

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

December 15, 2008

CALL TO PODIUM:

Harold Belton

RESPONSIBLE STAFF:

Harold Belton, Director
Finance and Administration

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
X	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	11/24/08
Advertised	11/28/08
Hearing Date	12/15/08
Record Held Open	12/26/08
Policy Discussion	

TITLE:

Public Hearing to Authorize the Changes to Chapter 57 of the City of Gaithersburg Charter Regarding Purchasing Regulations

SUPPORTING BACKGROUND:

The Mayor and City Council discussed a proposed amendment to Section 57 of the Charter and adoption of a Resolution establishing administrative purchasing procedures. The Charter amendment would delete purchasing limits from the Charter and require adoption of purchasing procedures by resolution. The proposed purchasing procedures would increase the current purchasing limits.

Section 57 of the City Charter establishes dollar limits for purchases requiring sealed bids and Council approval. These dollars limits have not been updated since 1997. The Finance Department has surveyed other jurisdictions to compare the City's purchasing limits with other governments and found that the City's purchasing limits are generally below other similar jurisdictions.

DESIRED OUTCOME:

Conduct Public Hearing and notify the public that the record will remain open until Friday, December 26, 2008 at 5 p.m. Final action is anticipated during the January 5, 2009 Mayor and City Council meeting.

NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg will hold a public hearing on:

**MONDAY, DECEMBER 15, 2008
7:30 P.M.**

or as soon thereafter as it can be heard in the Council Chambers at City hall, 31 South Summit Avenue, Gaithersburg, Maryland on the following:

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG, MARYLAND, TO AMEND SECTION 57 OF THE CITY CHARTER ENTITLED "PURCHASING AND CONTRACTS" TO ESTABLISH LIMITS FOR BIDDING OF CONTRACTS AND PURCHASES BY RESOLUTION.

Further information may be obtained from the City Managers Office, 31 South Summit Avenue between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Angel L. Jones, City Manager

MC 112852

(11-28-08)

RESOLUTION NO. _____

**RESOLUTION OF THE MAYOR AND CITY COUNCIL
OF GAITHERSBURG, MARYLAND, TO AMEND
SECTION 57 OF THE CITY CHARTER ENTITLED
“PURCHASING AND CONTRACTS” TO ESTABLISH
LIMITS FOR BIDDING OF CONTRACTS AND
PURCHASES BY RESOLUTION**

WHEREAS, Section 57 of the Charter of the City of Gaithersburg establishes monetary minimums for when the City Manager is required to advertise for sealed bids for contracts and purchases; and

WHEREAS, Section 57 of the Charter of the City of Gaithersburg establishes monetary minimums for when contracts and purchases by the City must be approved by resolution of the City Council; and

WHEREAS, City staff has thoroughly reviewed the purchasing requirements in jurisdictions throughout the region and found that the City’s monetary minimums are significantly lower than other jurisdictions; and

WHEREAS, City staff has recommended that the monetary minimums established by the City Charter be increased and that the City Charter be amended to permit the Mayor and City Council to establish monetary minimums for contracts and purchases by resolution.

WHEREAS, the amendment of Section 57 of the Charter of the City of Gaithersburg was duly considered by the Mayor and City Council at a public hearing held on _____, 2008.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, in public meeting assembled, that Section 57 of the City Charter is hereby amended as follows:

Section 1 – That Section 57 of the Charter of the City of Gaithersburg be, and the same is, repealed and reenacted with amendments as follows:

Sec. 57. Purchasing and contracts.

The city manager shall be required to advertise for sealed bids for all contracts or purchases ~~in excess of fifteen thousand dollars (\$15,000.00);~~ in accordance with purchasing procedures adopted by resolution of the council. ~~provided, that the council may, by resolution, permit negotiation without sealed bids of contracts for professional services, insurance coverage or other services or of products, where, in the opinion of the council, the interests of the city would be best served by negotiated contracts.~~ All contracts or purchases in excess of ~~thirty thousand dollars (\$30,000.00)~~ the minimum established by the purchasing procedures shall

be approved by resolution of the council; provided, however, in any public emergency declared by the chief executive officer of the state, Montgomery County or the city to protect and preserve inhabitants or property within the city or the carrying out of obligations under any mutual assistance agreement between jurisdictions, the city manager is authorized to expend any appropriated and unencumbered funds for this purpose without approval by council resolution. ~~The city manager may contract with any supplier who offers goods or services on the same terms as provided other state and local governments or agencies who have arrived at those terms through a competitive procurement procedure and where the city manager finds the cost of the items to be purchased is equal to or less than that which could be obtained through the city's competitive bidding procedure. The city manager shall have the authority to enforce purchasing rules and regulations not inconsistent herewith. The council may, by ordinance or resolution, establish further regulations for city purchases and contracts not inconsistent herewith.~~

Section 2 – BE IT FURTHER RESOLVED that the date of the adoption of this resolution is _____, and that the amendment to the Charter of the City of Gaithersburg, as herein adopted, shall be and become effective on _____, unless on or before said date a proper petition for referendum of this resolution shall be filed as permitted by law.

Section 3 – BE IT FURTHER RESOLVED that a complete and exact copy of this resolution shall be posted at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877, until _____, and a fair summary of the proposed Charter amendment contained in this resolution shall be published in a newspaper of general circulation in the City of Gaithersburg not fewer than four (4) times at weekly intervals before _____.

Section 4 – AND BE IT FURTHER RESOLVED that as soon as the Charter amendment hereby enacted shall become effective, either as herein provided or following a referendum, the City shall send or cause to be sent to the Department of Legislative Reference the following information concerning this Charter resolution: (1) the complete text of this resolution; (2) the date of enactment of the Charter amendment; (3) the date of the referendum election, if any; (4) the number of votes cast for or against this resolution whether by the City Council or in a referendum; and (5) the effective date of the Charter amendment contained herein.

ADOPTED by the City Council this ____ day of _____, 2008.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in a public meeting assembled on the ____ day of _____, 2008. This Resolution will become effective on the ____ day of _____, 2008.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

RESOLUTION NO. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL
ADOPTING PURCHASING PROCEDURES

WHEREAS, Section 57 of the Charter of the City of Gaithersburg provides that the City Council may adopt Purchasing Procedures by resolution; and

WHEREAS, the Mayor and City Manager have recommended that the City Council adopt Purchasing Procedures; and

WHEREAS, the City Council finds that it is in the best interest of the City that Purchasing Procedures be adopted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of Gaithersburg, that the Purchasing Procedures attached hereto are hereby adopted by the Mayor and City Council.

ADOPTED by the Mayor and City Council this ____ day of _____, 2008.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in public meeting assembled on the ____ day of _____, 2008.

Angel L. Jones, City Manager

MEMORANDUM TO: Mayor and City Council

FROM: N. Lynn Board, City Attorney
Harold Belton, Director of Finance

VIA: Angel L. Jones, City Manager

DATE: November 17, 2008

SUBJECT: Proposed Amendment to Section 57 of the Charter and
Resolution adopting Purchasing Procedures

The City Charter, Section 57, requires sealed bids for all contracts and purchased in excess of \$15,000 and Council approval of all contracts and purchases in excess of \$30,000. By policy, all purchases of \$1,000 or less require competitive informal quotes, and purchases between \$1,000 and \$15,000 require three documented quotes. The dollar limitations have not been updated since 1997.

In December of 2007, the City surveyed the members of the Metropolitan Council of Governments jurisdictions to ascertain the purchasing limits for these entities. A copy of the survey results is attached. In addition, since 2000, inflation has increased by over 27% as follows:

2000	3.38%
2001	2.83%
2002	1.59%
2003	2.27%
2004	2.68%
2005	3.39%
2006	3.24%
2007	2.85%
2008	4.94% (Last reported date of September 2008)

Upon review of other jurisdictions, their size and budgets relative to the City of Gaithersburg, Staff recommends the following changes to the current purchasing limitations:

**CITY OF GAITHERSBURG
PURCHASING PROCEDURES**

PURCHASES OF	< \$1,000	CHANGED TO	<\$2,499	
PURCHASES OF	\$1,000 - \$15,000	CHANGED TO	\$2,500 - \$30,000	3 DOCUMENTED QUOTES
PURCHASES OF	\$15,000 - \$30,000	CHANGED TO	\$30,000 - \$60,000	SEALED OR NO SEALED BID
PURCHASES OF	>\$30,000	CHANGED TO	>\$60,000	RFP

In addition, Staff believes that it is cumbersome to amend the Charter each time the Council would choose to change the purchasing limits. As a result, Staff is recommending that the Charter be amended to provide for purchasing procedures, which would establish the purchasing limits, to be adopted by resolution of the Council.



COMPILATION OF PURCHASING INFORMATION REQUESTS BY GOVERNMENT

Thursday, December 27, 2007

1. Is a copy of your purchasing policy online?
2. At what value is a purchase order required?
3. What are your limits for over the counter type purchases up to those purchases which require an IFB, RFP?
4. What are your limits which require presentation to the governing body?
5. If quotes are required, how many are your minimum?

Government	1	2	3	4	5
Gaithersburg, Maryland	only intranet	\$1,000	\$1,000 - \$15,000 - Quotes \$15,000 - \$30,000 RFP/IFB		\$15,000 3
Upper Occoquan Sewage Auth	not currently	ALL	\$30,000	\$50,000 Eng Services \$100,000 Sole Source \$100,000 All Const.	3
Rockville, Maryland	yes	\$2,000	Under \$2,000 Purchase Card \$2,000 - \$15,000 Quotes Over \$15,000 Formal Bids	\$100,000	3
MD National Park & Planning	no	ALL - Based on Rick Asses.	\$5,001 - \$25,000 Informal Bid \$25,001 Formal Bid	No requirement based on limits.	Informal quotes - 5 Formal quotes - 10
Frederick, Maryland	only intranet	\$50.00	\$0 - \$2,499 No quote \$25,000 - \$29,999 quotes \$30,000 and over formal bid	\$30,000	3
Prince William Cty, Va	yes	\$1,000	\$1,000 - \$49,999 Informal quote \$50,000 and above - Formal bid \$30,000 Prof. Services - RFP	\$100,000	3 less than \$30,000 4 for \$30,000 and less than \$50,000



CITY OF GAITHERSBURG
FINANCE ADMINISTRATION

Bowie, Maryland	yes, in the cha	All contracts must have	10,000	\$10,000		3
METRO	yes	\$100,000	\$100,000	Varies depending on commodities. Routine items used for the daily operation require no Board approval Other one time items require Board Approval >\$100,000		3
Leesburg, VA	no	All \$1,000 - \$49,999 Require Verbal or written quotes. IFB required at \$50,000		\$100,000		4
WSSC	no	\$5,000	\$25,000	Construction & Goods & Services over \$750,000. A/E Services \$500,000		3
Fauquier Cnty, VA	yes	\$1,200	\$1,200	\$100,000		3
Upper Occouquan Sewer Authority	In Developer	All or Procurement Card	\$30,000	Engineering - \$50,000 Sole Source - \$100,000 Sole Source with Expansion - related construction Emergency Contracts - Next Board Meeting Construction - \$100,000 All PPEA		3
WASA	yes	\$2,500	\$100,000	\$100,000 - \$1,000,000		3

SUMMARY OF ADMINISTRATIVE PURCHASING PROCEDURES

Pursuant to Mayor and City Council Resolution No. _____ - 09, the City has adopted the following Purchasing Procedures:

PURCHASES OF LESS THAN [\$1,000] (\$2,500)

- 1) Obtain competitive informal quotes as deemed appropriate by the Department Head/Designee.
- 2) Obtain approval from Department Head/Designee.
- 3) Maintain record of informal quotes received.
- 4) Make purchase/oral agreement with vendor. If vendor requires a written Purchase Order (PO), department will process by using on-line requisitioning in MUNIS.
- 5) Complete approval of invoice to pay for received goods or Check Request to pay, if vendor requires prepayment.
- 6) Obtain Department Head/Designee signature and forward Check Request along with invoice(s) to Accounting for payment.

PURCHASES [\$1,000 TO \$15,000] (\$2,500 TO \$30,000)

- 1) Purchaser obtains three (3) documented quotes, and prepares purchase order. Quotes older than one (1) year may not be used without documented confirmation of the prices.
- 2) MUNIS will allow for approvals of Department Head/Designee, City Manager's Office and Finance and Administration. Finance and Administration will have final MUNIS approval and print converted PO's.
- 3) Finance and Administration will convert requisition to PO and return one original copy to requestor. Finance and Administration maintains one original copy.
- 4) Ordering department personnel receives materials/services.
- 5) Upon receipt of materials or completion of services, payment may be initiated by authorized personnel. A copy of the PO will be submitted to F&A for partial payment or the original copy with final payment marked on the face of the PO. It is recommended that each department retain a PO copy for their records.

PURCHASES [\$15,000 TO \$30,000 (Sealed Bids)] (\$30,000 TO \$60,000) (Sealed Bids)

- 1) Department Head submits to Finance Administration a Bid Request Form for approval by the City Manager.
- 2) Using the City's standard format, Department initiating purchase prepares Invitation for Bid (IFB) or Request for Proposal (RFP) and submits to Finance Administration for review.
- 3) Department advertises IFB/RFP through Public Information Office (PIO).

- PIO places the approved RFP/IFB on the City's WEB page.
- 4) Department mails IFB/RFP, receives and tabulates bids.
 - 5) Department and Finance Administration review tabulation and make award recommendation to City Manager.
 - 6) Department processes contract, bonds, obtains insurance certificates and begins the PO process.
Originals of contracts, bonds, and insurance certificates should be forwarded, reviewed and approved by the City Manager as the requisitioning process begins.
 - 7) Obtain approval/signature from Department Head, Finance and Administration and Legal Services. Finance and Administration obtains City Manager's signature. Once all signatures are obtained, all original contracts are returned to the City Manager's Office.
 - 8) Finance and Administration converts requisitions to PO and returns one original copy to requestor.
Finance and Administration maintains one original copy.
 - 9) Upon receipt of materials or completion of services, payment may be initiated by submitting to F&A a copy of PO for partial payment or original copy for final payment on the face of the PO. It is recommended that each department retain a PO copy for their records.

PURCHASES [\$15,000 TO \$30,000 (No Sealed Bid)] (\$30,000 TO \$60,000) (No Sealed Bid)

- 1) Department and F&A make recommendation to City Manager.
- 2) Department prepares cover sheet and resolution for Mayor and City Council approval.
- 3) Mayor and City Council award/approve expenditure.
 - 4) Department processes contract, bonds, obtains insurance certificates and begins the PO process. Originals of contracts, bonds, and insurance certificates should be forwarded, reviewed and approved by the City Manager as the requisitioning process begins.
- 5) Obtain approval/signature from Department Head, Finance and Administration and Legal Services. Finance and Administration obtains City Manager's signature. Once all signatures are obtained, all original contracts are returned to the City Manager's Office.
- 6) Finance and Administration retains original Resolution and encumbers funds.
- 7) Upon receipt of materials or completion of services, payment may be initiated by submitting to F&A a copy of Resolution for payment with annotation of partial or final. It is recommended that each department retain a PO copy for their records.

PURCHASES OVER [\$30,000] (\$60,000)

- 1) Using the City's standard format, Department initiating purchase prepares Invitation for Bid (IFB) or Request for Proposal (RFP) and submits to F&A for review.
- 2) Department advertises IFB/RFP through Public Information Office (PIO).

- PIO places the approved RFP/IFB on the City's WEB page.
- 3) Department mails IFB/RFP, receives and tabulates bids.
 - 4) Purchasing department and F&A review tabulation and make recommendation to City Manager.
 - 5) Purchasing department prepares cover sheet and resolution for Mayor and City Council approval.
 - 6) Mayor and City Council award/approve expenditure.
 - 7) Department processes contract, bonds, obtains insurance certificates and begin the PO process. Originals of contracts, bonds, and insurance certificates should be forwarded, reviewed and approved by the City Manager as the requisitioning process begins.
 - 8) Obtain approval/signature from Department Head, Finance and Administration and Legal Services. Finance and Administration obtains City Manager's signature. Once all signatures are obtained, all original contracts are returned to the City Manager's Office.
 - 9) Finance and Administration retains original Resolution and encumbers funds.
 - 10) Upon receipt of materials or completion of services, payment may be initiated by submitting to F&A a copy of Resolution for payment with annotation of partial or final.
- It is recommended that each department retain a PO copy for their records.

NOTE: Under no circumstances will the splitting of invoices in order to avoid Purchase Orders Limits or Mayor and City Council approval, be acceptable.

EXCEPTIONS TO COMPETITIVE PROCUREMENT METHODS

Unless one of the circumstances under the section below titled **EXCEPTIONS** occur, all purchases [**\$1,000**] (**\$2,500**) or **greater** will be made using competitive procurement methods.

PURCHASES [\$1,000 - \$15,000**] (**\$2,500 - \$30,000**)**

Contracts for purchases may be awarded on the basis of competitive Request for Quotation.

PURCHASES GREATER THAN [\$15,000**] (**\$30,000**)**

Contracts for purchases more than [**\$15,000**] (**\$30,000**) may be awarded on the basis of competitive Invitation for Bid.

EXCEPTIONS:

- 1) **Sole Source.** Sole source procurement shall be exempt from the regulations for competitive bidding. Sole Source is only allowed where services or supplies are only available from a single source, either because of legal requirements, specific patents or copyrights, peculiar qualifications and skills, or technical specifications. The Department Head determines in writing with the written concurrence of the City Manager that only one source for the service or product exists. The City may negotiate with the sole source. Sole Source purchases greater than [**\$15,000**] (**\$30,000**) require Mayor and City Council approval, (See Section 'E' – Sole Source Purchasing).

Other “sole-source” situations include software maintenance, some equipment maintenance, and utilities.

- 2) **Emergency.** Purchase is required to meet a threat to Public health, welfare, or safety, or if delay would seriously injure the City financially or otherwise. The City Manager may authorize such purchase using as much competition as is practical. All such purchases in excess of [**\$30,000**] (**\$60,000**) must be reported to the Mayor and Council promptly.
- 3) **Related Construction Projects.** When the City has an existing contract for a construction project and additional construction improvements are required on the project, the City Manager may determine in writing it is in the best interest of the City to award the contract for the additional work to existing contractor.
- 4) **Extensions.** An extension of a contract may be awarded without competition when the City Manager determines in writing that circumstances warrant the extension of the existing contract **AT THE SAME UNIT PRICE.** The

extension must occur **within six (6) months** after the date of the original contact and **must not exceed 25 percent** of the original contract price. An Extension refers to contracts that **do not** contain prior approved options to extend.

- 5) **Cooperative Procurements.** Other state or local agencies can provide contracts for services or products to the City that were obtained through competitive bidding or a supplier offers goods and services to the City at the same terms as accepted by other governments. The Department Head with the concurrence of the City Manager may approve an award without competitive bidding. Cooperative procurement request must be only those governments with nexus to the city.
- 6) **Competitive Sealed Proposals.** Upon determination in writing by the City Manager that the use of competitive sealed bidding is either not practical or not advantageous to the City, competitive sealed proposals may be used.
- 7) **Professional Services.** The selection of professional services contractors shall be by competitive sealed proposals or by the negotiation method when an adequate scope of work cannot be defined or it is not practical for other reasons. The negotiation methods must be approved by the City Manager in writing and prior to the commencement of the procurement process.
- 8) **Multi-Step Bidding.** Upon determination in writing by the City Manager that it is impractical to prepare a specification for award based on price, a Request for Proposal may be issued requesting submission of technical qualifications to be followed by Price Proposals from firms determined to be qualified.

TYPES AND FORMS OF CONTRACTS

For the routine purchase of most services and products, a purchase order shall be sufficient for contract documentation. Two (2) party contracts and agreements must be signed by the City Manager or his/her authorized designee for the following types of procurements:

- A. Construction work
- B. Professional services
- C. Requirements contracts
- D. Performance contracts and agreements

For contract-type items, check with the City Manager's Office and/or Finance and Administration to see if a contract or cooperative agreement with other jurisdictions or Council of Governments (COG) exists for the services or items needed.

Note: City Attorney reviewed RFP and Contractor Agreements are located on the system at

S:\shared\RFP_Contract. In addition to RFP's and Contractor Agreements, the Bid/Proposal Request Form and the Affidavit of Qualification To Bid forms are there.