bids or competitive sealed proposals. The small procurement procedures shall require the Procurement Officer to ensure that requests for quotes or offers are made to no fewer than three businesses that can meet the City's needs based on a best value basis.

B. The award of a small procurement shall be made to the lowest responsible and responsive business meeting the City's needs. The Procurement Officer shall maintain a record in the contract file of the businesses asked to provide quotes and the names of the businesses who responded to the request, including the date and amount of each quote.

6.08.190 Non-competitive procurement.

A. A contract of any value may be awarded without competitive procurement when the Procurement Officer determines based on a good faith review of available sources that:

1. There is only one source practicably available for the required goods, services, insurance, or construction that can meets the City's needs. The basis for identifying a sole source includes:

   a. Proprietary, patented, or copyrighted items or information available from only one source;
   b. The valid performance or delivery due dates required by the City can be met by only one source;
   c. The required compatibility of equipment, accessories, software, or replacement parts can be met by only one source, the availability of used machinery or equipment is limited, or a delay in procurement would be detrimental to the City;
   d. The City requires for trial use or testing an item or service available from only one source; or
   e. A continuous series of procurements from a single source over a period of time is advantageous as demonstrated by a cost benefit analysis from the using department showing that considerations of training, replacement parts, and compatibility with existing capital investments justify the use of a sole source.

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2. An emergency procurement is permissible in accordance with Section 11.48.070 of this Code;

3. A contractor has been specifically identified in a grant accepted by the City; or

4. The time required to comply with procurement would not otherwise benefit the public good, provided that any procurement shall be limited to only those goods or services necessary to meet the applicable situation, shall conform to the procurement requirements to the extent practicable under the circumstances, and shall be documented for the purpose and basis.

B. The Procurement Officer shall maintain a record of non-competitive procurements that lists each contractor's name, the amount and type of each contract, a listing of the item procured under each contract, and the reasons justifying the non-competitive procurement.

C. The Procurement Officer shall submit to the ~~Finance~~ Director an annual report of all non-competitive procurement contracts.

6.08.240 Responsibility of offerors.

A. A contract may not be awarded to an offeror that is not responsible. The Procurement Officer shall make a determination as to the capability of the offeror to fully perform the contract requirements in all respects. When a competitive procurement is used, the Procurement Officer's determination of non-responsibility shall be made in writing.

B. The Procurement Officer shall consider any factors that the Procurement Officer deems relevant to determining whether an offeror is responsible and shall also consider the following factors:

1. Price and other criteria set forth in the solicitation;

2. The ability, capacity, organization, facilities, skill, and financial resources of the offeror to perform the contract or provide the services required within the time specified without delay, interruption, or interference;

3. The character, integrity, reputation, judgment, experience, and efficiency of the offeror;

4. The quality of performance of previous contracts or services for the City or other businesses and past unsatisfactory performance for any reason is sufficient to justify a finding of non-responsibility;

5. The offeror's previous and existing compliance with laws and ordinances relating to a contract or services;

6. The offeror's sufficiency of financial resources to perform the contract or provide the services;

7. The offeror's ability to provide any required future maintenance and services;

8. The certification of an appropriate accounting system, if required by the type of services to be provided under the contract;

9. Bid security and the ability of the offeror to furnish a performance security;

10. The ability of offeror to furnish sufficient insurance;

11. The offeror's status and standing with the Maryland State Department of Assessments and Taxation; and

12. Past debarment by the City or another public entity.

C. An offeror is deemed to be non-responsible if the offeror has been disbarred by a public entity or is in default on payment of taxes, licenses, fees, fines, or other monies due the City for whatever reason.

D. The Procurement Officer may find an offeror non-responsible if the offeror fails to provide in a timely manner information requested by the Procurement Officer in connection with an inquiry relating to responsibility.

E. Confidential or proprietary information furnished by an offeror pursuant to this section may not be made public without the prior written consent of the offeror or as otherwise required by law. The offeror shall indicate on a document if the offeror believes that document contains confidential or proprietary information. The Procurement Officer or ~~Finance~~ Director shall determine whether he or she concurs that the document contains confidential or proprietary information. If the Procurement Officer or ~~Finance~~ Director does not concur that the identified information is confidential or proprietary, the City shall provide the offeror with reasonable notice and a reasonable opportunity to request a court to prevent its release.

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6.08.270 Standard contract provisions.

A. Contracts shall include standard provisions that may be authorized or required by law or by a procedure or policy or purchasing manual approved by ~~Finance~~ Director.

B. Certain transactions, at the discretion of the City Manager, may require the use of electronic signatures. For such transactions, the City shall request that the other party to the transaction agree to all terms and conditions presented in any document or agreement for proper use and acceptance of the electronic signatures by any and all parties. Said electronic signatures by the parties shall be as legally binding as a handwritten signature.

6.08.330 Protest and appeal procedures.

A. An offeror shall file a written protest of contract award with the Procurement Officer not later than three business days after the release of the Notice of Award. A protest based on alleged improprieties in the solicitation that are apparent either before the offer opening or before the closing date for receipt of initial offers shall be filed not later than three business days before the opening date. Oral objections are not protests.

B. An offeror shall file a written protest of offer rejection with the Procurement Officer not later than three business days from the date of its rejection. Oral objections are not protests.

C. In order to be considered by the Procurement Officer, all written protests shall include the following:

1. Name and address of protestor.
2. Solicitation number.
3. Reasons for protest.
4. Supporting exhibits, evidence, or documents to support protest.

D. For offers of ten thousand dollars or more, there will be a "Protest Filing Fee" of five hundred dollars. For offers under ten thousand dollars, there will be a "Protest Filing Fee" of one hundred dollars. This fee may be refunded at the sole discretion of the Procurement Officer.

E. The Procurement Officer will review the offeror's protest and provide a written response to the offeror by certified mail not more than ten business days of receipt of protest.

F. The offeror may appeal the decision by the Procurement Officer to the ~~Finance~~ Director. The offeror shall file a written appeal not later than three business days from receipt of the Procurement Officer's response. Oral objections are not appeals. The appeal must comply with subsection (c) of this section, but may include any additional documentation as deemed necessary and appropriate by the offeror.

G. The ~~Finance~~ Director will review the offeror's appeal and provide a written response to the offeror by certified mail not more than fifteen business days of receipt of appeal to the ~~Finance~~ Director.

H. The offeror may appeal the decision by the ~~Finance~~ Director to the City Manager. The offeror shall file a written appeal with the City Manager not later than three business days from the receipt of the Director's response. Oral objections are not appeals. The appeal must comply with subsection (c) of this section, but may include any additional documentation as deemed necessary and appropriate by the offeror.

I. The City Manager or the City Manager's duly authorized designee shall review the offeror's appeal and provide a written response to the offeror by certified mail not more than twenty business days of receipt of appeal to the City Manager.

J. The written decision of the City Manager or the City Manager's duly authorized designee is final and binding.

K. If a timely protest or appeal of a contract award occurs as described in this section, the applicable contract shall not be executed until the review process is completed and a final decision is rendered or until a determination is made by the ~~Finance~~ Director that a contract award is required to protect the interests of the City. The Procurement Officer shall notify all affected offerors promptly in the event that a protest or appeal has been filed.

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6.08.360 Authority to debar or suspend contractors.

A. After reasonable notice to the business involved and a reasonable opportunity for the business to be heard, the Procurement Officer, after consulting with the City Attorney, is authorized to debar a business for cause from consideration for award of contracts. The debarment shall be for a period of not more than two years. During the pendency of a debarment proceeding, a contractor may be suspended from receiving a contract award for a period not to exceed six months.

B. The causes for debarment and temporary suspension include:

1. Conviction for the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of a contract or subcontract;

2. Conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity;

3. Conviction under State or Federal antitrust statutes arising out of the submission of offers;

4. Violation of contract provisions so serious as to justify a debarment action, including:

   a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

   b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, except that a failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered as a basis for debarment.

5. Any other cause determined to be so serious and compelling as to affect responsibility as a City contractor, including debarment by another public entity for any cause listed in this chapter; and

6. Violation of Chapter 2.08 of this Code or any provision of this chapter.

C. The Procurement Officer shall issue a detailed written decision to debar that shall be sent by certified mail to the debarred or suspended business.

D. A decision of the Procurement Officer to debar a contractor may be appealed in accordance with the same procedures and deadlines for a contract award or offer rejection as described in Section 6.08.320.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect upon passage

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