

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	January 16, 2024
Action Required:	Amendments to City Code Chapter 22, Sec. 22-4
Presenter:	Jacob Stroman, City Attorney, April Wimberley, Assistant City Attorney
Staff Contacts:	Vernice Grooms, Procurement Manager
Title:	Ordinance to amend the procurement provisions of the City Code to achieve consistency with the Virginia Code

Background

Chapter 22, section 22-4 of the City Code authorizes various methods of procuring goods and services for the City. These methods are derived from the Virginia Public Procurement Act, which is amended from time to time by the General Assembly. The proposed ordinance would amend the City Code to become consistent with changes to the state law. Specifically, the proposed changes to the City Code would permit some goods and services to be procured through competitive negotiation, rather than competitive sealed bidding, without a prior written determination regarding the impracticability or fiscal disadvantage of using the sealed bidding process. The proposed changes would also remove certain limitations to the use of cooperative procurement for construction contracts and permit the use of cooperative procurement for certain kinds of contracts. Finally, the proposed changes would make certain small changes for clarity and readability.

Discussion

The General Assembly amended the Virginia Public Procurement Act to provide more flexibility to localities and to promote efficiency in public procurement. To this end, Virginia Code sec. 2.2-4303 was amended to permit competitive negotiation, rather than competitive sealed bidding, for certain kinds of contracts without a prior written determination regarding the impracticability or fiscal disadvantage of using the sealed bidding process. This applies to contracts for goods and nonprofessional services. In addition, the Virginia Code was amended to remove restrictions regarding the use of cooperative procurement for construction contracts. Previously, a locality could use cooperative procurement for a construction contract of more than \$200,000 only if the partner locality (whose contract was being referenced) was within 75 miles of the territorial limits of the locality seeking to procure construction services. That restriction has been eliminated. The Virginia Code was also changed to clarify that "construction" for purposes of cooperative procurement does not include contracts for the installation of artificial turf and track surfaces, stream restoration, stormwater management practices, or the installation of playground equipment. The proposed changes to the City Code would render the City's procurement rules consistent with state law as to those matters.

In addition, the proposed changes would clarify that, for the procurement of insurance through a licensed agent or broker, rather than through competitive sealed bidding or competitive negotiation, City Council must make a written determination that competitive negotiation is not practicable or fiscally advantageous. This would align the City Code with the requirements of state law.

The proposed changes would also add the Metropolitan Washington Council of Governments and the Virginia

Sheriff's Association to the list of public bodies and agencies with which the City may engage in cooperative procurement, aligning with changes to the Virginia Code.

Finally, various proposed edits would promote clarity and readability.

Our clients support these proposed changes to streamline procurement procedures, align with recent changes to state law, and promote clarity and consistency.

Alignment with City Council's Vision and Strategic Plan

Procurement practices touch every substantive area of the City's work. To the extent the practices can be made more flexible, efficient, and clear, all of City Council's strategic outcome areas will be positively impacted.

Community Engagement

Not applicable.

Budgetary Impact

There is little to no budgetary cost to implement the proposed changes; over the long-term, the improved procurement practices may yield savings from decreased bureaucratic burden and increased efficiency.

Recommendation

It is recommended that City Council adopt the ordinance with the proposed amendments to the City Code.

Suggested: "I move to approve the ORDINANCE to amend and reenact City Code Section 22-4."

Alternatives

City Council may choose not to adopt the proposed amendments, or to adopt some but not all of them.

Attachments

1. Proposed ORD to amend and reenact 22-4.Final