

1 **2018-41 (1ST READING): AN ORDINANCE OF 2 PARTS. PART 1: TO REPEAL IN**
2 **ITS ENTIRETY DIVISION 2, PURCHASING IN CHAPTER 2, ADMINISTRATION,**
3 **ARTICLE VI FINANCE. PART 2: TO ENACT CHAPTER 2, ADMINISTRATION,**
4 **ARTICLE VI FINANCE, DIVISION 2, PURCHASING TO ADJUST LIMITS FOR**
5 **REQUIRING FORMAL PROCUREMENT SOLICITATION & CONTRACT PROCEDURES;**
6 **TO CLARIFY THE COMPETITIVE BIDDING REQUIREMENT; TO AMEND THE LOCAL**
7 **PREFERENCE SUB-SECTION TO COMPORT W/ THESE AMENDMENTS; & TO ADD**
8 **PROCEDURES FOR FILING & RESOLVING DISPUTES & PROTESTS.**

9 **Applicant/Purpose:** Staff / To improve administrative procedures, clarify the requirement for
10 competitive bidding & add formal protest & dispute resolution procedures.

11
12 **Brief:**

- 13 • Amendment of the City's 1980 Purchasing code, as previously amended.
- 14 • This proposed amendment enacts the following changes:
 - 15 ○ Requires competitive procedures for all purchases, including competitive
 - 16 quotes for purchases made by Limited Purchase Order ("LPO").
 - 17 ○ Consistent with practices of similarly sized cities, it modifies thresholds to:
 - 18 ▪ use of LPO for purchases up to \$7,500 with competitive pricing review;
 - 19 ▪ allows oral quotes for purchases up to \$25k;
 - 20 ▪ requires written procedures for purchases > \$25k.
 - 21 ○ Leaves preferences for local vendors (Sec. 2-253) intact; adjusts thresholds.
 - 22 ○ Names the department head as the acting purchasing agent when using LPOs &
 - 23 requires the same documentation for sole source or emergency purchases as is
 - 24 required under oral or written RFP processes.
 - 25 ○ Allows for publication by means other than newspaper. Provides public notice
 - 26 & listing requirements for agencies acting as City's listing or sales agents.
 - 27 ○ Establishes a formal protest & appeals process to handle disputes.

28
29 **Changes since 1st reading:** (1) Added requirement for to ensure vendors & contractors have
30 appropriate insurance and business licenses; (2) added "contractual services" to the list of
31 items that may be purchased using LPO; (3) defined NESAs (North Eastern Strategic Alliance).

32
33 **Issues:**

- 34 • From time to time, the limits & other features of the purchasing code are revisited to
- 35 adjust for factors including best practices, changes in the value of money, economic &
- 36 technological changes that enhance effectiveness or efficiency.
- 37 • The proposed appeal process includes the following:
 - 38 ○ An informal protest process upon notification w/in 5 days of the bid award.
 - 39 ○ If this is unsuccessful, the aggrieved party may initiate a formal protest:
 - 40 ▪ Written notice to the Purchasing Agent w/in 5 days of informal notice.
 - 41 ▪ Payment of 5% admin fee.
 - 42 ▪ While protest is pending, disputed contract not to be awarded unless
 - 43 Purchasing Agent finds it necessary.
 - 44 ▪ Purchasing Agent may hold a hearing &/or conduct an investigation.
 - 45 ▪ Purchasing Agent to render decision w/in 10 days of the notice.

46
47 **Public Notification:** Normal meeting notification.

48
49 **Alternatives:** Continue w/ current ordinance or change any terms of the amendment.

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51 **Financial Impact:** No direct financial impact, but productivity improvements are likely.

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53 **Manager's Recommendation:** I recommend adoption.

54
55 **Attachment(s):** Proposed ordinance.

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CITY OF MYRTLE BEACH
COUNTY OF Horry
STATE OF SOUTH CAROLINA

AN ORDINANCE OF TWO PARTS.

PART ONE: TO REPEAL IN ITS ENTIRETY DIVISION 2, PURCHASING IN CHAPTER 2, ADMINISTRATION, ARTICLE VI FINANCE.

PART TWO: TO ENACT CHAPTER 2, ADMINISTRATION, ARTICLE VI FINANCE, DIVISION 2, PURCHASING TO ADJUST LIMITS FOR REQUIRING FORMAL PROCUREMENT SOLICITATION AND CONTRACT PROCEDURES; TO CLARIFY THE COMPETITIVE BIDDING REQUIREMENT; TO AMEND THE LOCAL PREFERENCE SUB-SECTION TO COMPORT WITH THESE AMENDMENTS; AND TO ADD PROCEDURES FOR FILING AND RESOLVING DISPUTES AND PROTESTS.

PART ONE:

It is ordained that DIVISION 2, PURCHASING of CHAPTER 2, ADMINISTRATION, ARTICLE VI FINANCE is repealed in its entirety.

PART TWO:

WHEREAS, Section 2-241 of the Code of Ordinances of the City of Myrtle Beach establishes the office of purchasing agent and outlines the specific duties assigned thereto; and,

WHEREAS, item 6 of Section 2-241 makes the purchasing agent responsible for “obtaining as full and open competition as possible on all purchases, contracts and sales”; and,

WHEREAS, developing technologies have made available new and sometimes more effective methods of serving public notice, requesting and receiving proposals, conducting auctions and serving other functions of the purchasing agent; and

WHEREAS, it is desirable to make provision for the City to take full advantage of such technologies where they offer improvements in productivity or effectiveness without compromising the objectives of the purchasing code as stated in Sec. 2-241;

NOW THEREFORE, the City Council of the City of Myrtle Beach, in Council duly assembled, hereby amends Chapter 2, Article VI, to read in its entirety as follows:

Sec. 2-241. - Purchasing agent; specified duties.
The city manager, or an officer of the city designated by the city manager, shall be the purchasing agent for the city. He shall be responsible for:

- 43 (1) The purchase of supplies, materials and equipment and contractual services
44 required by any office, department or agency of the city government.
45
- 46 (2) Ensuring that vendors or contractors working on City property have appropriate
47 insurance and business licenses, as required by the City.
48
- 49 (3) The storage and distribution of all supplies, materials and equipment required by
50 any office, department or agency of the city government.
51
- 52 (4) Establishing written specifications, whenever practicable, for supplies, materials
53 and equipment required by any office, department or agency of the city government.
54 Such specifications shall be definite and certain and shall permit competition.
55
- 56 (5) Maintaining, whenever practicable, a perpetual inventory record of all materials,
57 supplies or equipment stored in store rooms or warehouses.
58
- 59 (6) Soliciting and maintaining an up-to-date list of qualified suppliers who have
60 requested their names to be added to a "bidders list." The purchasing agent shall have
61 authority to remove temporarily the names of vendors who have defaulted on their
62 quotations, attempted to defraud the city or who have failed to meet established
63 specifications or delivery dates.
64
- 65 (7) Obtaining as full and open competition as possible on all purchases, contracts and
66 sales.
67

68 Sec. 2-242. - Competitive processes required.

- 69 (1) Before any purchases or contracts for supplies, materials, equipment or services
70 are made, the purchasing agent shall give ample opportunity for competitive bids or
71 proposals. If any of the low bids received are for the same total amount or unit price,
72 quality and service being equal, the contract shall be awarded to the local bidder. If
73 two or more of such bids are submitted by local bidders, the purchasing agent shall
74 award the contract to one of the local tie bidders by drawing lots in public. If local
75 bidders are not involved in the tie bids, the purchasing agent shall award the contract
76 to one of the outside tie bidders by drawing lots in public.
77
- 78 (2) No contract or purchase shall be subdivided with the effect of avoiding the
79 requirements of this section.
80
- 81 (3) However, in the event of an emergency affecting the public welfare, health or
82 safety, neither the provisions of this section nor those of Section 2-243 shall apply. An
83 "emergency" is a sudden, unexpected, or impending situation that may cause injury,
84 loss of life, damage to property, and/or interference with normal activities and which,
85 therefore, requires immediate attention and remedial action. The purchasing agent
86 shall file a full report of the circumstances of an emergency purchase to be kept on file
87 for a period of seven years.
88

89 Sec. 2-243. - Requirements for written vs. oral procedures to ensure competition.

- 90 (1) Written procedures required for certain purchases and sales.
91 (a) All supplies, equipment, and contractual services, except as otherwise
92 provided herein, when the estimated cost thereof shall exceed \$25,000.00 shall

93 be purchased by formal, written contract from the lowest responsible bidder or
94 proponent, after due notice inviting bids or proposals.

95 (b) All sales of personal property that has become obsolete or unusable, when
96 the estimated value shall exceed \$5,000.00, shall be sold by formal written
97 contract or at a public auction to the highest responsible bidder, after due notice
98 inviting proposals or bids.

99 (2) Oral procedures permitted for purchases in amounts not exceeding \$25,000.
100 All supplies, equipment, and contractual services, except as otherwise provided
101 herein, when the estimated cost thereof shall not exceed \$25,000.00, may be
102 purchased on the basis of requests for oral quotes from no fewer than three
103 vendors.

104 (3) Limited Purchase Orders (“LPO”).
105 A Limited Purchase Order (an “LPO”) is a mechanism by which departments of
106 City government may purchase supplies, equipment, and contractual services of
107 a value not exceeding \$7,500. The purchasing agent may allow directors of city
108 departments to authorize purchases to be made by LPO, in which case the
109 director of the appropriate department shall act in the capacity of the
110 purchasing agent and, in so acting, shall be responsible for all duties ascribed to
111 the purchasing agent by this code. Limited Purchase Orders may not be used in
112 order to contravene the Sec. 2-242 objectives of observing competitive processes
113 or of prohibitions against subdividing a purchase. The use of an LPO for the
114 purpose of making an emergency purchase shall not relieve the user of the
115 responsibility to document and retain documentation regarding the emergency
116 purchase per the provisions of Section 2-242(3).
117

118 Sec. 2-244. - Award to lowest bidder; advertising, when required.

119 (1) All contracts for city improvements, materials, equipment or services to be
120 purchased, or for equipment to be disposed of, under Sec. 2-243(1) shall be
121 purchased by competitive sealed bid or proposal and shall be awarded to the
122 lowest responsible bidder, subject to the provisions of section 2-255, after public
123 notice by means generally accessible in the city at least five working days before
124 the last day set for receipt of proposals; provided, however, that in case of
125 professional services, this section shall not apply. The notice required herein
126 shall include a general description of the articles or services to be purchased or
127 sold, shall state where the necessary bid or proposal documents and
128 specifications may be secured, and the time and place for opening responses.
129 For purchasing conducted under Sec. 2-243(1)(a), the notice shall include, at
130 minimum, publication in a newspaper of general circulation in the city.

131 (2) When selling City property under Sec. 2-243(1)(b), nothing in this section shall
132 prevent the purchasing agent’s contracting with outside agents for the purpose
133 of serving public notice, listing items to be sold, conducting auctions and
134 providing other services to the City as a listing and sales agent.

135
136 Sec. 2-245. - Bid deposits.

137 When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the
138 public notices inviting bids. Upon entering into a contract, bidders shall be entitled to
139 return of bid deposit where the purchasing agent has required such. A successful bidder
140 shall forfeit any bid deposit required by the purchasing agent upon failure on his part to

141 enter into a contract within ten days after the award; provided, however, that the city,
142 in its uncontrolled discretion, may waive this forfeiture.

143

144 Sec. 2-246. - Sealed bid procedures.

145 Procedure for sealed bids shall be as follows:

146 (1) Sealing. Bids shall be submitted to the purchasing agent securely sealed in an
147 envelope, and shall be identified on the envelope in accordance with bid instructions.

148

149 (2) Opening. Bids shall be opened in public at the time and place stated in the public
150 notices.

151

152 (3) Tabulation. A tabulation of all bids received shall be available for public inspection.

153

154 (4) Rejection of bids. The purchasing agent shall have the authority to reject all bids,
155 parts of all bids, or all bids for any one or more supplies or contractual services included
156 in the proposed contract.

157

158 (5) Bidders in default to city. The purchasing agent shall not accept the bid of a vendor
159 or contractor who is delinquent in the payment of taxes, license or other monies due
160 the city.

161

162 (6) Award of contract.

163 a. Authority in agent. The purchasing agent shall have the authority to award
164 contracts within the purview of this article; provided, however, that contracts
165 in excess of \$1,000.00 shall not be awarded without prior approval of the city
166 manager. Written purchase orders shall not fall under this requirement.

167 b. Lowest responsible bidder. Subject to section 2-255, contracts shall be
168 awarded to the "lowest responsible bidder". In addition to price, the purchasing
169 agent shall consider:

170 1. The ability, capacity and skill of the bidder to perform the contract
171 or provide the service required;

172 2. Whether the bidder can perform the contract or provide the service
173 promptly or within the time specified, without delay or interference;

174 3. The character, integrity, reputation, judgment, experience and
175 efficiency of the bidder;

176 4. The quality of performance of previous contracts or services;

177 5. The previous and existing compliance by the bidder with laws and
178 ordinances relating to the contract or services;

179 6. The sufficiency of the financial resources and ability of the bidder to
180 perform the contract or provide the service;

181 7. The quality, availability and adaptability of the supplies or
182 contractual services to the particular use required;

183 8. The ability of the bidder to provide future maintenance and service
184 for the use of the subject of the contract;

185

186

187 (7) Award to other than low bidder. When the award is not given to the lowest bidder,
188 a full and complete statement of the reasons for placing the order elsewhere shall be
189 prepared by the purchasing agent and filed with the papers relating to the transaction
190 and held for a period of no less than 12 months.

191
192 (8) Tie bids. If any of the low bids received are for the same total amount or unit price,
193 quality and service being equal, the contract shall be awarded to the local bidder. If
194 two or more of such bids are submitted by local bidders, the purchasing agent shall
195 award the contract to one of the local tie bidders by drawing lots in public. If local
196 bidders are not involved in the tie bids, the purchasing agent shall award the contract
197 to one of the outside tie bidders by drawing lots in public.

198
199 (9) Performance bonds. The purchasing agent shall have the authority to require a
200 performance bond, before entering into a contract, in such form and amount as he shall
201 find reasonably necessary to protect the best interests of the city.

202
203 (10) Payment bond/labor and material bond. The purchasing agent may require a
204 payment bond and a labor and material bond, before entering into a contract, in such
205 form and amount as he or she shall deem necessary to protect the best interest of the
206 city.

207
208 **Sec. 2-247. - Materials testing.**
209 The purchasing agent shall have the authority to require chemical and physical tests of
210 samples submitted with bids and samples of deliveries which are necessary to determine
211 their quality and conformance with the specifications. In the performance of such tests,
212 the purchasing agent shall have the authority to make use of laboratory facilities of any
213 agency of the city government or any outside laboratory.

214
215 **Sec. 2-248. - Financial interest of city officials and employees prohibited.**
216 No member of the city council or any officer or employee of the city shall have a
217 financial interest in any contract or in the sale to the city or to a contractor supplying
218 the city of any land or rights or interests in any land, material, supplies or services;
219 except when a majority of the city council determines such exception is in the best
220 interest of the city; provided, that no councilmember whose interest is involved shall
221 vote on the question. Any willful violation of this section shall constitute malfeasance
222 in office, and any officer or employee of the city found guilty thereof shall thereby
223 forfeit his office or position. Any violation of this section with the knowledge express or
224 implied of the person or corporation contracting with the city shall render the contract
225 voidable by the city manager or the city council.

226
227 **Sec. 2-249. - Records of open market orders and bids.**
228 The purchasing agent shall keep a record of all open market orders and the bids
229 submitted in competition thereon, and such records shall also be open to public
230 inspection.

231
232 **Sec. 2-250. - Stock—Obsolete and Surplus, Reporting and Disposition.**
233 (1) Obsolete stock reports.
234 All offices, departments or agencies of the city government shall submit to the
235 purchasing agent, at such times and in such form as he shall prescribe, reports
236 showing stocks of all supplies which are no longer used or which have become
237 obsolete, worn-out or scrapped.

238
239 (2) Surplus stock.

240 The purchasing agent shall have authority to transfer surplus stock to other offices,
241 departments or agencies of the city government.

242
243 (3) Supplies unsuitable for public use, sale or exchange.
244 The purchasing agent with the approval of the city manager shall have the authority
245 to sell all supplies which have become unsuitable for public use, or to exchange the
246 same for, or trade in the same on, new supplies. Such sales shall be made to the
247 highest bidder, and in conformance with section 2-242. All monies received from
248 such sales shall be paid into the appropriate fund of the city.

249
250 Sec. 2-251. - Standards of conduct.
251 In all actions involving the procurement of supplies, services, or construction for the
252 city, the provisions of the State Ethics Act shall be complied with in full.

253
254 Sec. 2-252. - Cooperative purchasing.
255 The purchasing agent shall have authority to join with other units of government in
256 cooperative purchasing plans when the best interests of the city would be served
257 thereby; provided, that the purchasing agent of the city is given the authority to make
258 purchases of supplies and equipment through the property division of the state budget
259 and control board, without the formality of publication and receiving competitive bids.

260
261 Sec. 2-253. - Local preferences.
262 Whenever the purchasing agent purchases services, supplies, materials, and/or
263 equipment for the city through the use of competitive process, including quotes, bids
264 and proposals, a percentage preference shall be used for evaluation purposes, according
265 to the categories as set forth herein. When bid submissions are evaluated, a percentage
266 from the local preference classification shall be deducted from the total dollar amount
267 bid by local vendors on competitive quotes and bids, and from the total evaluated
268 aggregate score obtained by local vendors on proposals. The total amount of local
269 preference granted in a single bid shall not exceed as set forth herein over a non-local
270 vendor. The award shall be made at the full price of the quote, bid or proposal. In the
271 case of an absolute tie, an award will be made to the local vendor. In the case of a tie
272 between local vendors, the award will be determined by lot.

273

Bid Amount	Within City Limits	Within Horry County	Within North Eastern Strategic Alliance (NESA) Area
From \$7,500.01 to \$25,000.00	5% of Bid	4% of Bid	3% of Bid
\$25,000.01 and up	\$500.00 plus 4% of amount above \$25,000.00 with the maximum being \$2,000.00, including the \$500.00	\$400.00 plus 3% of amount above \$25,000.00, with the maximum being \$1,800.00, including the \$400.00	\$300.00 plus 2% of amount above \$25,000.00, with the maximum being \$1,600.00, including the \$300.00

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1 (1) When requesting any level of local preference, the vendor shall submit to the
2 purchasing division sufficient evidence that such business has had a business license in
3 the City of Myrtle Beach for a period exceeding 90 days before the request for bid
4 proposal is made public.

5
6 (2) The local vendor preference does not apply to bids conducted jointly with other
7 public agencies, nor when prohibited by state or federal statutes or regulations that
8 require award to the lowest responsible bidder, or otherwise exempted from local
9 preferences

10
11 (3) To qualify for the local vendor preference, the vendor must meet all of the
12 following requirements:

13 a. The vendor must complete the application process as determined by the
14 manager and affirm their qualifications.

15
16 b. The vendor must have maintained a physical address and office as a principal
17 place of business within the defined boundaries of the category sought for at
18 least one year, and during that time have had a majority of full-time employees,
19 chief officers and managers regularly conducting work and business from this
20 office; and

21
22 c. The vendor must submit a copy of their local vendor preference certificate
23 with their bid.

24
25 (4) An eligible business shall maintain such status throughout the term of any contract
26 with the city. Failure to maintain such status or to keep current on all fees and taxes to
27 the city shall be grounds to terminate the contract.

28
29 **Sec. 2-254. - Dispute or Protest**

30 Whenever an Interested Party, as defined herein, shall disagree for a valid reason with
31 any award made by the City through its Purchasing Agent, such Interested Party may
32 seek consideration and resolution of any such dispute by following the procedures
33 provided for in this section.

34
35 **Definitions**

36 **“Dispute”**—disagreement of an Interested Party with a decision or an award made
37 with respect to a request for proposals or bids.

38
39 **“Informal Dispute Resolution”**—a process by which an Interested Party registers
40 a verbal or written complaint or concern with the purchasing agent or his or her
41 designee.

42
43 **“Interested Party”**—a respondent to or a prospective awardee of a contract or
44 agreement pursuant to a request for proposals or bids.

45
46 **“Exclusive Rights and Remedies”**—The rights and remedies set forth in this
47 article, which rights and remedies are provided so that Interested Parties may
48 address alleged grievances with the City of Myrtle Beach to the exclusion of all
49 other rights and remedies.

1 “Protest”—a written objection in connection with any of the items listed in Sec.
2 2-255 below, filed by an Interested Party to the City of Myrtle Beach, and
3 normally made following the failure to resolve an issue or concern by informal
4 procedures.
5

6 Sec. 2-255. Procedures for Documenting, Hearing and Resolving Disputes and Protests

7 (1) Informal Dispute Resolution

8 An Interested Party who has a concern with a decision made by the Purchasing
9 Agent or the designee, shall inform the Purchasing Agent, or the designee, within
10 five (5) calendar days after the date the City posts a bid tab on the City’s website
11 stating its intention to make a Contract Award, or the Contract is Awarded,
12 whichever occurs first, unless the Solicitation Document specified a shorter
13 period of time. The Purchasing Agent or the designee shall discuss the issue(s)
14 with the Interested Party in an attempt to resolve the dispute.
15

16 (2) Formal Protest Procedure

17 An Interested Party who has a dispute that cannot be resolved by informal efforts
18 under Sec. 2-255(1) may file a written protest with the City of Myrtle Beach in
19 connection with any of the following:

20 a. A solicitation or other request by the City of Myrtle Beach for a
21 contract or agreement for the acquisition of materials, supplies, equipment, and
22 services; or

23 b. An award of a contract or agreement for the acquisition of
24 materials, supplies, equipment, and services; or

25 c. A termination or cancellation of the award of a contract or
26 agreement for the acquisition of materials, supplies, equipment, and services if
27 the objection is based, in whole or in part, on the allegation that the award of
28 the contract or agreement was improper. A formal protest may be filed in the
29 following manner:

- 30 1. A Protest must be submitted in writing, filed by an Interested
31 Party, and addressed to the Purchasing Agent or the designee.
- 32 2. The Protest must be signed by an authorized agent or
33 representative of the Interested Party.
- 34 3. An administrative fee shall be submitted with the written
35 protest and shall be made in the form of a certified check or
36 money order made payable to the City of Myrtle Beach. The
37 administrative fee will be calculated as follows:

38 a. Five percent (5%) of the Protestor’s bid or proposal; or

39 b. In the case where the Protestor did not submit a bid or
40 proposal, five percent (5%) of the lowest responsive
41 and responsible bid or proposal received by the City.

42 c. Administrative fee shall be returned to the Protestor if
43 the Protest is upheld; otherwise the fee is non-
44 refundable.
45

- 46 4. Within five (5) calendar days of discussing the dispute with the
47 Purchasing Agent or the designee, the written protest and
48 administrative fee must be received by the Purchasing Agent
49 or the designee. A Protest received after the time period
50 defined above will not be considered.

- 1 5. Form of the Formal Protest The written Protest shall include
2 the following:
 - 3 a. the name and address to which certified mail shall be
4 received on behalf of the Protester;
 - 5 b. An appropriate identification of the solicitation, and,
6 if a contract has been awarded, the contract number;
 - 7 c. A complete statement of the reasons for the Protest;
 - 8 d. Exhibits, documents, or other evidence in support of
9 the reasons for the Protest;
 - 10 e. A request for a remedy sought by the Protester;

- 11 6. Notification to Other Parties - Upon receipt of the Protest, the
12 Purchasing Agent or designee shall promptly notify the
13 following other parties of the filing of the Protest:
 - 14 a. City Attorney, who shall be provided with a copy of
15 the Protest;
 - 16 b. Director of Financial Services;
 - 17 c. All other representatives of city departments
18 associated with the solicitation.

19
20
21 **Sec. 2-256. Stay of the Procurement**

- 22 (1) When a Protest has been timely filed before the award of a contract or
23 agreement, the contract or agreement shall not be awarded, unless the
24 Purchasing Agent or the designee, determines that the award of the contract or
25 agreement during the pendency of Protest is necessary to protect substantial
26 interests of the city.
- 27 (2) When a Protest has been timely filed after the award of a contract or agreement,
28 the Purchasing Agent or the designee, shall direct the contractor not to engage
29 in any further performance of the contract or agreement, unless the Purchasing
30 Agent or the designee, determines that performance under the contract or
31 agreement during the pendency of Protest is necessary to protect substantial
32 interests of the City.
- 33 (3) Making Information on Protests Available - The Purchasing Agent or the designee,
34 shall upon written request make available to any other party information
35 submitted that bears on the substance of the Protest, except where information
36 is proprietary, confidential, or otherwise permitted or required to be withheld
37 from disclosure by law or regulation. Persons or other entities that are involved
38 in the Protest that want to keep information submitted by them confidential
39 should request that the information not be disclosed by specifically identifying
40 the confidential information within the documents submitted, and indicating on
41 the front page of each document that it contains confidential information.

1 **Sec. 2-257. Post Filing Formal Protest Process**

- 2 (1) Once a Protest has been filed in accordance with the provisions of this article,
3 the Purchasing Agent or the designee may, in the sole discretion of the
4 Purchasing Agent or the designee:
5 a. Hold a conference between all parties to the Protest in which
6 resolution options are explored; and/or
7 b. Conduct an investigation of the merits of the Protest allegations;
8 and/or
9 (2) Order the parties to the Protest to engage in certain methods of discovery and
10 set limits in terms of discovery scope and time; and/or
11 a. Schedule and conduct a Protest hearing; and
12 b. Render a decision on the merits of the Protest after engaging in
13 some or none of the previously listed activities.
14

15 **Sec. 2-258. Formal Protest Decision**

- 16 (1) A decision on a Protest shall be made by the Purchasing Agent or the designee as
17 expeditiously as possible, but not later than ten (10) work days after receiving
18 the Protest. In determining a Protest, the Purchasing Agent or the designee may
19 determine to:
20 a. Terminate the contract or agreement; or
21 b. Issue a new solicitation or other request for a contract or
22 agreement; or
23 c. Award a contract or agreement.
24 (2) The Protest decision shall be mailed to the Protester by certified mail, return
25 receipt requested.
26 (3) To the extent permitted by law or court rules regarding appeals, an appeal of
27 the decision regarding the protest may be made to a court of competent
28 jurisdiction within the time set forth in the Rules.
29
30

31 **Sec. 2-259. - Reserved.**
32
33

34 This ordinance shall be effective upon second reading.
35
36

37 _____
38 BRENDA BETHUNE, MAYOR

39 ATTEST:

40 _____
41 JENNIFER STANFORD, INTERIM CITY CLERK
42

43 1ST READING: JULY 10, 2018

44 2ND READING:
45