



**CITY OF HYATTSVILLE, MARYLAND**

**DEPARTMENT OF FINANCE**

**PROCUREMENT POLICY**

**ADOPTED APRIL 2, 2012**

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## SECTION 1: FOREWORD

This Procurement Policy is intended as a guide to the City of Hyattsville's purchasing methods and practices. When used properly, the policies and procedures established herein will enable the City to obtain needed materials, equipment, supplies, and services efficiently and economically. In addition, adherence to the Policy will provide for accurate interim reporting and an increased ability to properly manage the budget.

The understanding and cooperation of all employees is essential if the City is to obtain the maximum value for each tax dollar spent. While this Policy does not answer all questions related to purchasing, it does provide the foundation for a sound purchasing system. **If you have questions, please direct them to the City Administrator or the Treasurer prior to taking any action.**

The basic goals of the City's procurement program are:

1. To comply with the legal requirements of public purchasing and procurement as outlined in the City Charter and Code and shall include those imposed by granting agencies.
2. To assure vendors that impartial and equal treatment is afforded to all who wish to do business with the City.
3. To receive the best value for each dollar spent by awarding purchase orders to the lowest responsible bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance, and other relevant factors.
4. To provide City departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
5. To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, negotiations, commitment, follow-up, and adjustments.
6. To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict maintenance of ethical standards.
7. To effect maximum feasible standardization of products used within and among departments in order to obtain better prices.
8. To comply with the City Sustainability Policy.
9. To provide oversight in procurement so that the City employees correctly execute their Fiduciary duties in procurement.

If the procedures and guidelines established in this Policy are followed, each department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the City to meet these goals.

## **SECTION 2: GENERAL GUIDELINES**

### **2.1 Local Buying**

The City cannot and will not make purchasing decisions solely on the basis of vendor residence or location. It is the desire of the City to purchase from vendors located within the City whenever possible. This can be accomplished by insuring that local vendors who have goods or services available which are needed by the City are included in the competitive purchasing process. The City has a responsibility to its residents, however, to insure that maximum value is obtained for each public dollar spent. Rather, the City will endeavor to encourage local vendors and suppliers to compete for all City business. If goods and/or services are not available from vendors located within the City, preference may be given to those within the Prince George's County and then the State of Maryland.

### **2.2 Planning**

Planning for purchases should be done on a short-term and long-term basis, thereby minimizing small orders and last minute purchases. Planning will also reduce the number of trips required to obtain materials and minimize clerical and supervisory time spent on documenting purchases.

### **2.3 Buying Proper Quality**

Quality and service are as important as price; and it is the duty of the requesting department to secure the best, most economical, quality that will meet but not exceed the requirements for which the goods or services are intended. In some instances the lowest price does not necessarily mean the lowest cost. Departments should make sure all potential supply costs are considered (i.e., shipping, etc.). Once a decision is made by the department as to the brand of a product such as Chevrolet versus Ford, John Deere versus Ford, etc..., the department must document – providing justification - in writing as to why they have decided to choose that specific brand name over a similar competitor.

### **2.4 Employee Conduct**

This Policy is also intended to provide information assuring employees conduct purchasing activities consistent with Federal, State, and City regulations and to remove any perception of impropriety in the purchasing process. The City has established Conflict of Interest Standards as indicated below.

The City requires ethical and impartial behavior related to purchasing. Toward that end, the following apply:

- a. The receipt of any monetary or non-monetary gifts, gratuities, promotional items of any value from a prospective or actual contractor or vendor to a

City employee must be in compliance with the City's Code of Ethics. Employees may not solicit such items.

- b. Any attempt to realize personal gain through public employment is a breach of public trust and may result in disciplinary action.
- c. City employees must disclose to the City Administrator on an annual basis any direct interest they or a familial member may have in any business which may contract or sell to the City. Direct interest is defined as any business in which the City employee or a familial member is the sole proprietor, a partner, board member or the person who has significant interest. Significant interest means the ownership or control of five percent (5%) or more of the shares or equity of any individual business or corporation.

A familial relationship is defined as grandparent, grandchild, parent, child, step relation, in-laws, and spouse or sibling relationship.

- d. The City will not purchase from or contract with any business entity wholly or partially owned or operated by a City employee or a familial member of a City employee unless it is in the best interest of the City. The employee shall not participate in the process or attempt to influence any decision and shall have a current disclosure form on file with the City Administrator.
- e. A City employee may not participate in the contract negotiation, vendor, or product selection process if he/she has a financial or familial interest with any person, firm or business entity involved with providing goods or services to the City.
- f. Departments must make every attempt to assure open and competitive purchases.

## **2.5 Personal Purchases for Employees**

- a. In consideration of legal aspects and trade relations with local retail merchants, the City may not purchase supplies for the private use of employees.
- b. No City employee, in any of his private purchases, may use his position with the City in an effort to obtain a price consideration better than that offered to the general public.
- c. From time to time the City may offer purchase programs to assist employees – e.g., the computer purchase program. Structured programs which the City offers are not a violation of this Policy.



## **SECTION 3: AUTHORITY AND RESPONSIBILITIES**

The Treasurer pursuant to C 5-2 of the Charter shall oversee the application of this Procurement Policy and shall report any irregularities immediately to the City Administrator and the Mayor.

The City may designate a person to serve as the Public Purchasing Agent for the City who shall review the procurement of all supplies, services, and public improvements. The City Administrator and/or Treasurer may recommend amendments to this Purchasing Manual. Such changes shall be approved by the Mayor and City Council.

It shall be the duty of the Public Purchasing Agent to review all contracts and purchases to insure that they conform with the City's goals:

### **3.1 Public Purchasing Agent shall:**

- a. Procure for the City the highest quality in supplies and contractual services at the least expense to the City;
- b. Obtain as full and open competition as possible on all purchases and sales;
- c. Establish and recommend amendments, when necessary, to all rules and regulations authorized by this Policy and any others necessary to its operation;
- d. Maintain such forms reasonably necessary to the operation of this policy;
- e. Explore the possibilities of buying in sufficient substantial quantities as to take full advantage of available discounts;
- f. Procure for the City all tax exemptions to which it is entitled;
- g. Have the authority to recommend vendors who default on their quotations irresponsible bidders and recommend disqualifying them for receiving any business from the City for a stated period of time;
- h. Review purchases made by various departments as to be consistent with the purchasing manual rules and regulations;
- i. Search for new and improved sources of supplies and services;
- j. Maintain all documents related to the operation of this Policy and provide copies to appropriate City officials including the City Clerk and Treasurer;
- k. For public improvement projects – review standards and written specifications for professional services and construction.

### **3.2 Reporting of Irregularities**

The Public Purchasing Agent shall inform the Treasurer of any irregularities in the above procedures and the Treasurer and the City Administrator shall agree on the remedy for such irregularities and report such to the Mayor and City Council.

**3.3 Department Managers/Directors** – in accordance with this Policy, the department Managers/Directors shall:

- a. See that department personnel are informed and trained on the requirements of this Policy and ensure adherence;
- b. Delegate the inspection or supervision of the inspection of materials, supplies, services and equipment delivered, and determine acceptableness of their quality, quantity, and conformance with specifications as requested by the Treasurer and/or the City Administrator;
- c. Advise the City Administrator and the Treasurer of defective merchandise or dissatisfaction with vendor performance in writing.
- d. Encourage the use of the City's Purchasing Card Program.

**3.4 Project Manager** – See 11.3 of this Policy.

**3.5 Authority to Execute Contracts**

The Mayor, or the City Administrator, or their designee shall execute all contracts for purchases after obtaining the required authorization.

## **SECTION 4: SOLE SOURCE PROCUREMENT**

A purchase under \$10,000.00 may be awarded without competition when there is only one source for the required supply, service, or construction and the Treasurer and the City Administrator agree. The determination as to a sole source shall initially be made by the Public Purchasing Agent after examination of written justification supplied by the requesting department, a review of available sources, and consideration of the factors as outlined below. Sole source purchases of \$10,000.00 or more shall be submitted for consideration by the Mayor and City Council.

The following factors shall be used in the determination of whether a commodity or service can be considered for a sole source purchase:

- a. Whether the vendor possesses exclusive and/or predominant capabilities or the item contains a patented feature providing a superior utility not obtainable from another product.
- b. Whether the product or service is unique and easily established as one of a kind.
- c. Whether the product requirements can be modified so that competitive products or services may be used.
- d. Whether the product is available from only one source and not merchandised through wholesalers, jobbers, or retailers.
- e. The parts or equipment are not interchangeable with parts or equipment of other manufacturers and is therefore required to maintain existing equipment or current operations.

**Appendix G contains a form to be utilized for Sole Source Procurement.**

## SECTION 5: EMERGENCY PROCUREMENTS

An “*emergency*” shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of an essential service.

Manmade emergencies, through neglect, **MUST BE AVOIDED**. A typical example of this situation is the depletion of stock due to failure to anticipate needs in advance of requirements.

It shall be the responsibility of the respective Department Managers/Directors to keep emergency purchases to an absolute minimum. The use of an emergency purchase to circumvent normal purchasing procedures **WILL NOT BE PERMITTED**.

If any emergency occurs during regular City business hours, the using department shall immediately make an effort to notify the Finance Department according to the type of emergency, who shall with the approval of the City Administrator either purchase the required goods or services or authorize the department to do so.

Notwithstanding any other provisions of this Policy, the City Administrator must authorize any emergency procurement for materials, equipment, supplies, services contractual services or construction items. An emergency exists when there is a threat to public health, welfare, and safety, or significant disruption of department operations and delivery of City services. Such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be submitted to the City Administrator for approval and a copy be forwarded to the Treasurer to be kept in file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor’s name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file. Emergency procurements of \$10,000.00 or more shall be submitted to the Mayor and City Council for ratification.

## **SECTION 6: INTERGOVERNMENTAL PURCHASING**

### **6.1 Purpose**

The purpose of cooperative purchasing is to obtain lower prices from volume buying and to create a demand large enough to encourage the manufacturer of new or modified products and to offer commodities and equipment at the lowest available price.

### **6.2 Procedures**

- a. The Mayor and City Council may authorize participation in purchasing agreements for the procurement of any equipment, supplies, services, or construction with one or more governmental entities. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between local governments or open-ended State or Federal governmental contracts that may be made available to local governments.
- b. Upon awarding a contract, each department will be responsible for its own expediting of purchase orders, receiving, inspecting, storing, verifying invoices, and each department will be responsible for entering invoices for payment of bills.

## **SECTION 7: ENVIRONMENTALLY PREFERABLE PURCHASING**

### **7.1 Purpose**

To the greatest extent practicable the City of Hyattsville will:

- Institute practices that reduce waste by increasing product efficiency and effectiveness
- Purchase products that minimize environmental impacts, toxics, pollution, and hazards to worker and community safety, and
- Purchase products that include recycled content, are durable and long-lasting, conserve energy and water, use agricultural fibers and residues, reduce greenhouse gas emissions, use unbleached or chlorine free manufacturing processes, are lead-free and mercury-free, and use wood from sustainably harvested forests.
- Make purchases that comply with the City's Sustainability Policy.

### **7.2 Specifications**

- a. Source Reduction  
The City shall institute practices that reduce waste and result in the purchase of fewer products whenever practicable and cost-effective, but without reducing safety or workplace quality.
- b. Remanufactured products  
The City shall purchase remanufactured products such as laser toner cartridges, tires, furniture, equipment and automotive parts whenever practicable, but without reducing safety, quality or effectiveness.
- c. Recycled Content Products  
All products for which the United States Environmental Protection Agency (U.S. EPA) has established minimum recycled content standard guidelines, such as those for printing paper, office paper, janitorial paper, construction, landscaping, parks and recreation, transportation, vehicles, miscellaneous, and non-paper office products, shall contain the highest post consumer content practicable, but no less than the minimum recycled content standards established by U.S. EPA Guidelines.

### **7.3 Energy and Water Savings**

- a. Where applicable, energy-efficient equipment shall be purchased with the most up-to-date energy efficiency functions. This includes, but is not limited to, high efficiency space heating systems and high efficiency space cooling equipment.

- b. All products purchased by the City of Hyattsville and for which the U.S. EPA Energy Star certification is available shall meet Energy Star certification, when practicable. When Energy Star labels are not available, choose energy-efficient products that are in the upper twenty-five (25%) of energy efficiency as designated by the Federal Energy Management Program.
- c. The City shall purchase water-saving products whenever practicable.

#### **7.4 Toxics and Pollution**

- a. To the extent practicable, no cleaning or disinfecting products (i.e. for janitorial or automotive use) shall contain ingredients that are carcinogens, mutagens, or teratogens. These include chemicals listed by the U.S. EPA or the National Institute for Occupational Safety and Health on the Toxics Release Inventory.
- b. The use of chlorofluorocarbon-containing refrigerants, solvents and other products shall be phased out and new purchases shall not contain them.
- c. All detergents shall be readily biodegradable and, where practicable, shall not contain phosphates.

#### **7.5 Priorities**

Nothing contained in this Policy shall be construed as requiring a department, purchaser, or contractor to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time.

#### **7.6 Implementation**

- a. The Treasurer shall encourage all City Departments to implement this Policy.
- b. It is the desire of the City to purchase environmentally preferable products from vendors whenever possible; however, to insure that maximum value is obtained for each public dollar spent, the City cannot make purchasing decisions solely on the basis of the environmentally preferable status of a product.

## **SECTION 8: OPEN MARKET PURCHASES**

### **8.1 Prohibition Against Subdivision**

No contract, purchase, or service shall be subdivided to avoid the provisions of this Purchasing Policy.

### **8.2 Open Market Purchases – below \$1,000.00**

Open market purchases below \$1,000.00 shall be based upon open market direct solicitation. The department is required to obtain the lowest responsible bid in the best interest of the City. It is expected in all situations where applicable the department will make purchases under \$1,000.00 using the City of Hyattsville Purchasing Card Program. The City of Hyattsville Purchasing Card Program Policies and Procedure Manual must be followed when a purchasing card is used under Section 19 of this Policy. For those purchases that cannot be made with the purchasing cards, the department will submit an invoice through the City's financial system for payment.

### **8.3 Open Market Purchases - \$1,000.00 - \$9,999.99**

All purchases of supplies, materials, equipment, and contractual or professional services of \$1,000.00 - \$9,999.99 may ordinarily be made in the open market through an informal bid award and without consent of the Mayor and City Council unless otherwise stipulated herein. However, the Council should be informed of and/or approve such purchasing contracts under \$10,000.00 if the Department Head/Manager, the Treasurer, or the City Administrator requests such. Such informal purchases shall be based upon three (3) written, faxed, or emailed quotations and will be usable for ninety (90) days unless noted otherwise by the vendor. The requesting department will prepare a Purchase Order in the City's financial system and forward the quotations to the Finance Department. The Finance staff may verify quotes and secure additional quotes. The City Administrator may approve such awards of purchase. If award of purchase is to a vendor other than the recommendation of the requesting department, the Treasurer will notify said department of the change of award after approval of such by the City Administrator. The Treasurer will issue the purchase order. If there is a contract, the City Attorney must approve the contract. **No order of goods or services over \$1,000.00 shall be obtained without first securing a purchase order.**



#### **8.4 Purchases of \$10,000.00 and above**

All purchases of supplies, materials, equipment, and contractual or professional services over \$10,000.00 must be made utilizing Section IV – “Sole Source Procurement” or Section X – “Bidding Procedures”. The requesting department shall follow the appropriate procedures to present the purchase request to the Mayor and City Council for approval. Contracts as required in §C5-21 must be approved by the City Attorney. Once all approvals have been received the requesting department will enter a Purchase Order in the City’s financial system and forward the original contract to the City Clerk and a copy to the Finance Department along with any other related documents. The Treasurer will then issue the purchase order. Any contract must be approved by the City Attorney. **No order of goods or services over \$1,000.00 shall be obtained without first securing a purchase order.**

## **SECTION 9: PURCHASE ORDERS**

### **9.1 Purchase Orders**

Purchase orders are in many cases the only contract document between the vendor and the City. As such it is important that a purchase order be prepared with as much clarity and detail as required to eliminate misunderstanding by either the vendor or the City as to the item or service being purchased. Purchase orders further serve to encumber expenditures against budgeted funds. Purchase orders are issued by the Treasurer pursuant to Chapter 4 of the City Code.

### **9.2 Purchase Order Exemption**

Purchase orders may not be required for payment of utility bills, insurance premiums, credit card payments, debt service payments, travel advances, and travel expense vouchers, membership dues, subscriptions, lease payments, and invoices under \$1,000.00. These exemptions are at the discretion of the Treasurer.

### **9.3 Purchase Orders Over \$1,000.00**

Before ordering any goods or services of \$1,000.00 or more, notwithstanding emergency purchases as defined in Section 5 of this Policy, the requesting department must obtain a purchase order number. The purchase order will be issued and funds encumbered. Purchases made without first obtaining a purchase order shall be void and not considered to be obligations of the City of Hyattsville; **the person placing the order may be personally liable for payment.**

### **9.4 Purchase Order Processing**

When issued, the Purchase Order will be mailed, faxed or emailed only if the Finance Department is notified of this request by the originating department. It is the responsibility of the requesting department to provide this information to the Finance Department.

### **9.5 Receipt of Invoice**

- a. Vendors are directed to send all invoices directly to the Finance Department.
- b. Invoices shall state the purchase order number, the ordering department's name and address, vendor name and address, as well as unit and total purchase price of each item.

- c. Upon receiving the requested materials or services, the end user department must enter the invoice into the financial system. The ordering department is responsible for investigating and rectifying any problems appearing on the invoices.

**Note:** If an invoice is entered into the City's financial system totaling over \$1,000.00 and it does not reference a purchase order number, it will be rejected by the finance department, unless item(s) or service(s) are listed in 9.2 "Purchase Order Exemption". The Treasurer shall immediately inform the City Administrator of such rejection.

## **9.6 Blanket Purchase Orders**

Blanket purchase orders may be issued to those merchants from whom many repetitive purchases of supplies or services are made. Blanket orders may be issued periodically at the discretion of the Treasurer. Blanket orders shall be issued to encumber funds for purchases supported by price agreements, contracts, or competitively awarded purchases.

- a. Blanket purchase orders will be issued upon approval of a requisition from a user department.
- b. Blanket purchase orders shall be issued stipulating the time period, the department, the account number, and the aggregate dollar total of all transactions.
- c. Items procured under blanket purchase orders may be obtained by authorized personnel only.
- d. An authorized employee may call the vendor over the telephone or make pickup over the counter by signing a counter ticket, bill of lading, etc., at the time of pickup or delivery. A purchase order number must be provided upon request by the vendor.
- e. The vendor may submit monthly statements itemizing all transactions supported by duplicate documents and referencing the purchase order number for the month. Vendor statements will be reconciled to the invoices. Finance will pay from invoices only.

## **SECTION 10: BIDDING PROCEDURES**

### **10.1 Competitive Sealed Bidding - \$10,000.00 or more**

All purchases of goods, materials, supplies, equipment, contractual services and professional services of \$10,000.00 or more shall be awarded by this section except as otherwise provided in Section 4 - Sole Source Procurement, Section 5 – Emergency Procurements, or Section 13 – Professional Services Selection Procedures.

### **10.2 Competitive Sealed Bidding Requirements - \$10,000.00 or more**

- a. Solicitation of Bids  
An invitation for bids, request for proposal, or other generally accepted method of solicitation request shall be issued to prospective bidders and shall include specifications and all contractual terms and conditions applicable to the procurement. Except for unusual circumstances, the solicitation shall include a draft contract as approved by the City Attorney and a provision that a bid submission is an acceptance of the terms of the draft contract.
- b. Public Notice  
Public notice of the solicited bids for purchases of \$10,000.00 or more shall be issued not less than fourteen (14) calendar days prior to the date set forth for the opening of bids. Such notice shall be publicized on the City’s website, on *eMarylandMarketplace* if over \$25,000.00 as per state law, or by placing ads in the local newspaper.
- c. Bid Opening, Bid Tabulation, and Bid Analysis  
Bids shall be opened publicly by the Public Purchasing Agent in the presence of the Project Manager and/or Department Director or other designated City employee at the Municipal Building. A bid tabulation will be prepared by the Public Purchasing Agent for review by the requesting department. The requesting department will perform a bid analysis and provide a written recommendation as to the lowest responsible, responsive bidder. The requesting department shall submit the bid analysis and recommendation to the City Council for approval. All bid analyses, bid tabulations, recommendations, and other documents, as may be deemed appropriate, shall be forwarded to the City Clerk.

### **10.3 City Reserves the Right**

Each solicitation issued by the City shall state that the City of Hyattsville reserves the right to accept proposals individually or collectively, to accept or reject any or all proposals, waive any informality, and take whatever action is to the best interest of the City of Hyattsville.

#### **10.4 Bid Bonds and Other Sureties**

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

#### **10.5 Correction or Withdrawal of Bids**

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

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

#### **10.6 Bid Acceptance and Bid Evaluation**

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

#### **10.7 Bid Rejection**

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

## **10.8 Bid Award**

Bid awards for contracts under \$10,000.00 may be presented to the City Council pursuant to 8.3 of this Policy. Only the Mayor and City Council can authorize bids of \$10,000.00 or more as stated in the competitive sealed bidding procedures. Bids will be awarded to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the specifications. Factors to be used in bid award include, but are not limited to:

- a. The ability, capacity and skill of the bidder to perform the contract, provide the service, or deliver the items as per the specifications;
- b. Whether the bidder can perform the service or deliver the items promptly or within the time specified;
- c. Character, integrity, reputation, judgment, experience, and efficiency of bidder;
- d. Quality of performance of previous contracts, services, or deliveries;
- e. Previous and existing compliance by the bidder with laws and ordinances relating to contracts and services;
- f. Sufficiency of the bidder's financial resources and ability to timely perform the contract, service, or product delivery;
- g. Quality, availability, and adaptability of the supplies or contractual services to the use required;
- h. Ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- i. Compliance with the City's Sustainability Policy;
- j. Business location (City first, then County, then State);
- k. Number and scope of conditions attached to the bid; and
- l. Price.

## **10.9 Cancellation of Award**

Cancellation of awards or contracts may be permitted where appropriate. Such cancellations must be submitted to the Mayor and City Council, if \$10,000.00 or more with full explanation for consideration.

#### **10.10 Award to Other Than Low Bidder**

When the bid award is not given to the lowest bidder meeting specifications, a full and complete statement of the reason(s) for placing the order elsewhere will be prepared by the Department Manager/Director and submitted to the Mayor and City Council, if \$10,000.00 or more. For such bid awards under \$10,000.00 the City Administrator and either the Treasurer or the Department Head/Manager must agree if the bid award is not given to the lowest bidder.

#### **10.11 Tie Bids**

Tie bids will be addressed as follows:

A tie bid exists where two or more vendors offer products that meet all specifications, terms, and conditions at identical prices, including cash discount offered for prompt payment. In such a case, a tie bid will be broken by the following methods, in descending order:

1. in-city business;
2. in-county business;
3. in-state business;
4. by lot or coin toss.

#### **10.12 Prohibition Against Subdivision**

No contract, purchase, or service shall be subdivided to avoid the provisions of this Purchasing Policy.

#### **10.13 Contract Coordination**

Upon bid award, the designated Project Manager will coordinate contract execution between the successful bidder and the City. Approval of the City Attorney is required for all contract documents. The Department Manager/Director will insure that all contract documents are completed with one complete set of original documents being kept in the office of the City Clerk and one complete set submitted with the Purchase Order to the Treasurer.

#### **10.14 Purchase Order**

The requisitioning department will prepare the requisition in the City's financial system attaching the contract (when applicable) and bid tabulation sheet. If the purchase is over \$10,000.00, the request must also include the agenda item form and the approved minutes. The Treasurer will issue the purchase order.

**10.15 Payment**

Following receipt of the goods or services and the invoice, the Finance Department will be notified to make payment. Notice to the Finance Department will consist of the invoice recommended for approval being submitted through the City's financial system.

**10.16 Waiver of Competitive Bidding**

The Mayor and City Council may waive the requirement for competitive bidding for the purchase of supplies, materials, equipment, or contractual services when some material feature or characteristic of the item or service is unique in nature. The user department, in consultation with the City Attorney, shall submit a full and complete statement of the reason for waiving competitive bidding to the Mayor and City Council for consideration by the same.

**10.17 Authority to Execute Contracts**

The Mayor, the City Administrator or their designee shall execute all contracts for purchases.

**10.18 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. Notice of cancellation shall be posted on the City's website and *eMarylandMarketplace*.



## **SECTION 11: PUBLIC IMPROVEMENTS (Construction Projects)**

### **11.1 Purpose**

The primary purpose of this section is to establish formal procedures for the efficient management of public improvement projects (defined as the improvements to the municipal infrastructure such as roads, storm drains, traffic signals, facilities, structures, and parks).

### **11.2 Project Authorization**

All non-budgeted public improvement projects equal to or exceeding \$10,000.00 aggregate costs shall be submitted to the Mayor and City Council for authorization to prepare plans, specifications, and bidding.

### **11.3 Authority and Responsibilities**

A Project Manager for a contract or public improvement shall be appointed by the City Administrator or the City Council. If an independent agent who is not an employee of the City is to be the Project Manager, the City Council shall approve such service contract which will specify to whom the independent Project Manager will report. All public improvements shall be scheduled and developed under the direction of the designated Project Manager. In accordance with this section, the designated Project Manager, in cooperation with the Public Purchasing Agent, shall prepare or supervise the following:

- a. Coordinate all competitive bidding requirements in matters of public improvements or major maintenance of public property and act as the contracting agent.
- b. Approve documents utilized in the bid process for public improvements or major maintenance of public property.
- c. Prepare or supervise the preparation of specifications, special provisions, general conditions, plans, proposals, and other contract documents.
- d. Manage construction contracts to ensure completion of work within both the time and budget allotted.
- e. When competitive bidding requirements have been exhausted or a sole bid is received, negotiate construction contracts for public improvements or major maintenance of public property when directed by the City Administrator.

- f. Prepare or supervise the preparation of bid tabulation on construction bids for Mayor and City Council action. Said tabulation shall include a recommendation and be approved by the City Council as appropriate.
- g. Inspect or supervise the inspection of construction contracts and determine acceptance of contracts as to quality, quantity, and conformance with specifications.
- h. Conduct a background/reference check on all contractors recommended for bid award.
- i. Submit all documents to the City Clerk who will maintain the project file per the City's Retention Policy.

#### **11.4 Competitive Sealed Bidding**

All construction services pertaining to public improvements shall follow this format:

- a. Bids with estimated cost less than \$10,000.00: Utilize a simplified "Request for Proposal" process and advertise one time in a local newspaper, *eMarylandMarketplace*, or on the City's website. Contract documents may be simplified at the Public Purchasing Agent's discretion such as simplified general conditions, bond requirements, etc. Except for unusual circumstances, the solicitation shall include a draft contract as approved by the City Attorney and a provision that a bid submission is an acceptance of the terms of the draft contract.
- b. Bids with estimated cost over \$10,000.00: Complete formal contract documents shall be prepared and advertised on *eMarylandMarketplace* and the City's website. Notice may also be sent to trade or construction publications. Except for unusual circumstances, the solicitation shall include a draft contract as approved by the City Attorney and a provision that a bid submission is an acceptance of the terms of the draft contract.

#### **11.5 Bid Document Retention**

For all projects, a complete set of formal plans and/or specifications as well as all associated documents shall be on file with the Public Purchasing Agent and the City Clerk.

## **11.6 Bid Solicitation**

Bid solicitations will be equally and uniformly made known to all prospective bidders and the public as described in 11.5 above. Sealed bids shall be submitted to the Office of the City Clerk. Bid opening shall be a minimum of fourteen (14) calendar days after invitation is made public, unless decreased at the discretion of the Public Purchasing Agent, upon approval of the City Administrator for special circumstances.

## **11.7 Bid Documents on File**

**In addition to the Project File maintained by the City Clerk** one complete set of bid documents will be kept on file in the responsible department prior to the bid opening date. **Electronic copies of all bid documents will ordinarily be available from the City's website.**

## **11.8 Checks or Bid Bonds to Accompany Bids**

Each bidder on a public construction contract with estimated cost equaling or exceeding \$100,000.00 will at the discretion of the City accompany the bid with a certified or cashier's check, bond or other surety equal to five percent (5%) of the bid. Such surety will be used by the City to pay expenses incurred by the City should the bidder default by not executing a contract with the City in a timely manner. Bid bonds will be returned within a reasonable time to the unsuccessful bidders after contract execution.

## **11.9 Tabulation and Award**

The Public Purchasing Agent or designee shall prepare a tabulation of the bids with an award recommendation as to the lowest responsible, responsive bidder. The Treasurer or designee will review funding availability. Such recommendation will be presented to the City Administrator. The bid award and authorization to execute a contract will be submitted to the Mayor and City Council for consideration if \$10,000.00 or more. The bidder receiving the award will be promptly notified in writing by the Public Purchasing Agent. The Public Purchasing Agent or designee will issue the notification to proceed to the contractor after contracts are fully executed and the required bonds and insurance are on file.

## **11.10 Bonds or Other Surety**

All performance bonds or as appropriate, payment bonds, restoration bonds, or other surety must be provided by a company licensed by the State of Maryland plus approved and accepted by the City Attorney as to form and content. If the contract amount equals or exceeds \$100,000.00 or as recommended by the City Attorney, a Performance Bond or other surety equal to one hundred five percent

(105%) of the contract shall be submitted by the successful bidder following contract award and prior to work commencement. The amount of Labor and Material or Maintenance bonds, if required, shall be determined by the Public Purchasing Agent.

**11.11 Award to Other Than Lowest Bidder**

If recommendation for award is to other than the lowest responsible bidder meeting specifications, the bid analysis or other suitable documentation stating the reasons shall accompany the agenda item for award. Such documentation shall be kept on file with the Public Purchasing Agent per the City's retention schedule.

**11.12 Certification of Invoices**

All invoices submitted for work performed shall be certified by an architect engineer of record or other certified inspector that such work was performed in accordance with specifications.

**11.13 Rejection of Bids**

The City may reject any and all bids at its discretion and may or may not rebid the project.

**11.14 No Timely Bid**

If no timely bid is received on a public construction contract the City may negotiate a contract. Mayor and City Council approval is needed for any amount of \$10,000.00 or more.

**11.15 Contract Coordination**

Contract negotiations between the successful bidder and the City shall be coordinated by the Public Purchasing Agent. The Public Purchasing Agent shall ensure that all contract documents are completed.

**11.16 Invoices**

- a. The contractor shall submit invoices to the Public Purchasing Agent providing units of work completed, unit prices, and the total value of work completed. An invoice shall be accompanied by an Invoice Affidavit signed and notarized by the contractor. The Project Manager will execute the request for payment prior to processing. A Request for Payment form shall be approved and signed by the Public Purchasing Agent before payment is made.

- b. All payment requests will be submitted to the Finance Department by the Project Manager with applicable certifications by the engineer, architect, or third party inspector.
- c. If the Finance Department disputes any portion of a payment request, it shall immediately notify the Project Manager and the City Administrator of the problem. Unless otherwise directed, the Finance Department shall promptly pay the undisputed portion of the payment requested. The decision to delay payment of the entire payment request rather than only the disputed portion of the request, shall be made by the City Administrator after consultation with the Project Manager and the Finance Department.

### **11.17 Change Orders**

Change orders shall be used to change contracts as follows:

- a. The City of Hyattsville reserves the right in all contract agreements to increase or decrease quantities, time, and alter the details of construction as the Public Purchasing Agent and/or Project Manager may consider necessary or desirable by approved change order.
- b. A change order shall be defined as a written order issued by the Public Purchasing Agent and/or Project Manager for changes in the construction work and other contractual services. Such change orders shall set forth the description of the change and the method of measurement and payment. Change orders must be reviewed and approved by the City Administrator and the Treasurer for approval.
- c. Change orders shall be limited to increases or decreases in time or changes in the scope of the work which may change the total cost of the project. Mayor and City Council authorization of a change order is required when the change order exceeds any amount previously approved by Mayor and City Council or the change order exceeds \$10,000.00 or ten percent (10%) of a contract approved by the City Council. The Change Order also must have Mayor and City Council approval if the original contract plus the change order exceeds \$10,000.00. Otherwise the change orders shall be approved by the City Administrator and the Treasurer. The Treasurer must certify that funding is available for any change order prior to executing the change order.
- 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.

## **SECTION 12: SPECIFICATIONS**

### **12.1 Purpose**

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive.

- a. Use of standardization  
Standardization takes advantage of lower prices from buying in bulk. It also lowers the administrative cost of purchasing by reducing the total number of purchases made. Standardization consists of consolidating similar requirements into a single specification, whenever possible, and shall be the responsibility of the Department Manager/Director or designee.
- b. Use of Specifications  
Specifications are a clear and complete description of the essential requirements that items should meet. Well-written specifications ensure that maximum value is being obtained for the public funds spent; and, all qualified vendors, large and/or small, are able to compete on an equal basis.

### **12.2 Types of Specifications**

Professional assistance may be necessary for items of highly specialized or technical nature from time to time. It must be emphasized that specifications must be clear and accurate, updated regularly to reflect technological or market changes, and most of all, avoid the use of restrictive or unfair details that preclude or reduce competition.

- a. Open Specification  
An open specification describes all physical and functional features, may incorporate words or phrases from widely accepted industry or governmental standards, and approved in accordance with the procedures outline in this section.
- b. Design Specification  
Design specifications describe in detail precise configuration measurement, tolerance, material, standard or method of testing, or inspection.
- c. Performance Specification  
Performance Specifications describes a result or capability that must be achieved by an item such as speed, output maintainability, or reliability.

- d. Brand Name or Equal Specifications Conditions for Use  
Brand name or equal specifications may be used pursuant to Section 4 of this Policy subject to the following factors:
  - 1. No other design or performance specification or qualified products list is available.
  - 2. The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement.
  - 3. Use of a brand name or equal specification is in the City's best interests.
  
- e. Designation of Several Brand Names  
Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
  - 1. Required Characteristics  
Unless the Project Manager with the approval of the City Administrator determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
  - 2. Nonrestrictive Use of Brand Name or Equal Specifications  
Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard or quality, performance, and characteristics desired and is not intended to limit or restrict competition.

### **12.3 Brand Name Specifications**

Since use of a brand name specification is restrictive of product competition, it may be used only when the Project Manager and the City Administrator or designee determines that:

- a. Only the identified brand name item or items will satisfy the City's needs.

- b. The designated Project Manager has identified sources from which the designated brand name item or items can be obtained and has preliminary solicited such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 4 “Sole Source Procurement”.

#### **12.4 Specification Development and Approval**

- a. Research

The user department shall determine its needs, research available and alternative products by means of manufacturer product brochures or contacts with salespersons, and prepare and compile a detailed description that can be incorporated into a specification format.

- b. Approval Procedure

- 1. Initiating Specification Development

- The user department shall prepare specifications excepting public improvements that will be prepared by the designated Project Manager.

- 2. Specification Development

- The requisitioning department or Project Manager shall be responsible for the completeness and accuracy of the specifications.

- 3. Approval of Specifications

- All specifications and revisions to specifications shall be approved by the Department Manager/Director.

#### **12.5 Specification Content**

Specifications must be clear, detailed, accurate, well organized, and uniformly consistent in format. Specifications constitute a reflection of the City and its staff due to its nature of contact with many vendors. Instructions to Bidders and General Conditions shall be a part of every specification, but may be modified as necessary.



## **SECTION 13: PROFESSIONAL SERVICES SELECTION PROCEDURES**

### **13.1 Goal**

Provide a complete and objective evaluation for subsequent recommendation to the Mayor and Council of the City of Hyattsville, based on information provided by the consultant firms and information available from City of Hyattsville's records or other appropriate sources. The primary goals include:

- Obtain quality Professional Services
- Promote competition and opportunity
- Consider costs and qualifications of professional service proposals
- Provide documentation of the selection proceedings for future reference purposes
- Meeting the City's Sustainability Policy

### **13.2 Professional Services Defined**

Professional Services include, but are not limited to, the following disciplines:

- a. Appraisal services
- b. Architectural services
- c. Engineering services
- d. Environmental services
- e. Financial, accounting, and auditing services
- f. Consultants for City specialized service
- g. Physicians
- h. Landscaping
- i. Construction
- j. Vehicle maintenance and repair
- k. Information Technology
- l. Items as determined by the Mayor and City Council

### **13.3 Professional Services Selection Committee**

Unless otherwise provided in the Charter or laws of the City, the following procedure is to be utilized in securing professional services:

- a. The Professional Services Selection Committee for the project will consist of a minimum of three members and shall include representatives from various City Departments. The number of representatives and components of the committee will be established by the Selection Committee Chairperson who shall be the appropriate Department Manager/Director, and the committee may include the following:

1. Appropriate Department Manager/Director
  2. Treasurer and/or Designee
  3. Community/Economic Development Director and/or Designee
  4. Police Chief and/or Designee
  5. Director of Public Works Manager and/or Designee
  6. Mayor and/or Designee
  7. City Administrator and/or Designee
- b. All actions of the Professional Services Selection Committee with regard to this Policy shall be performed in a meeting scheduled by the Committee Chairperson with the proper minutes of each meeting kept.

#### **13.4 Requests for Proposals**

- a. The Department having jurisdiction over the particular project will be required to prepare a detailed scope-of-work description in a formal Request for Proposal. This scope-of-work will include such contract considerations as: City's goals and objectives, description of project, design criteria and standards to be use, completion dates, method of compensation to consultant, responsibilities of consultant, responsibilities of the City, and any other pertinent data applicable to that particular project.
- b. Alternate proposals may be submitted for consideration when so noted in the Request for Proposal.
- c. A consultant shall be required to submit a breakdown of his/her fees per work task.

#### **13.5 Proposal Solicitation**

- a. For professional services that exceed the formal bid/proposal limit, as set forth in the City of Hyattsville Purchasing Policy, the City will solicit proposals through *eMarylandMarketplace* and the City's website.
- b. The City staff may solicit Requests for Proposal responses in different formats based on the size and scope of the project, technical expertise required and in the best interest of the City of Hyattsville. A Request for Qualifications may be used at the discretion of the Selection Committee in order to pre-qualify firms when the scope of services is complex, requires related experience, or requires specific professional skills.
1. No Pre-Qualification  
Solicit submittals to be received as one proposal with the qualifications and experience and technical information in a separate envelope from that of the price submittal. Qualifications,

experience, and technical information will be evaluated and the proposals may be reduced to a short-list by the committee. The price proposals of only the short-list firms will be opened and evaluated. All other price proposals will be returned unopened.

2. Pre-Qualification

Solicit qualifications and experience from all interested firms. Qualifications and experience information will be evaluated and the proposals will be reduced to a short-list by the committee. Request for Technical and Price proposals will then be solicited from only the short-list firms. All non-short list firms will be notified that they were unsuccessful

- c. All price proposals will be retained by the City Clerk until the Selection Committee has completed its evaluation of the technical proposals and developed a short-list. Only the price proposals of the short-listed firms will be released to the Selection Committee for opening and evaluation. All other price proposals will be returned unopened.

**13.6 Selection Procedure**

- a. Each firm will be evaluated, rated and/or ranked, based on information provided in their proposal. Proposals must be ranked with a numerical score and the scoring matrix must be included in the RFQ/RFP (a sample scoring matrix and criteria explanation is included in Appendix "A"). Selection criteria may include: special expertise in a specific discipline, the firm's record of performance, the firm's financial resources, the firm's experience in relevant projects, adequacy of the firm's personnel, ability of the firm to perform the work in a timely manner, composition of the principals of the firm, composition of the project manager and team assigned to the project, reference check, firm's location of practice, ability to comply with the City's Sustainability Policy, and prior City of Hyattsville experience or other Maryland municipal experience, as applicable.
- b. The Professional Services Selection Committee reserves the right to request personal interviews with the initial short-list consultants whose proposals are considered to have merit if such interviews are considered by the Committee to be necessary to the process of narrowing down the short-list and in the best interests of the City.
- c. The Selection Committee will prepare a recommendation based on the lowest responsible bid price of the most qualified short-list firms. As a part of the recommendation, the Committee will state their choice of consultants and include the justification for their selection.

- d. The City reserves the right to negotiate the final fee.
- e. The final selection of the consultant and the awarding of the professional service contract(s) shall be in accordance with Section 10, “Bidding Procedures”.

**13.7 Special Conditions**

When determined by the City Council to be in the best interest of the City, portions of these procedures may be waived.

## **SECTION 14: DISPOSAL OF PROPERTY**

### **14.1 Purpose**

The purpose of the Policy is to establish guidelines for the maintenance, transfer and disposal of all City owned equipment, supplies and personal property. Disposal of all items must be in accordance with the City's Sustainability Policy.

This Policy applies to all employees and all City owned equipment, supplies and personal property. (Real estate is specifically excluded).

### **14.2 Scope**

The Treasurer, with approval of the City Administrator, will be responsible for directing the effective disposal of surplus and obsolete property. Surplus and obsolete property may be auctioned, transferred, sold, offered as a trade-in, or destroyed.

### **14.3 Definitions**

Surplus is defined as equipment, supplies, materials, saleable waste, and scrap. Land and buildings are not included within this definition.

- a. Surplus – Usable in its present condition but no longer useful to a particular department.
- b. Salvageable Goods – Having value, but requiring repairs to make usable. In reporting salvageable equipment, the disposal request should show the estimated cost of repairs required to make the property usable, if available.
- c. Scrap – Saleable for scrap value having only no future value as a usable commodity to other departments in its present condition. This includes scrap metal.
- d. Worthless Equipment – Broken or worn-out items having no saleable scrap value. The final determination of value will be made by the Treasurer with agreement of the disposing Department Manager/Director.

### **14.4 Procedures**

The Treasurer is in the strategic position to direct surplus for re-use by other departments, deal with suppliers for return for credit, or can contact used material dealers to facilitate salvage disposal through those channels. All salvage, worthless equipment, or other materials must be reported to the Treasurer **prior** to disposal.

The Treasurer shall survey the departments at least semi-annually to determine if surplus and/or obsolete property is on hand for disposal; however, departments shall identify and report whenever property is determined to be obsolete or surplus to the department. Each department shall prepare a list of all surplus items and scrap property on hand and submit the listing to the Treasurer and the City Administrator. No properties may be disposed of or transferred without the approval of the City Administrator. In the event that a need for immediate disposal is required, a department may notify the Treasurer by written memorandum and request appropriate action. Depending on the nature of the item, the Treasurer, upon the approval of the City Administrator, may choose one of the following methods of disposition:

a. Transfer

1. City Wide

Once a list of surplus and obsolete property has been developed, the Treasurer will circulate an “availability list” among all departments. The City Administrator shall approve the inter-departmental transfer of surplus items. If a transfer is not feasible or there is no response to an item appearing on the availability list, then the Treasurer, with the approval of the City Administrator and the City Council, may dispose of the property by any approved means deemed appropriate by this Policy.

2. Governmental Agencies

City owned surplus equipment or supplies may be approved by the City Administrator or the Mayor and City Council for permanent transfer to other governmental agencies.

b. Trade-in

When a user department needs to purchase an item to replace obsolete equipment, it is sometimes possible to trade-in old equipment. Trade-in shall be used as an expedient or easy method of disposal. If a trade-in is accepted on a particular piece of equipment or item, the invitation for bid shall call for bid prices with and without trade-in, and indicate that award may be made on either basis. The Treasurer shall compare the trade-in with the best-expected sale price for the obsolete items. This procedure requires market analysis as a basis for determining the approximate value that would be realized if the item were sold rather than traded in.

c. Sale

All sales of surplus, obsolete, or abandoned property shall be conducted by the Treasurer or designee by one or more of the following methods.

1. Public Auction

A public auction is one method of selling certain types of surplus and/or obsolete property. Auctions are advertised to the general public in the newspapers. The City may opt to hire an auctioneer, and/or handle the proceedings utilizing staff personnel. For all auctions, the following procedures shall be observed:

- a. List general categories for sale.
- b. Interested parties will be allowed time to inspect the items before the auction. Property for sale shall be placed in proper condition by user departments in order to obtain maximum return on the property to be sold.
- c. As items are sold, a list shall be compiled with the item description and the sale price.
- d. Items will be sold to the highest bidder.
- e. Unless otherwise stipulated by the City Administrator, city employees shall not be prohibited from participation in public solicitation for sale of surplus. All terms and conditions of the public sale shall apply to City employee participants.

2. Sealed Bids

Sealed bids may be used as a method of property disposal and shall be required when disposing of equipment or large quantities of materials and supplies in a single lot. Sealed bidding procedures shall not apply when property is sold by either public or internet auction. Sealed bids shall be advertised in the local newspaper.

3. Sale of Salvage Goods

If none of the methods mentioned above are feasible or possible, the Treasurer, depending on the nature of the item, may sell to a second-hand dealer, scrap dealer, recycler, junk dealer, or a responsible bidder. **NO CASH WILL BE ACCEPTED.**

4. Online or Internet Auction

Property may be auctioned utilizing the Internet either through a third party online auction company or other Internet means as may now or later be available. The sale of property listed for disposal through the Internet will comply with all the terms and conditions of sales as listed hereafter. Acceptable payment methods shall include certified or cashier checks, credit card, or other electronic fund transfer method. Internet auctions may be, but are not

required to be, advertised to the general public as may be advantageous for public auction sales.

d. Donations

The City shall not donate items valued at \$500.00 or more without adequate compensation unless approved by the City Council or the City Administrator.

e. Destroy

With the approval of the City Administrator, surplus property which cannot be transferred, traded-in, or sold may be destroyed in an appropriate manner.

**14.5 Sale of Products – Proceeds**

All proceeds resulting from the sale of surplus or obsolete equipment shall be placed in the Capital Projects Fund.

**14.6 Terms and Conditions of Sale**

Depending on the nature of the items and the method of sale selected, the following terms and conditions shall be used:

a. Inspection

Prospective buyers will be allowed time prior to the sale to inspect items.

b. Warranty

No express warranty or guarantee of any kind is given by the City of Hyattsville as to the description, quality, condition, serial number, or any other aspect of any item put on sale and no claim for allowance on such ground will be considered. The City of Hyattsville disclaims all implied warranties, including the implied warranties of merchantability or fitness for a particular purpose. No City official, employee, or agent of the City has the authority to make or give any warranty of any kind whatsoever. All items are offered for sale “as is,” “where at,” and “without recourse”.

c. Reservation

The City of Hyattsville reserves the right to accept or reject any or all bids if, in the opinion of the City Administrator, such action would be in the best interest of the City.

d. Removal

The successful bidder will be required to furnish all labor and equipment at their own risk and expense necessary for the removal of any items bid upon within a period of three (3) days unless otherwise authorized after notification or acceptance of bid by the City. Any item not called for or



left behind for a period of more than five (5) days after the date of acceptance of bid will be considered abandoned, and the City shall have the right to dispose of said items in any manner whatsoever.

e. Minimum Price

In some instances, the Treasurer may establish minimum prices for any item being disposed.

**14.7 Returns**

Nothing contained in this Policy shall be construed to prohibit the return of material which has been received in error.

**14.8 De-valuation**

All surplus equipment, supplies and personal property determined to have value shall be maintained, prior to disposal, in a manner which will not lead to de-valuation due to condition. Parts stripping shall be prohibited unless otherwise approved by the City Administrator.

**14.9 Location & Delivery**

Each department submitting surplus items for disposal consideration shall be responsible for maintaining such items in an appropriate manner at their location until the time of disposal. Autos and mobile equipment must be taken to Department of Public Works prior to the time of disposal.

Departments submitting surplus items for disposal may be required to provide delivery of such items to the sale location. Items being picked up for disposal shall be clearly marked and readily available for transport to sale location.

**14.10 Payment**

All payment to the City for the purchase of surplus, salvageable goods, scrap, equipment, supplies, and property shall be made in form of a good check, certified check, or money order. **CASH IS NOT ACCEPTABLE.**

**14.11 Grant Funded Items**

If the item(s) to be sold or disposed of were purchased utilizing grant funds then the responsible department must contact the grant source to determine which disposal method meets the Grantor's Policy.

#### **14.12 Acquisition of Surplus**

Acquisition of State and Federal government surplus items from the Maryland State Agency for Surplus Property or other government entities must be coordinated by the Treasurer.

## **SECTION 15: RECOVERY OF DAMAGES TO CITY OWNED PROPERTY EXCLUDING MOTOR VEHICLES**

### **15.1 Purpose**

In the event of damage to any City owned property, excluding motor vehicles, due to the negligence of another party, all subrogation or collection attempts will be handled through the Finance Department.

### **15.2 Procedure**

City owned property, under this section shall include, but not be limited to: curbs, sidewalks, parking meters, traffic signals and signs, shrubbery, guardrails, fire hydrants, utility poles, street lights, etc.

When damage to City property has occurred, the following collection procedures will be used:

1. A determination shall be made by the City Administrator as to whether the damages can or should be collected.
2. A copy of the accident report will be obtained from the Hyattsville Police Department or the prevailing police authority.
3. The Finance Department will create a file and review the accident report to determine which City Department(s) have the responsibility (ownership) of the damaged property.
4. The Finance Department will request accident damages from the respective department(s). Department must provide an itemized repair invoice to Finance within ten (10) days.
5. The Finance Department will submit a request for payment of damages to the responsible party or their insurance carrier, if known.
6. When payment is received, the Finance Department will document the payment and deposit it to an account of the appropriate department.
7. If payment is not received within sixty (60) days, the Finance Department will send a follow up letter to the responsible party and/or their insurance carrier.
8. If the Finance Department is unable to collect the damages within 120 days, the involved Department(s) will be notified to help determine what further action should be taken.

9. Upon approval of the City Administrator, legal action will be considered and taken with the assistance of the City Attorney if the following guidelines are met:

- a. Damages exceed \$1,000.00;
- b. Responsible party displays evidence of financial ability to pay, or;
- c. Evidence of Insurance or sufficient resources to pay exists.
- d. The cost of any return for collection will not, within reasonable probability exceed the probable award.

The Finance Department will submit a copy of the incident's complete file to the City Attorney.

Only as a last resort will legal counsel be retained.

## **SECTION 16: DEBARMENT**

### **16.1 Authority to Debar**

After ten (10) days written notice to the person or business involved and reasonable opportunity for that person or business to be heard, the Treasurer, after consulting with the Mayor, the City Administrator, and the City Attorney, and after approval by the City Administrator may debar a person or business for cause (upon evidence of probable cause) from consideration for award of contracts. The debarment shall not be for a period of more than seven years. A business may be debarred when an officer, principal, or project manager of the business is or was involved in any of the causes listed below. When debarment occurs, such debarment shall be considered to be just cause for cancellation of any existing contracts held by the person or business debarred. The causes for debarment include, but are not limited to:

1. Conviction for commission of a criminal offense relating to obtaining, or attempting to obtain a public, private contract, or subcontract, or in the unsatisfactory performance of such contract or subcontract.
2. Conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty.
3. Conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals.
4. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract.
5. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
6. Any other cause the City determines to be so serious and compelling as to affect responsibility as a City contractor including debarment by another governmental entity for any cause in this Policy.

**16.2 Decision to Debar**

The Treasurer shall issue the written decision to debar. The decision shall state the reasons for the action taken and inform the debarred person or business involved of his/her rights concerning judicial or administrative review.

**16.3 Notice of Decision**

A copy of the decision shall be mailed or otherwise furnished immediately to the debarred person or business.

**16.4 Finality of Decision**

The decision shall be final and conclusive, unless the debarred person or business, within ten (10) days after receipt of the decision, protests the decision in writing to the City Administrator. The City Administrator shall issue a decision in writing within ten (10) days after receipt of the protest stating the reasons for the action taken. This decision shall be final.

**16.5 Reconsideration**

After a contractor has been debarred for a period of no less than two years, the contractor may petition the City Administrator to reconsider the debarment upon proof that the circumstances causing the debarment have been cured.

## **SECTION 17: LEASING OF EQUIPMENT**

### **17.1 Policy Compliance**

Contracts for lease equipment must follow and are subject to the Purchasing Policy and Procedure Policy.

### **17.2 Approval Levels**

Required approval levels will be based on the annual value of each contract. Lease contracts with a total consideration for the lease term of more than \$5,000.00 will be approved by the Mayor and City Council.

### **17.3 Multi Year Leases**

Leases of more than a one (1) year period shall be reviewed on an annual basis by the Treasurer.

### **17.4 Local Businesses**

Every effort must be made to insure that all local businesses are provided an opportunity to participate and submit proposals.

### **17.5 City Attorney Approval**

All leases must be approved by the City Attorney.

## **SECTION 18: PRE-APPROVAL FOR TRAVEL**

### **18.1 Purpose**

The primary purpose of this section is to establish formal procedures for the approval and the pre-approval of travel out of the area for various conferences and training opportunities. The form in Appendix B must be submitted and approved prior to any reservations or travel arrangements being made.

### **18.2 Approvals**

Approvals for out of area travel must be recommended for approval by the Department Manager/Director or designee and approved by the Treasurer (as for inclusion into the budget) and the City Administrator and/or Mayor.



## **SECTION 19: PRE-APPROVAL FOR CITY CREDIT CARD USAGE**

### **19.1 Purpose**

The primary purpose of this section is to establish formal procedures for the pre-approval of usage of the City Credit Card. The form in Appendix C must be submitted and approved prior to the City Credit Card being used for any purpose.

### **19.2 Approvals**

Approvals for Credit Card use must be approved by the Department Manager/Director or designee, Treasurer (as for inclusion into the budget), and the City Administrator or designee.