

Introduced: 2/6/23  
Public hearing: N/A  
Adopted: 3/6/23  
Effective: 3/27/23 (expiration of 20<sup>th</sup>  
day after Mayor approves or after  
override of veto)

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2023-2**

**AN ORDINANCE TO AMEND PART I  
OF THE CODE OF THE TOWN OF MOUNT AIRY  
ENTITLED “ADMINISTRATIVE LEGISLATION,”  
CHAPTER 26 ENTITLED “PURCHASING,”  
SECTION 26-4 ENTITLED “PROCEDURE  
WHERE COST IS BETWEEN \$3,000 AND \$15,000”,  
SECTION 26-5 ENTITLED “PROCEDURE WHERE COST IS  
\$3,000 OR LESS”, AND FOR THE PURPOSES OF AMENDING  
SECTION 26-9 ENTITLED “LOWEST RESPONSIBLE BIDDER”  
FOR THE PURPOSES OF INCREASING THE THRESHOLD  
FOR APPLICATION OF A LESS FORMAL BID PROCEDURE, AND IN ORDER  
TO MAKE A CONSIDERATION IN DETERMINING THE LOWEST  
RESPONSIBLE BIDDER ON STEEL PRODUCTS THE  
PROPOSED USE OF AMERICAN STEEL**

**WHEREAS**, the Town Council has determined it to be in the best interests of the Town and its residents to make purchasing procedures of the Town more efficient, in consideration of increasing prices for goods and services purchased by the Town; and

**WHEREAS**, given price increases of budgeted procurement items, which formerly were \$3,000 or less, but which now exceed the \$3,000 current threshold beyond which a more formal bid process is required, the Town Council has determined that increasing the threshold from \$3,000 to \$5,000 will enhance the efficiency with which the Town can procure needed goods and services; and

**WHEREAS**, that with respect to steel products, bids often propose the use of cheaper steel manufactured in China, even though such steel is of inferior quality in comparison to American steel, so the Town Council desires to include in the factors to be considered in determining the “Lowest Responsible Bidder” whether, with respect to steel products, a bid proposes to use American steel and is within 15% of the lowest bid.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section 1. That Chapter 26 of the Code of the Town of Mount Airy, Sections 26-4 and 26-5 are hereby repealed and reenacted with amendments as follows:

1 of 4 – *Ordinance 2023-2 – Revisions to Purchasing Chapter by increasing the \$3,000 threshold for application of more formal bid process to \$5,000, and by adding “buy American” provision for steel products – for adoption 3/6/23*

**§26-4. Procedure where cost exceeds \$35,000 up to and including \$30,000.**

Where the estimated cost of a contract for supplies, services and/or capital improvements is exceeds \$35,000 up to and including \$30,000, the following procedure applies:

- A. . The purchasing agent shall cause appropriate written specifications, such as a list of items and/or services to be prepared.
- B. The purchasing agent shall follow the procedures in § 26-3, or, alternatively, may solicit informal bids by personal contact and/or by telephone. When practical and when circumstances reasonably allow, considering general availability of the items or services being purchased, sources available for the purchases and past experience with the vendor or manufacturer, at least two, preferably three, bids shall be obtained, which, so long as already budgeted by the Town Council, the purchasing agent may award the contract or reject bids as set forth in § 26-3. Nothing in the Section shall be read to negate the need for purchases to be budgeted by the Town Council. Following any award, a written contract or purchase order shall be signed on behalf of the Town by the Mayor or designated purchasing agent. Bids may not be withdrawn within 30 days from the date of the bid.

**§26-5. Procedure where cost is \$35,000 or less.**

When the cost of a contract for Supplies, Contractual Services and Capital Improvements is \$35,000 or less, the Purchasing Agent may award the contract or reject bids as set forth in § 26-3 without Council approval. Whenever practical, the Purchasing Agent shall obtain telephone prices from at least two sources, which shall include attempting to solicit a price from at least one Local Bidder/Contractor/Supplier if one exists for the type of goods or services needed that is ready, willing and able to furnish a price quote and supply the goods or services within the time frame required. Nothing in the section shall be read to negate the need for purchases to be budgeted by the Town Council. A report of all such purchases shall be made to the Council at its next meeting. The submission of a bid or price quote shall not create a binding contract on the Town. No binding contract is created until the Purchasing Agent of the Town approves the purchase. Information contained in bids or price quotes shall not be considered proprietary.

Section 2. That Chapter 26 of the Code of the Town of Mount Airy, Section 26-9, be and is hereby repealed and reenacted with amendments as follows:

**§26-9. Lowest responsible bidder.**

In determining the Lowest Responsible Bidder under §§ 26-2, 26-3, 26-4 and 26-5, the Council or Purchasing Agent shall consider:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required.

- B. Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference.
- C. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- D. The quality of performance of previous contracts or services.
- E. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- F. Whether the bidder is in arrears to the Town on debt or contract or is a defaulter on surety to the Town or whether the bidder's Town taxes or assessments are delinquent.
- G. Whether the bidder qualifies as a Local Bidder/Contractor/Supplier whose bid is within 2%, but no more than \$20,000, above the lowest bidder.
- H. ~~Such other information as may have a bearing on the decision to award the contract.~~ In the case of steel products, whether the bidder proposes using American steel and is within 15% of the lowest bid.
- I. Such other information as may have a bearing on the decision to award the contract.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the 27<sup>th</sup> day of March, 2023 (expiration of 20 days after approval by Mayor or override of veto, if applicable).

Introduced this 6<sup>th</sup> day of February, 2023.

Enacted this 6<sup>th</sup> day of March, 2023 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Jason Poirier,  
President of the Town Council

Approved this 6<sup>th</sup> day of March, 2023.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Larry Hushour, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.  
This 6<sup>th</sup> day of March, 2023.

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Thomas V. McCarron, Town Attorney