

ORDINANCE NO. 1304

AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA, AMENDING DAVENPORT CITY CODE, CHAPTER 2, ADMINISTRATION, ARTICLE IV, FINANCE; SECTION 2-132, PROCUREMENT AND PURCHASE OF SERVICES, MATERIALS, GOODS AND EQUIPMENT TO INCREASE STAFF AUTHORIZATION AND BUDGETED EXPENDITURE AMOUNTS; PROVIDING FOR ADDITIONAL POLICY IMPLEMENTATION REGARDING CHANGES TO INFORMAL PURCHASES, VERBAL AND WRITTEN QUOTES, INVITATION TO BID, REQUEST FOR PROPOSALS AND QUALIFICATIONS.

WHEREAS, on February 27, 2017, the city commission of the City of Davenport adopted Ordinance number 807 which amended the amounts, provisions and procedures concerning the operations of Davenport City Code, Chapter 2, Administration, Article IV, Finance; and

WHEREAS, it has become evident through City staff that changes to the procedures and the financial amounts authorized for the procurement and purchasing of services, materials, goods and equipment require revision to facilitate better convenience and efficiency; and

WHEREAS, the City Commission agrees that changes need to be implemented as expressed herein, that current fiscal amounts require revision, and procedures need to be regulated by internal policies; and

NOW, THEREFORE, BE IT ENACTED by the City Commission of the City of Davenport, Florida, as follows:

SECTION 1. Recitals Incorporated.

The above recitals are true and correct and are incorporated herein.

SECTION 2. Amendment of Davenport City Code, Chapter 2, Administration, Article IV, Finance, Section 2-132, Procurement and Purchase of Services, Materials, Goods and Equipment,

Davenport City Code, Chapter 2, Administration, Article IV, Finance, Section 2-132, Procurement and purchase of services, materials, goods, and equipment, is hereby amended to read as follows:

- (a) *Title and purpose of policy.* This section shall hereinafter be known and referred to as the "City of Davenport Purchasing Policy". The purpose of this policy is to establish procedures to ensure that the city purchases goods and/or services in the most efficient and economical manner possible in accordance with this section,

section 2-130, City Manager as purchasing and contracting officer, and all other applicable federal, state and local laws. The purchasing method limits and purchasing approval limits will be reviewed regularly by the city manager and any modification shall be adopted by resolution of the city commission.

- (b) *Scope of policy.* This policy shall apply to all purchases of goods and services by the city.
- (c) *Ethics.* The acceptance of gifts at any time, other than advertising novelties, is prohibited. Employees must not become obligated to any suppliers and shall not conclude any city transactions from which they may personally benefit.

No commission member or employee shall seek to influence the purchase of a product or service from any potential vendor. This restriction shall not be construed to restrict persons from evaluating and appraising the quality and value of the product to be purchased or service to be rendered where the person's scope of employment contemplates advice and counsel with respect to the purchase. No commission member or employee shall receive benefit from any prospective bidder. The avoidance of actual or perceived conflicts of interest is a prime requisite to the efficient and sound operation of the city and maintenance of the public trust.

- (d) *Minority businesses.* Minority businesses shall be ensured to have an equitable opportunity to participate in the city's procurement process.
- (e) *Purchasing methods.*

- (1) *Informal purchasing.* Informal purchasing may be used for the purchase of goods and/or services costing less than five thousand dollars (\$5,000.00). While quotes and bids are not necessary with items costing less than five thousand dollars (\$5,000.00), every effort should be made to ensure goods and/or services are being purchased in the most efficient and cost effective manner possible.

Following purchase approval, only designated employees in each department shall be authorized to actually purchase the commodity. Employees are required to immediately turn in the purchase receipt to his or her direct supervisor.

- (2) *Verbal quotes.* Three (3) verbal quotes or more are necessary to be received by the city in respect to purchases of goods and/or services costing at least five thousand dollars (\$5,000.00), but less than twenty thousand dollars (\$20,000.00). If three (3) quotes are not possible, a written explanation detailing the reason why shall be included in the vendor payment supporting documentation.

Vendor selection and award shall be based on qualification of the vendor, acceptability of the product, delivery time, inventories, and past performance. If service is to be performed on city property, the selected vendor must provide proof of insurance, name the city as an additional insured and submit all other required documentation.

- (3) *Written quotes.* Three (3) written quotes or more are necessary to be received by the city in respect to purchases of goods and/or services costing at least twenty thousand dollars (\$20,000.00), but less than fifty thousand dollars (\$50,000.00). If three (3) quotes are not possible, a written explanation detailing the reason why shall be included in the vendor payment supporting documentation.

Vendor selection and award shall be based on qualification of the vendor, acceptability of the product, delivery time, inventories, past performance, degree of compliance with requirements, price and other circumstances that will encourage delivery of the best products and services for the money expended.

- (4) *Invitation to bid.* The invitation to bid (ITB) method is acceptable for purchases of goods and/or services costing at least fifty thousand dollars (\$50,000.00). This method is typically used when the city is capable of specifically establishing precise specifications defining the actual commodity or contractual service.

Responses to an ITB shall be received in a sealed bid format and opened and read aloud at a specific date, time and location. All ITB's shall be administered by the city manager or his or her designee.

- (5) *Request for proposal.* The request for proposals (RFP) method is acceptable for the purchase of goods and/or services costing at least fifty thousand dollars (\$50,000.00). This method is used when the City cannot specifically define the scope of work for which the goods and/or service is required for. The vendor provides detailed information in response to the RFP and usually the purchase results in the drafting of a contractual agreement. The process does not allow for negotiation in the scope of requested services, price and delivery.

Responses to RFP's shall be received in a sealed bid format and opened and read aloud at a specific date, time and location. All RFP's shall be administered by the city manager or his or her designee.

- (6) *Request for qualifications.* The request for qualifications (RFQ) method is used in the acquisition of professional services costing at least fifty thousand dollars (\$50,000.00). RFQ proposals primarily indicate information regarding the education and experience background of the proposer. Price is not to be indicated in the proposal. If the RFQ is for professional architectural, engineering, landscaping architectural or surveying and mapping services, then the provisions of Chapter 287.055, Florida Statutes shall apply. Section 287.055 is short-titled as the "Consultants Competitive Negotiation Act" (CCNA).

Responses to RFQ's shall be received in a sealed bid format and opened and read aloud at a specific date, time and location. All RFQ's shall be administered by the city manager or his or her designee.

- (7) *Other governmental agencies purchasing contracts.* Competitive selection procedures are waived in the event that the desired goods and/or services may

be purchased pursuant to purchase contracts of other governmental agencies to include any political subdivision of the State of Florida or the United States, the United States Federal Services Administration, or cooperative purchasing consisting of a combination of these, when such contracts are the result of a competitive bidding process.

- (8) *Sole source purchasing.* Competitive selection procedures are waived when it is determined and substantiated in writing, after conducting a good faith review of available sources, that there is only one (1) source for goods and/or services based upon performance criteria established by the city. Price and terms shall be negotiated and a record of sole source procurement shall be maintained as a public record. A written justification of the sole source purchase must be approved by the city manager and accompany the invoice for payment.
 - (9) *Emergency purchases.* Competitive selection procedures are waived when the normal functioning and operation of the city would be jeopardized or where the public safety and welfare are endangered through unexpected circumstances by adhering to the usual purchasing procedures.
 - (10) *Direct negotiation.* Competitive selection procedures are waived when it is determined by the city manager and approved by the city commission that it is neither practical, feasible nor advantageous for the city to conduct competitive sealed bidding or competitive sealed proposal procedures. Purchases may be made by direct negotiation in the open market and without strictly observing the procedures prescribed in this policy, except as related to purchasing approvals.
- (f) *Response rejections.* In all of the above stated purchasing methods, the city has the authority to reject any or all responses after the solicitation due date when it has been determined that the particular response(s) is/are nonresponsive or an award recommendation is not in the best interest of the city. In the event that there is a selection committee established to review the responses, the selection committee must authorize the rejection of any or all responses.
 - (g) *Advertisement requirements.* Advertisement of formal solicitations such as invitation to bids, request for proposals and request for qualifications shall be advertised in newspapers of general circulation and other appropriate publications. The solicitation shall be advertised once on its release date. Other notification sources may be used in addition to this requirement to reach selected markets. The city may also advertise the solicitation via the city's website, e-mail or other methods as deemed appropriate by the city.

Formal solicitations for construction projects that are projected to cost more than two hundred thousand dollars (\$200,000.00) must be advertised a least twenty-one (21) days prior to the established bid opening and at least five (5) days prior to any scheduled pre-bid meeting. If the project costs are estimated to exceed five hundred thousand dollars (\$500,000.00), the solicitation for such must be advertised at least thirty (30) days prior to the opening and at least five (5) days prior to any scheduled pre-bid meeting. See F.S. § 255.0525.

(h) *Purchasing approval limits.* The approval limits for the purchase of goods and/or services are as follows:

Purchase amount	Approval
Less than \$5,000	Supervisor
\$5,000—\$19,999.99	Department head
\$20,000—\$49,999.99	City manager
\$50,000 or more	City commission

- (i) *Change order approval.* To avoid delay in the progress of any project, the City Manager may approve, without further commission action, change orders to an existing contract provided the change orders do not increase the contract price by more than ten (10) percent, not to exceed fifty thousand dollars (\$20,000.00).
- (j) *Appeal procedures.* Any actual bidder or proposer may only appeal any determination, decision or recommendation for the city's authorized purchaser, in accordance herewith. All appeals must be in writing and sent via certified mail or delivered in person to the city manager within three (3) business days of issuance of such determination, decision or recommendation. The city manager shall administer the appeal and shall render a decision within seven (7) business days of receiving the appeal. All appeals must set forth the specific reason and facts concerning the dispute. Any appeal based exclusively on disagreement with the technical judgment of evaluators is subject to summary rejection unless there is clear and convincing evidence of arbitrary or capricious action in that regard. In the event of a timely appeal, the city shall not proceed further with the solicitation or with the award of the bid/contract unless the city manager, after consultation with the director of the relevant department(s) or division(s), forwards to the city commission a written request to award the bid/contract without delay in order to protect the public health, safety or general welfare, and the city commission approves said request.
- (k) *Disposal of surplus.* The department director may request items to be declared surplus by the city commission. Items that have been declared surplus by the city commission may be disposed of in accordance with Florida Statutes.
- (l) *Operating procedures.* The city manager is authorized to approve specific operating procedures for the purchasing function of the city to implement this policy.
- (m) *Exemptions.*
 - (1) The following commodities and contractual services shall not be procured subject to this policy:
 - a. Appraisal services.
 - b. Catering/food.
 - c. Collective bargaining agreements.
 - d. Dues.
 - e. Employee screening services, including medical.

- f. Entertainment.
 - g. Financial services.
 - h. Freelance services.
 - i. Land purchases.
 - j. Legal advertising.
 - k. Legal services.
 - l. Postage/shipping.
 - m. Temporary employment contracts.
 - n. Travel/training.
 - o. Utilities.
 - p. Veterinarian services.
 - q. Bulk fuels (gasoline/diesel).
- (2) Professional auditing services shall be procured in accordance with the requirements of F.S. § 218.391.
- (3) Group insurance for employees and public officers shall be procured in accordance with the requirements of F.S. § 112.08.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

INTRODUCED, PASSED AND DULY ADOPTED ON FIRST READING by the City Commission of the City of Davenport, Florida, meeting in Regular Session this 19th day of August 2024.

CITY COMMISSION
OF DAVENPORT, FLORIDA

By: _____
Brynn Summerlin, Mayor

ATTEST:

By: _____
Raquel Castillo, City Clerk

INTRODUCED, PASSED AND DULY ADOPTED ON SECOND READING by the City Commission of the City of Davenport, Florida, meeting in Regular Session this 5th day of September 2024.

CITY COMMISSION
OF DAVENPORT, FLORIDA

By: _____
Brynn Summerlin, Mayor

ATTEST:

By: _____
Raquel Castillo, City Clerk

APPROVED AS TO FORM AND CONTENT

By: _____
Tom Cloud, City Attorney



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City of Davenport's website by the time notice of the proposed ordinance is published.

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This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City of Davenport is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City of Davenport is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:

¹ See Section 166.041(4)(c), Florida Statutes.

- a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City of Davenport hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

This ordinance modifies the existing Purchasing Policy thresholds.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Davenport, if any:
 - (a) An estimate of direct compliance costs that businesses may reasonably incur;
 - (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
 - (c) An estimate of the City of Davenport's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

The ordinance will have no direct negative economic impact nor will incur additional costs on private, for-profit businesses in the city.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: *Zero (0)*

4. Additional information the governing body deems useful (if any):

City solicited comments from businesses and residents in the City of Davenport as to the potential impact of the proposed ordinance by advertisement, public workshop, etc.

The proposed ordinance does not affect residents or businesses.