

**CITY OF HYATTSVILLE
ORDINANCE 2024-01**

**An Ordinance whereby the City Council amends the City Code
in order to modernize and codify the City’s contracting and
procurement policies.**

WHEREAS, the Maryland Code, Local Government Article, Section 5–202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality’s rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality;

WHEREAS, Section C3-1 of the City Charter states that the Council has the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland as it may deem necessary for the good government of the City, for the protection and preservation of the City’s property, rights, and privileges, for the preservation of peace and good order, for securing persons and property from violence, danger or destruction, and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors in the City;

WHEREAS, Section C5-21 of the City Charter empowers the City Council to establish, by ordinance, rules and regulations regarding purchases and contracts for the City;

WHEREAS, the City’s procurement standards have not been updated in years, refer to former versions of the Annotated Code of Maryland, and the threshold dollar amounts that trigger more stringent and time-consuming source selection procedures set forth therein, are outdated and have not kept pace with inflation; and

WHEREAS, the Mayor and Council, have determined that modernization of the City’s procurement provisions are necessary to improve the efficiency of the City’s procurement of goods and services and the City’s ability to make more timely purchases.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Hyattsville in regular session assembled that Chapter 6 of the City Code be enacted as follows:

Chapter 6 Procurement

Article I. General Provisions.

§ 6-1 Purpose.

§ 6-2 Scope.

§ 6-3 Administration.

§ 6-4 Definitions.

§ 6-5 Expenditure of City Funds.

§ 6-6 Powers and Duties of City Council, City Administrator and Treasurer.

Article II. Contract Formation and Record Retention.

§ 6-7 Written contracts and authorization authority.

§ 6-8 Contract modifications, change orders, and price adjustments.

§ 6-9 Voidable contracts.

§ 6-10 Multi-term contracts.

§ 6-11 Indefinite quantities contracts.

§ 6-12 Validity of claims.

§ 6-13 Records of procurement actions and reporting requirements.

Article III. Competitive Bidding.

§ 6-14 Competitive sealed bidding and requests for proposals.

§ 6-15 City may accept or reject any proposal.

§ 6-16 Bid bonds and other sureties.

§ 6-17 Correction or withdrawal of bids.

§ 6-18 Bid acceptance and bid evaluation.

§ 6-19 Bid rejection.

§ 6-20 Bid award.

§ 6-21 Cancellation of award.

§ 6-22 Award to other than low bidder.

§ 6-23 Prohibition against subversion of this Chapter.

§ 6-24 Contract coordination.

§ 6-25 Authority to execute contracts.

§ 6-26 Change orders.

§ 6-27 Cancellation of invitations for bids or requests for proposals.

§ 6-28 Bid protests.

§ 6-29 Types of procurement exempt from competitive bidding.

§ 6-30 Procedure for procurements exempt from competitive bidding.

§ 6-31 Extension.

§ 6-32 Purchase orders.

§ 6-33 Petty case expenditures.

Article IV. Disposition of Equipment and Goods.

1 § 6-34 Generally.

2 § 6-35 Method of sale.

3 § 6-36 Worthless items.

4
5 **Article I General Provisions.**

6
7 **§ 6-1 Purpose.**

8 The purpose of this Chapter is to provide for an efficient, equitable, transparent and cost-effective
9 system of public procurement that ensures the purchasing value of public funds is maximized while
10 also meeting the Council's goals, including those for environmental sustainability and equity.

11
12 **§ 6-2 Scope.**

13 These provisions apply to every disposition for value or expenditure of public funds by the City
14 for public purchasing irrespective of its source. When the procurement or disposition involves
15 Federal, State or County assistance or contract funds or is subject to Federal, State or County laws
16 or regulations, the procurement or disposition shall be conducted in accordance with any
17 applicable mandatory Federal, State or County laws and regulations which are not reflected in this
18 Chapter. Nothing in these provisions shall be construed as prohibiting or limiting the City's right
19 to employ its own personnel for the construction or reconstruction of public improvements or any
20 other purpose without advertising for or receiving bids or proposals.

21
22 **§ 6-3 Administration.**

23 The City Administrator and the City Treasurer shall have the authority to adopt and enforce rules
24 and regulations, to promote the efficiency of operations and compliance with the provisions of this
25 Chapter.

26
27 **§ 6-4 Definitions.**

28 The following terms shall have the following meanings when used in this section:

29
30 "Bid" means an offer, in writing, to furnish goods or services in conformity with the specifications,
31 delivery terms and conditions or other requirements included in the invitation for bids or an offer
32 to purchase property pursuant to this Chapter.

33
34 "Competitive sealed bid" means a method of procurement in which a good, service or construction
35 item is defined in a list of specifications; the specifications are included in an invitation for bids;
36 the bids are received by a specified time in sealed envelopes; an award is made to the responsive
37 and responsible bidder providing the lowest bid.

38
39 "Competitive sealed proposal" means a method of procurement in which a good, services or
40 construction item is defined in a list of specifications; the specifications are included in a request
41 for proposals; proposals are received by a specified time in sealed envelopes; and an award is made
42 to the proposer most closely meeting specifications as determined by an evaluation that uses a set
43 of evaluation criteria. Cost is one criterion, among others, all of which may be assigned specific
44 weights.

1 “Contract” means all types of City agreements, including purchase orders, regardless of what they
2 may be called, for the procurement or disposal of goods, services or construction.

3
4 “Contractor” means any person or business having a contract with the City.

5
6 “Cooperative purchasing” means procurement conducted by or on behalf of more than one
7 governmental unit.

8
9 “Department director or manager” means one of the following: Deputy City Administrator,
10 Assistant City Administrator, City Clerk, Chief of Police, Director of Community Services and
11 Recreation, Director of Public Works, Treasurer, Director of Human Resources, or other director
12 or manager identified by the City Administrator.

13
14 “Emergency” means any condition or unforeseen curtailment, diminution or termination of an
15 essential service which poses an immediate danger or threat to the public health, safety or welfare.

16
17 “Formal contract” means a written contract for procurements equal to or exceeding \$30,000 in
18 value that must be signed by the City Administrator.

19
20 “Goods” means supplies, materials, equipment and all tangible property, except real property.

21
22 “Indefinite quantities contract” means a contract whereby the City agrees to purchase and the
23 contractor agrees to provide the goods or construction of a designated type or unit which the City
24 may require, without specifying the exact quantity in the contract.

25
26 “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized
27 for soliciting bids.

28
29 “Life cycle costs” means specific and quantifiable costs associated with an item over its useful
30 life, including costs of disposal, in addition to the purchase price.

31
32 “Local business” is an independently owned and operated individual, business, or organization
33 located within 150 miles of the City that provides locally supplied products and goods.

34
35 “Locally supplied” means products and goods made or supplied, or services provided, from an
36 independently owned and operated individual, business, or organization located within 150 miles
37 of the City.

38
39 “Minor irregularity” in bids or proposals is one which is merely a matter of form and not of
40 substance or pertains to some immaterial or inconsequential defect or variation in a bid or proposal
41 from the exact requirement of the solicitation, the correction or waiver of which would not be
42 prejudicial to other bidders or offerors; and the defect or variation in the bid or proposal is
43 immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is
44 trivial or negligible when contrasted with the total cost or scope of the procurement.

1 “Procurement” means buying, purchasing, renting, leasing or otherwise acquiring any goods,
2 services or construction. It also includes all functions that pertain to the obtaining of any good,
3 service or construction, including description of requirements, selection and solicitation of sources,
4 preparation and award of a contract and all phases of contract administration.

5
6 “Professional services” means personal services of members of a licensed or otherwise recognized
7 profession, including but not limited to accountants, architects, attorneys, auditors, engineers,
8 medical practitioners, surveyors and the like.

9
10 “Project manager” means a person appointed by the City Administrator or City Council to
11 coordinate and manage contracts or public improvement projects.

12
13 “Proposal” means an offer to supply goods or perform services or to purchase goods to be disposed
14 of in response to a request for proposals by the City where competitive sealed proposals or
15 negotiations will be used rather than the competitive sealed bid process.

16
17 “Public purchasing agent” means a person designated by the City Administrator to review the
18 procurement of all supplies, services, and public improvements. The Public Purchasing Agent shall
19 be the Treasurer unless a different person is so designated by the City Administrator.

20
21 “Purchasing card” means a commercial credit card or similar card or online system access issued
22 to designated employees by the Treasurer for small value purchases of goods and/or services
23 necessary for official city business.

24
25 “Request for proposals” means all documents, whether attached or incorporated by reference, used
26 for soliciting proposals.

27
28 “Responsible bidder or offeror” means a person or entity who has the capability in all respects to
29 perform fully the contract requirements and the experience, integrity, reliability, capacity,
30 facilities, equipment and credit which will assure good faith performance. Any person who is in
31 default on the payment of taxes, licenses or other moneys due the City shall not be deemed
32 “responsible.”

33
34 “Responsive bidder” means a person or entity who has submitted a bid which conforms in all
35 material aspects to the invitation for bids.

36
37 “Rider contract” means an agreement procuring goods or services in which a vendor provides the
38 same goods or services to the City at the same price and under the same material terms and
39 conditions of the underlying contract, excluding quantities, between the vendor or contractor and
40 another governmental entity, and may include contracts awarded through City participation in
41 programs established by cooperative purchasing organizations or purchasing associations.

42
43 “Specifications” means any description of the design or functional characteristics or of the nature
44 of a good, service or construction item. It may include a description of any requirement for
45 inspecting, testing or preparing a good, service or construction item.

1 **§ 6-5 Expenditure of City funds.**

2 No City funds shall be expended unless:

3
4 A. The expenditure is authorized in the budget ordinance for the current year, previously
5 approved by ordinance or an ordinance revising it.

6
7 B. The expenditure is made pursuant to a contract or purchase order signed in accordance with
8 this section.

9
10 C. The contract or purchase order pursuant to which the expenditure is made has been
11 approved by the Mayor and City Council or by the City Administrator as required by this section.

12
13 D. Unless otherwise indicated in this Chapter, the contract or purchase order must be signed
14 by the City Administrator or their designee.

15
16 **§ 6-6 Powers and Duties of City Council, City Administrator and Treasurer.**

17 A. The City Council shall approve all expenditures of \$50,000 or more if each such
18 expenditure is specifically authorized in the budget ordinance for the current year or an ordinance
19 revising it and the cost of the procurement is equal to or less than the budgeted amount.

20
21 B. If the project, goods or services are authorized in the budget ordinance but exceed the
22 budgeted amount, an action approving such expenditure may be taken by the City Council;
23 provided, however, that the City Treasurer has made a determination, in writing, that funds are
24 available to cover the cost of the procurement.

25
26 C. Nothing in subsection (A) of this section shall prohibit the City Council from approving
27 the purchase of items not included in the City budget, upon receipt of a written justification and a
28 written determination by the City Treasurer that funds are available for the purchase.

29
30 D. The City Administrator shall:

31
32 1. Approve all City expenditures for goods or services which are not required to be
33 approved by the City Council, whether made pursuant to contract, purchase order, or other means;

34
35 2. Be responsible for the administration of a centralized system of purchasing and
36 procurement of goods and services for the City and for effectuating the provisions of this Chapter;
37 and

38 3. Establish such rules and regulations as they may deem necessary in order to carry
39 out the provisions of this Chapter.

40
41 E. The City Administrator may delegate in writing their powers and duties under this section
42 to a designated City employee.

43
44 F. The City Administrator shall have the authority to enter into contracts on behalf of the City
45 for the purchase of goods and services once such purchases have been duly authorized in
46 accordance with this section and cooperative purchasing agreements as authorized in this section.

Article II. Contract Formation and Record Retention.

§ 6-7 Written contracts and authorization authority.

- A. In order to be valid, a contract with the City of Hyattsville must be in writing.
- B. All contracts requiring an expenditure of \$50,000 or more in City funds require a formal contract and shall be authorized by the City Council.
- C. All contracts requiring an expenditure of \$30,000 or more and less than \$50,000 in City funds require a formal contract and shall be authorized by the City Administrator.
- D. All contracts requiring an expenditure of less than \$30,000 shall be authorized in writing by the City Administrator or their designee.
- D. The City Administrator may delegate in writing the authority to award contracts for less than \$30,000.

§ 6-8 Contract modifications, change orders, and price adjustments.

- A. The following contract changes (including contract modifications, change orders, and price adjustments) must be approved by action of the City Council.
1. Changes to any contract not originally awarded by the City Council when the cumulative value of the original contract and all changes to the contract equal or exceed \$50,000.
 2. Changes to any contract originally awarded, or any contract previously modified by the City Council when the cumulative value of all changes equals or exceeds both \$50,000 and 10% of the original contract.
 3. Changes to any contract when the value of the change equals or exceeds \$50,000.
- B. Except as otherwise provided by applicable law, the City Administrator shall approve all other contract changes in writing.

§ 6-9 Voidable contracts.

If any official of the City purchases or contracts for any goods, services or capital improvements in a manner contrary to the provisions of this Chapter, such purchase or contract shall be voidable by the City. However, when, in the opinion of the City Administrator, the contracting violation occurred through no fault of the contractor, the contractor may be reimbursed on the basis of goods and services furnished or work performed in good faith, in such amount as the City Administrator may determine.

§ 6-10 Multi-term contracts.

A contract for goods, insurance, or services may be entered into for any period of time deemed to be in the best interest of the City, not to exceed five years, provided that the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are

1 available for the first fiscal period at the time of contracting. When funds are not appropriated or
2 otherwise made available to support continuation of performance in a subsequent fiscal period, the
3 contract shall be canceled with no penalty to the City.
4

5 **§ 6-11 Indefinite quantities contracts.**

6 The City may utilize indefinite quantities contracts, as defined in this Chapter, to procure goods or
7 services to be furnished at specific times, or as ordered, at fixed unit prices. During the term of a
8 requirements contract, the City should use reasonable efforts to order all actual requirements of
9 the City, or one of its departments, during a specified period of time. Failure to utilize a specific
10 indefinite quantities contract for a particular procurement must not be considered a breach of the
11 contractual obligation unless the contract specifically provides that the contractor is the exclusive
12 source for the goods or services. Where practical, an indefinite quantities contract should include
13 a maximum amount of funds that may be expended pursuant to such contracts within a one-year
14 period. If it is not practical to include in an indefinite quantities contract, the maximum amount of
15 funds that may be expended within a one-year period, the City Administrator shall explain the
16 reasoning in writing to the Council.
17

18 **§ 6-12 Validity of claims.**

19 No person or entity shall have a valid or enforceable claim against the City for the payment of any
20 moneys or any other thing of value pursuant to an alleged contract or agreement, unless the contract
21 or agreement has been signed and authorized as provided in this section.
22

23 **§ 6-13 Records of procurement actions and reporting requirements.**

24 A. Contents of Record. All determinations and other written records pertaining to any
25 solicitation, award or performance of a contract shall be maintained for the City in a contract file.
26 All records shall be maintained for such time as required by State or Federal law or regulation but
27 for not less than three (3) years.
28

29 B. Submission to the City Council. A copy of such record shall be submitted to the City
30 Council upon request. Such record shall be available for public inspection.
31

32 C. Reporting to the City Council. The City Administrator shall immediately report to the City
33 Council any emergency purchase of \$30,000 or more. The City Administrator shall provide a
34 report to the City Council at least twice every fiscal year concerning:
35

- 36 1. All emergency procurements of \$10,000 in value or more; and
- 37 2. All procurements between \$30,000 and \$50,000 in value; and
- 38 3. All current multi-year contracts with a single-year value of \$10,000 or more, or a
39 combined value of \$30,000 or more over the term of the multi-year contract.
40
41
42

43 **Article III. Competitive Bidding.**

44 **§ 6-14 Competitive sealed bidding and requests for proposals.**
45

1 A. All purchases of goods, materials, supplies, equipment, contractual services and
2 professional services of \$50,000 or more shall be awarded by this section except as otherwise
3 provided in this Chapter.

4
5 B. Solicitation of Bids and Proposals. An invitation for bids, request for proposals, or other
6 generally accepted methods of solicitation request shall be issued to prospective bidders and shall
7 include specifications and all contractual terms and conditions applicable to the procurement.

8
9 C. Public Notice. Public notice of the solicited bids or requests for proposals for purchases
10 of goods or services of \$50,000 or more shall be issued not less than fourteen (14) calendar days
11 prior to the date set forth for the opening of bids. Such notice shall be publicized in a manner that
12 will reach a reasonably broad audience of potential bidders, with appropriate consideration for
13 supporting local businesses, Minority and Women-Owned Business Enterprises, and Veteran-
14 Owned Small Businesses to the extent permitted by law.

15
16 D. Bid and Proposal Opening, Tabulation, and Analysis. Bids and proposals shall be opened
17 publicly by the Public Purchasing Agent in the presence of the Project Manager and/or Department
18 Director or other designated City employee at an accessible public location or via a public video
19 meeting.

20
21 1. If the good or service to be purchased is one for which meeting standard specifications
22 and lowest bid price are the determining factors for selection, a bid tabulation will be
23 prepared by the Public Purchasing Agent for review by the requesting department. The
24 requesting department will perform a bid analysis and provide a written
25 recommendation as to the lowest responsible, responsive bidder. The requesting
26 department shall submit the bid analysis and recommendation to the City Council for
27 approval. All bid analyses, bid tabulations, recommendations, and other documents, as
28 may be deemed appropriate, shall be retained by the City Treasurer in accordance with
29 Chapter.

30 2. If the good or service to be purchased is one for which a request for proposal or similar
31 solicitation has been issued, and judgment is required regarding the best provider of the
32 good or service based on the criteria enumerated in the request for proposal, a review
33 of the proposals by an established review panel coordinated by the Public Purchasing
34 Agent will be undertaken in coordination with the requesting department. The
35 requesting department will provide the findings of the review panel and a written
36 recommendation to the City Council for approval. All bid and proposal analyses,
37 tabulations, recommendations, and other documents, as may be deemed appropriate,
38 shall be retained by the City Treasurer in accordance with Chapter.

39 **§ 6-15 City may accept or reject any proposal.**

40 A. The City of Hyattsville reserves the right to accept proposals individually or collectively,
41 to accept or reject any or all proposals, waive any informality, and take whatever action is to the
42 best interest of the City of Hyattsville, and each solicitation issued by the City should contain
43 language to this effect, but the failure of any solicitation to contain any such language shall not
44 render this provision inoperative.

1 B. The City of Hyattsville reserves the right to withdraw a solicitation.

2
3 **§ 6-16 Bid bonds and other sureties.**

4 When deemed necessary by the Treasurer and/or the City Administrator, bid bonds or other
5 sureties may be required in the solicitation of a bid. Unsuccessful bidders shall be entitled to the
6 return of their bid bond or surety following entry into a contractual agreement with the successful
7 bidder. Bid bonds and sureties will be returned by the Treasurer upon contract award, or
8 cancelation or other cessation of the bid.

9
10 **§ 6-17 Correction or withdrawal of bids.**

11 A. Correction or withdrawal of inadvertently erroneous bids may be permitted before the bid
12 opening. Mistakes discovered before the bid opening may be modified by written notice to the
13 City. Bids may be withdrawn prior to the time set for the bid opening. After the bid opening, no
14 changes or corrections are permitted to the bid prices or other provisions of bids prejudicial to the
15 interest of the City or fair competition.

16
17 B. After the bid opening, if a mistake is found and the mistake and intended correction are
18 clearly evident on the face of the bid document, the bid may be corrected to the intended corrected
19 bid and may not be withdrawn. Samples of mistakes that may be clearly evident on the face of the
20 bid document are typographical errors, errors in extending unit prices, transposition errors, and
21 arithmetical errors.

22
23 C. If there is found to be a minor irregularity, as defined in this Chapter, the Public Purchasing
24 Agent shall either give the bidder or offeror an opportunity to cure any deficiency resulting from
25 the minor irregularity in a bid or proposal or waive the deficiency, whichever is to the advantage
26 of the City.

27
28 **§ 6-18 Bid acceptance and bid evaluation.**

29 Bids shall be unconditionally accepted without alteration or correction, except as authorized in this
30 Chapter. Bids shall be evaluated based on the requirements set forth in the specifications, which
31 may include criteria to determine acceptability such as inspection, testing, quality, workmanship,
32 delivery, and suitability for a particular purpose. The criteria that will affect the bid price and be
33 considered in evaluation for award shall be objectively measurable, such as discounts,
34 transportation costs, and total or life cycle costs. The specifications shall set forth the evaluation
35 criteria to be used. No criteria may be used in the bid evaluations that are not set forth in the
36 specifications.

37
38 **§ 6-19 Bid rejection**

39 The City may reject any or all bids or parts of bids in its discretion and may or may not request a
40 re-bidding.

41
42 **§ 6-20 Bid award.**

43 Bids of \$50,000 or more must be approved by the City Council. Bid awards for contracts under
44 \$50,000 may be presented to the City Council. Bids will be awarded to the lowest responsible
45 bidder whose bid meets the requirements and criteria set forth in the specifications.

1 **§ 6-21 Cancellation of award.**

2 Cancellation of awards or contracts may be permitted where appropriate. Such cancellations must
3 be submitted to the City Council, if the Council approved the award or contract, with full
4 explanation for consideration.

6 **§ 6-22 Award to other than low bidder.**

7 If the City Administrator recommends awarding the contract to a bidder that is not the lowest
8 bidder meeting specifications, a full and complete statement of the reason(s) for placing the order
9 elsewhere will be prepared and submitted to the City Council, if \$50,000 or more, or included in
10 the contract file if the City Administrator has the authority to award the contract.

12 **§ 6-23 Prohibition against subversion of this Chapter.**

13 No contract, purchase, or service shall be subdivided to avoid the intent and purpose of the
14 provisions contained in this Chapter.

16 **§ 6-24 Contract coordination.**

17 Upon bid award, the designated Project Manager will coordinate contract execution between the
18 successful bidder and the City. Approval of the City Attorney is required for all contract
19 documents. All contract documents will be retained by the City Treasurer pursuant to this Chapter.

21 **§ 6-25 Authority to execute contracts.**

22 The City Administrator or their designee shall execute all contracts for purchases, unless
23 applicable laws require action by the Mayor or other officer.

25 **§ 6-26 Change orders.**

26 Change orders shall be used to change contracts as follows:

28 A. The City of Hyattsville reserves the right in all contract agreements to increase or decrease
29 quantities, time, and alter the details of construction as the Public Purchasing Agent and/or Project
30 Manager may consider necessary or desirable by approved change order.

32 B. A change order shall be defined as a written order issued by the Public Purchasing Agent
33 and/or Project Manager for changes in the construction work and other contractual services. Such
34 change orders shall set forth the description of the change and the method of measurement and
35 payment. Change orders must be reviewed and approved by the City Administrator and the
36 Treasurer for approval.

38 C. Change orders shall be limited to increases or decreases in time or changes in the scope of
39 the work which may change the total cost of the project. The Treasurer must certify that funding
40 is available for any change order prior to executing the change order. The following contract
41 changes (including contract modifications, change orders, and price adjustments) must be
42 approved by action of the City Council:

- 44 1. Changes to any contract not originally awarded by the City Council when the
45 cumulative value of the original contract and all changes to the contract equal or exceed
46 \$50,000;

2. Changes to any contract originally awarded, or any contract previously modified by the City Council when the cumulative value of all changes equals or exceeds both \$50,000 and 10% of the original contract; and

3. Changes to any contract when the value of the change equals or exceeds \$50,000.

D. Change orders which increase or decrease time, but involve no cost change must be reviewed and signed by the City Administrator and the Treasurer. Any significant or substantial change in an approved contract shall be reported to the Mayor and City Council.

§ 6-27 Cancellation of invitations for bids or requests for proposals.

An invitation for bid or other solicitation may be canceled when the City Administrator or City Council determines that it is in the best interest of the City. The reasons therefore shall be made part of the bid file.

§ 6-28 Bid protests.

A. Any protest concerning the solicitation of a bid, request for proposals, request for quotations, invitation for prequalification or similar solicitation shall be decided by the City Administrator.

B. Right to Protest. Any actual or prospective bidder or offeror who is aggrieved in connection with a solicitation or an award of a contract may protest to the City Administrator. The protest shall be in writing and filed with the City Administrator within seven (7) days after such aggrieved person knows or should have known of the facts giving rise to the protest. A protest shall be considered untimely if it is not received by the City Administrator within the time period stated above. A bidder or offeror is aggrieved only if the bidder or offeror can demonstrate that, should the protest be sustained, the bidder or offeror may be eligible for the award.

C. Form of Protest. The written protest shall include, at minimum, the following: 1) name and address of the protestor, 2) solicitation or contract number or identifier, 3) statement of reasons for the protest, and 4) supporting exhibits, evidence, or documents to substantiate any claims.

D. Bond. The bond for a protest is \$750. The bond shall be paid in the form of a check payable to the City of Hyattsville. If the protest is sustained by the City Administrator, the protestor will be entitled to a refund of the bond. A protest shall be considered untimely if the bond is not received by the City Administrator within the time limits to file a protest.

E. Authority to Resolve Protests. The City Administrator, after consultation with the City Attorney, shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder or offeror concerning the solicitation or award of a contract.

F. Award of a Contract During a Protest. In the event of a timely protest, the City shall not proceed further with a solicitation or award of a contract until after a written decision on the protest has been issued by the City Administrator, unless the City Administrator, after consultation with the City Attorney, determines in writing that awarding a contract without delay is necessary to protect the interests of the City.

1
2 G. Final Decision. If the protest is not resolved by mutual agreement, the City Administrator
3 must adjudicate the protest on the record and issue a final written decision within twenty-one (21)
4 days of receiving the protest. The decision must state the reason for the action taken and inform
5 the bidder or offeror of its rights to appeal the written decision. The City Administrator's decision
6 is final.
7

8 **§ 6-29 Types of procurement exempt from competitive bidding.**

9 A. Purchases under \$30,000. Any procurement of goods not exceeding the amount of \$30,000
10 may be made without the requirement of competitive bidding; provided, however, that
11 procurement requirements shall not be artificially divided so as to constitute a small purchase
12 under this section.
13

14 B. Professional Services. Any procurement of or contract for professional services may be
15 made without the requirement of competitive bidding. The City Administrator may, by regulations,
16 establish competitive negotiation or selection procedures for professional service contracts or
17 classes of professional service contracts. The City Council must approve any professional services
18 procurement or contract of \$50,000 or more.
19

20 C. Emergency Procurement. The City Administrator may make or authorize others to make
21 emergency procurements without the requirement of competitive bidding when there exists a threat
22 to the public health, welfare or safety under emergency conditions, provided that the City
23 Administrator shall file promptly with the City Council a certificate showing such emergency and
24 the necessity for such action, together with an itemized account of all expenditures. Such
25 emergency procurements shall be made with such competition as is practicable under the
26 circumstances. The City Administrator shall make a written determination of the basis for the
27 selection of the particular contractor, which shall be included in the contract file. In no case shall
28 failure to plan for provision of a City service constitute an emergency under this subsection.
29

30 D. Sole Source Procurement. A contract for procurements less than \$50,000 in value may be
31 awarded for a good, service or construction item without the requirement of competitive bidding
32 when, under such regulations as the City Administrator may establish, the City Administrator
33 determines, in writing, that there is only one available source for the good, service or construction
34 item or if a specific manufacturer's product is required to ensure compatibility with existing
35 installed equipment and so notifies the City Council. The City Administrator's determination shall
36 be subject to review and approval by the City Council.
37

38 E. Cooperative Purchasing. The City Administrator may enter into contracts or agreements
39 for cooperative purchasing, as defined in this Chapter, without the requirement of competitive
40 bidding by the City, provided that such cooperative purchasing meets all of the requirements of
41 this Chapter and is consistent with their provisions in every respect. The City Council must approve
42 any cooperative purchase of \$50,000 or greater.
43

44 F. Products or Services Immediately Available. Subject to written authorization by the City
45 Administrator, when immediate action is necessary to take advantage of a sale or when the product
46 or service is immediately available from one vendor and not from lower bidders, the procurement

1 does not exceed \$50,000 in value, the delay would impair the City's ability to procure such goods
2 or services and the price from the vendor who can deliver quickly is not materially higher than the
3 lower bids.

4
5 G. Rider contracts. The City Administrator may use rider contracts, without the requirements
6 of competitive bidding by the City, if the contract was established in a manner consistent with the
7 purposes of this Chapter and:

- 8
9 1. The vendor provides to the City Administrator, in writing, a statement extending the
10 terms of the contract to the City; and
11 2. The City Administrator obtains copies of the solicitation document, scoring sheets
12 and/or bid tabulation, evidence of contract award and the underlying executed contract,
13 or explains in writing to the City Council why the rider contract is recommended in the
14 absence of some or all of the documentation identified in this subparagraph.

15 The quantity and dollar value of rider contracts may be amended; however, the scope and
16 specifications of goods and services must match the underlying contract.

17
18 H. In addition, the following types of transactions are exempt from competitive procurement:

- 19
20 1. Purchases for water, sewer, electric, postage, or other utility services;
21 2. Sales, rentals, or purchases of land and rights of way;
22 3. Employment contracts and employee relocation costs;
23 4. Temporary labor agreements;
24 5. Goods purchased from a public auction sale, including an internet auction, provided
25 that a written determination is made in advance by the City Administrator that such a
26 purchase is in the best interest of the City;
27 6. Expenditures for travel, subscriptions, courses, seminars, and conventions,
28 membership dues and subscription fees;
29 7. Acquisition of works of art for public display; and
30 8. Procurement of instructional or educational services for City officials, staff, or
31 residents, or for social, cultural, or recreational programs or events offered or sponsored
32 by the City.

33 **§ 6-30 Procedure for procurements exempt from competitive bidding.**

34 A. Procurements equal to or exceeding \$3,500 but less than \$30,000. Insofar as it is practical,
35 in all procurements equal to or exceeding \$3,500 in value but less than \$30,000, with the exception
36 of sole source procurement, cooperative purchasing, products or services immediately available,
37 and riders, proposals for goods or services required shall be solicited from at least three (3)
38 qualified sources. In the event that three (3) qualified sources do not exist, the City Administrator

1 or their designee shall make a written determination of that fact and report that determination to
2 the City Council.

3
4 B. Procurements less than \$3,500. For expenditures less than \$3,500, a reasonable effort shall
5 be made to obtain goods or services at the lowest cost.

6
7 **§ 6-31 Extensions.**

8 A. An extension of a contract may be awarded without competition when the City
9 Administrator finds, in writing, that circumstances warrant the extension of an existing contract at
10 the same unit price, provided that the extension occurs within 12 months of the date of execution
11 of the original contract.

12
13 B. For multi-year contracts executed in accordance with this Chapter, an initial extension
14 under this subsection may be made for a period of one year and approved by the City
15 Administrator. Any subsequent extensions must be approved by the City Council. When funds are
16 not appropriated or otherwise made available to support continuation of performance in a
17 subsequent fiscal period, the contract shall be canceled with no penalty to the City.

18
19 **§ 6-32 Purchase orders.**

20 A. City purchases shall be memorialized by a written contract, purchase order or procurement
21 card documentation signed in accordance with this subsection A, except as specified elsewhere in
22 this Chapter. Purchase orders shall be consecutively numbered from the start of each fiscal year.
23 Purchase orders shall be signed by the City Administrator or their designee. Use of procurement
24 cards must be documented and approved pursuant to established administrative regulations.

25
26 B. No department head shall make any purchase on behalf of or chargeable to the City except
27 by means of a purchase order or procurement card approved in accordance with subsection (A) of
28 this section; provided, however, that this subsection (B) shall not apply to emergency purchases.
29 Emergency purchases are subject to the regulations that may be established by the City
30 Administrator; provided, however, that in the case of emergency expenditures, a purchase order or
31 purchasing card approval must be obtained from the City Administrator or designee within 72
32 hours of the purchase, or as soon as practicably possible thereafter.

33
34 C. No person employed by the City or providing services to the City as an independent
35 contractor shall purchase or cause to be purchased through or from the City any item for their
36 personal use. Without limitation on any other legal actions or remedies available, violations of this
37 section shall be sufficient cause for dismissal, suspension or termination of employment or of any
38 contract for services, as the City Council may determine. A violation of this section shall be a
39 Class A offense.

40
41 D. No department head shall order and obtain goods or services exceeding \$3,500 in value
42 without first securing a purchase order or without following the administrative procedures
43 regarding procurement cards.

44
45 **§ 6-33 Petty cash expenditures.**

Petty cash shall be maintained by the City Treasurer and the City Administrator shall have the authority to establish procedures for petty cash expenditures.

Article IV. Disposition of Equipment and Goods.

§ 6-34 Generally.

A. All departments, at such times and in such form as may be prescribed, shall submit to the City Treasurer reports listing stocks of all articles which are no longer used, which have become obsolete or which are surplus to the needs of the department. The City Administrator shall transfer serviceable surplus goods between using departments in lieu of filling requisitions for the purchase of new or additional stock of the same or similar articles, unless such transfer is contrary to the best interests of the City as determined by the City Administrator.

B. The City Administrator shall provide a report on disposed equipment/goods to the City Council on a semi-annual basis.

§ 6-35 Method of sale.

A. Except as provided in this article, all goods which have become surplus, obsolete or unusable and whose current estimated value is \$10,000 or more shall be sold to the highest responsible bidder by the competitive bid or proposal procedures prescribed in this Chapter except that the goal shall be to obtain the highest price from prospective purchasers. The City Administrator may waive the competitive bid or proposal procedures and sell such property by auction or by private sale after reasonable public notice when the return to the City is expected to be increased or the nature of the goods is such as to make competitive bid or proposal procedures impractical.

B. Goods which have been found by the City Administrator to have become surplus, obsolete or unusable, and whose current value is estimated to be less than \$10,000 may be disposed of by the methods described in regulations the City Administrator may establish. Such dispositions shall, wherever feasible, be based on competitive price quotations and shall be made to a responsible purchaser offering the highest price. The City Administrator is authorized to sell by auction such property to the highest responsible bidder, after public notice, when, in the City Administrator's opinion, the return to the City is expected to increase by this procedure. In order to produce the highest return for the disposition of such personal property, the City Administrator may select from the following disposition methods the method which will yield the greatest return under the circumstances of each disposition:

1. Competitive sealed bids;
2. Competitive sealed proposals;
3. Competitive auction sale;
4. Trade-in or exchange for goods which are of current need; and
5. Competitive negotiations.

§ 6-36 Worthless items.

In the event that the City Administrator or their designee determines the goods offered for disposal have no real or scrap value, they may be disposed of as refuse.

AND BE IT FURTHER ORDAINED that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable;

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect on May 26,
2024;

AND BE IT FURTHER ORDAINED that a fair summary of this ordinance shall forthwith be published twice in a newspaper having general circulation in the City and otherwise be made available to the public.

INTRODUCED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on April 15, 2024.

ADOPTED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on May 6, 2024.

Adopted: May 6, 2024
Effective Date: May 26, 2024

Attest: _____
Laura Reams, City Clerk

Robert S. Croslin, Mayor

$\vdash$ indicate deletions

Underline/CAPS/**BOLD** indicate additions

Asterisks * * * Indicate matter retained in existing law but omitted herein.