

1 **..Title**

2 **Department of Central Services** – For the purpose of reconstituting the Department of Central
3 Services in the City Charter; moving public purchasing duties from the Finance Department to
4 the Department of Central Services, and moving facilities management, fleet operations, and
5 fleet replacement duties from the Department of Public Works to the Department of Central
6 Services; and generally related to Department of Central Services responsibilities.

7 **..Body**

8 **CITY COUNCIL OF THE**
9 **City of Annapolis**

10 **Ordinance 8-24**

11 **Introduced by: Mayor Buckley**
12 **Co-sponsored by: Ald. Tierney**

13 **Referred to:**

14 Finance Committee
15 Rules and City Government Committee

16 **AN ORDINANCE** concerning

17 **Department of Central Services**

18 **FOR** the purpose of reconstituting the Department of Central Services; moving public
19 purchasing duties from the Finance Department to the Department of Central Services,
20 and moving facilities management, fleet operations, and fleet replacement duties from the
21 Department of Public Works to the Department of Central Services; and generally related
22 to Department of Central Services responsibilities.

23 **BY** enacting with amendments the following portions of the Code of the City of Annapolis,
24 2024 Edition:

25 **Chapter 2.42**

26 **BY** repealing and reenacting with amendments the following portions of the Code of the City
27 of Annapolis, 2024 Edition

28 **2.20.030**

29 **2.40.030**

30 **6.08.030**

31 **6.08.050**

32 **6.08.090**

33 **6.08.100**

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1 **6.08.110**
2 **6.08.120**
3 **6.08.130**
4 **6.08.150**
5 **6.08.190**
6 **6.08.240**
7 **6.08.270**
8 **6.08.330**
9 **6.08.360**
10

11 **WHEREAS,** The City of Annapolis currently relies on various departments to provide essential
12 administrative services; and

13 **WHEREAS,** The provision of these services can be streamlined and made more efficient by
14 consolidating them into a single department; and

15 **WHEREAS,** A centralized department will improve coordination and communication between
16 departments, leading to better service delivery;

17
18 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
19 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:
20

21 **Title 2 - ADMINISTRATION**

22 **Chapter 2.42 - Department of Central Services**

23
24 **2.42.010 - Composition.** The Department of Central Services shall consist of:

- 25 1. Director of Central Services;
26 2. Procurement Officer;
27 3. Facilities Manager;
28 4. Fleet Operations and Replacement Manager; and
29 5. Other officers and employees as may be provided by the City Council.

30
31 **2.42.020 - Director of Central Services.**

32 A. The Department shall be headed by a Director of Central Services, who the City Manager
33 shall appoint with the approval of the City Council.

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1 B. The Director shall be a qualified professional with experience managing central services
2 operations.

3 C. The Director, before entering on the discharge of the duties of office, shall take the oath
4 prescribed in Article IX, Section 1 of the Charter.

5
6 **2.40.030 - Department Responsibilities**

7 **A. Overall Services.**

8 The Department shall be responsible for providing the following central services
9 to all departments of the City:

- 10 a. Procurement and purchasing;
11 b. Facilities management (including maintenance, custodial services, and
12 utilities);
13 c. Fleet management and replacement; and
14 d. City of Annapolis television/video studio operations.

15 **B. Purchasing and Procurement.**

16 The Director shall:

- 17 a. Report to the City Manager and shall be responsible for executing the
18 purchasing and procurement regulations established for the City.
19 b. Appoint a purchasing agent who shall manage all phases of the purchasing
20 and procurement process.
21 c. Adopt and promulgate regulations per § 2.04.090 that:
22 i. are not in conflict with the Charter, this Code, or any ordinance;
23 and
24 ii. implement a centralized purchasing and procurement process.

25 **C. Facilities and Real Property Management.**

26 The Director shall:

- 27 a. Ensure the City has an up-to-date space management plan.
28 b. Appoint a facilities manager who shall manage the maintenance of City
29 facilities, including custodial services, break/fix and repair services, and
30 replacement of core building functions such as HVAC.
31 c. Oversee real estate services for the City, including purchases or leasing of
32 real property from third parties for use by the City as needed and sale or

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1 lease of City property to third parties as directed by the Council and City
2 Manager.

3 **D. Fleet Management**

4 The Director shall:

- 5 a. Coordinate and maintain the City's fleet of cars, trucks, and other vehicles;
6 and
7 b. Purchase new vehicles per City needs as approved in the City's annual
8 budget.

11 **Title 2 - ADMINISTRATION**

12 **Chapter 2.20 - Director of Finance**

13 **~~2.20.030 Purchasing and procurement.~~**

14 ~~A.—The Director of Finance shall be responsible to the Mayor for the execution of the~~
15 ~~purchasing and procurement regulations established for the City. The Director of Finance~~
16 ~~shall appoint a purchasing agent who shall manage all phases of the purchasing and~~
17 ~~procurement process.~~

18 ~~B.—The Director of Finance shall adopt and promulgate regulations, not in conflict with the~~
19 ~~Charter, this Code or any ordinance, to implement a centralized purchasing and~~
20 ~~procurement process. The regulations shall become effective not less than forty five days~~
21 ~~following its promulgation and transmission to the City Council by the Director of~~
22 ~~Finance, unless an objection to the regulations, or any portion, is registered by the City~~
23 ~~Council by a resolution adopted prior to the effective date.~~

24 **2.20.040 Distribution of mail.**

25 The Director of Finance shall be responsible for City offices mail distribution.

27 **Title 2 - Administration**

28 **Chapter 2.40 - Public Works Department**

29 **Section 2.40.030 - Director—Duties.**

- 30 A. The Director of Public Works has charge of and supervision over all public property
31 of the City, including all streets, parks, parkways, sidewalks and all other property of
32 the City not specifically assigned to some other officer.

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- 1 B. The Director of Public Works has charge of, and is responsible for the care,
2 maintenance and operation of, the City water system, the sanitary sewer system and
3 disposal plant, public wharves, all streets and sidewalks and the drainage of the
4 streets and sidewalks, and shall enforce certain specified rules and regulations related
5 to sewer pretreatment and stormwater management.
- 6 C. All construction, repair or extension of any pavement, building, sewer, water mains,
7 highways, gutters and any appurtenances thereto, and all other construction, repair or
8 maintenance work conducted by the City, shall be done by or under the supervision of
9 the Director of Public Works unless specific direction to the contrary is made by the
10 City Council.
- 11 D. The director has charge of the collection and disposal of garbage and refuse.
- 12 E. ~~Except for vehicles used and maintained by the Police Department, the Fire~~
13 ~~Department and the Department of Transportation, the Director of Public Works has~~
14 ~~charge of and is responsible for the condition and maintenance of all motor vehicles~~
15 ~~and trucks.~~
- 16 F. To regulate activities impacting upon sewer pretreatment, and stormwater
17 management and to enforce rules and regulations governing sewer pretreatment and
18 stormwater management.
- 19 G. To enforce rules and regulations specified in Chapter 10.16 of the City Code
20 governing refuse, recyclable materials, and solid waste.

21

22 **Title 6 - Revenue and Finance**
23 **Chapter 6.08 - PURCHASING AND PROCUREMENT**

24

25 **6.08.030 Definitions.**

26 For purposes of this chapter, the following words and phrases have the meanings indicated:

- 27 ~~A~~ 1. "Best and final offer" means a supplemental offer requested by the Procurement
28 Officer as part of permitted negotiations under this chapter or from those offerors
29 whose offers are within a close range of one another.
- 30 ~~B~~ 2. "Best value basis" means evaluation of offers that allows consideration by the
31 Procurement Officer of which offer may be in the best interests of the City regardless
32 of lowest price.
- 33 ~~C~~ 3. "Bid" means a written offer to furnish goods or services, insurance, or construction in
34 conformity with the specifications, delivery terms, conditions, or other requirements in
35 response to an invitation for bids.
- 36 ~~D~~ 4. "Bidder" means a business that submits a bid in connection with an invitation for bids.

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- 1 ~~E~~5. "Blanket order" means a contract whereby the City agrees to purchase, and the
2 contractor agrees to sell or provide, goods or services of a designated type that the City
3 may require at stated unit prices without specifying an exact quantity.
- 4 ~~F~~6. "Brand name specification" means a specification for goods by a manufacturer's name
5 or catalogue number.
- 6 ~~G~~7. "Business" means a corporation, general partnership, limited partnership, limited
7 liability partnership, limited liability company, unincorporated association, individual,
8 sole proprietorship, joint venture, or any other private legal entity through which
9 business is conducted.
- 10 ~~H~~8. "Change order" means a written order signed and issued by the Procurement Officer
11 directing the contractor to make changes that the contract authorizes the City to order
12 without the consent of the contractor.
- 13 ~~I~~9. "Collusion" means a secret agreement or cooperation between two or more businesses
14 to defraud or illegally deprive the City of its rights or to undermine the purposes of this
15 chapter.
- 16 ~~J~~10. "Competitive procurement" means either a competitive sealed bid or a competitive
17 sealed proposal.
- 18 ~~K~~11. "Competitive sealed bid" means an invitation for bids that defines in specifications the
19 goods, services, insurance, or construction sought for which a contract award is made
20 to the lowest responsive and responsible bidder meeting all specifications.
- 21 ~~L~~12. "Competitive sealed proposal" means a request for proposals that requires the proposer
22 to submit a cost proposal and a technical proposal for the goods, services, insurance, or
23 construction sought, and the cost and technical proposals are evaluated based on
24 predetermined criteria specified in the request.
- 25 ~~M~~13. "Confidential information" means any information available to a City employee solely
26 because of the employee's status as an employee of this City and that is not a matter of
27 public knowledge or available to the public on request.
- 28 ~~N~~14. "Construction" means the erection, alteration, repair, improvement, or demolition of
29 any public structure or building, or other public improvements of any kind, including
30 any draining, dredging, excavation, grading, or similar work on real property, but the
31 term does not include the routine operation, routine repair, or routine maintenance of
32 existing public facilities.
- 33 ~~O~~15. "Contract" means a written agreement, regardless of form or title, between the City and
34 a contractor for the procurement of goods, services, insurance, or construction.
- 35 ~~P~~16. "Contract award" means a written notice from the Procurement Officer to the
36 contractor selected to execute a contract with the City for a specific solicitation.
- 37 ~~Q~~17. "Contract execution" means the execution of a contract by the City and a contractor.

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- 1 ~~R~~18. "Contract file" means all information, regardless of format or form, maintained by the
2 Procurement Officer relating to a solicitation, an award, or the performance of a
3 contract.
- 4 ~~S~~19. "Contract modification" means a written alteration or amendment to one or more
5 provisions of an existing contract, including alterations or amendments to
6 specifications, delivery requirements, the period for performance, price, and quantity,
7 whether accomplished by unilateral action in accordance with a contract provision, a
8 change order, or mutual agreement.
- 9 ~~F~~20. "Contractor" means any business having a contract with the City to furnish goods,
10 services, insurance, or construction.
- 11 ~~U~~21. "Cooperative procurement" means an arrangement with one or more public entities,
12 including regional or national cooperatives and quasi-governmental entities established
13 by law, under which the public entities agree to aggregate demand in order to obtain
14 lower prices and reduce the cost of procurement, or otherwise obtain more favorable
15 procurement terms.
- 16 22. "Director" means the director of the Department of Central Services.
- 17 ~~V~~23. "Electronic communication" means a communication made by electrical, digital,
18 magnetic, optical, electromagnetic, or other similar means.
- 19 ~~W~~24. "Equal specification" means the specification of a good that is equivalent in terms of
20 quality, performance, or other characteristics to a good with a brand name
21 specification.
- 22 ~~X~~25. "Environmentally preferable purchasing" means the procurement of goods, services,
23 insurance, or construction in accordance with the goals, recommendations, or policies
24 established in accordance with Section 2.48.350 of the City Code to the extent possible
25 and practicable.
- 26 ~~Y~~26. "Formal contract" means a written contract for the procurement of goods, services,
27 insurance, or construction that includes contract provisions such as scope of work,
28 compensation, manner, and method of payment, term, acceptance criteria, and City
29 terms and conditions.
- 30 ~~Z~~27. "Goods" means supplies, materials, equipment, and all tangible property other than real
31 property.
- 32 ~~AA~~28. "Invitation for bids" means a formal solicitation through competitive sealed bids where
33 the contract award is made to the responsive and responsible bidder having the lowest
34 evaluated bid price.
- 35 ~~BB~~29. "Micro Purchase" means a contract documented through a purchase order for a
36 procurement that is not more than three thousand dollars made by a using department.

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- 1 ~~CC~~30. "Minor informality or irregularity" means an insignificant, immaterial, or de minimis
2 defect or variation of an offer from the exact requirements of the solicitation that does
3 not materially affect the price, quality, quantity, or delivery schedule for the goods,
4 services, insurance, or construction being procured.
- 5 ~~DD~~31. "Multi-step sealed bidding" means a solicitation method to obtain a ready source of
6 qualified potential offerors who can respond to a subsequent solicitation.
- 7 ~~EE~~32. "Multi-year contract" means a contract entered into for more than one year in
8 accordance with the requirements of this chapter.
- 9 ~~FF~~33. "Non-appropriation clause" means language in a contract that permits the City with
10 notice to the contractor to terminate the contract for lack of sufficient appropriations.
- 11 ~~GG~~34. "Offer" means a written response by a business to a solicitation to provide the City
12 with goods, services, insurance, or construction.
- 13 ~~HH~~35. "Offeror" means a business that submits an offer in connection with a City solicitation.
- 14 ~~H~~36. "Procurement" or "purchasing" means buying, purchasing, renting, leasing, or
15 otherwise acquiring or obtaining any goods, services, insurance, or construction.
- 16 ~~J~~37. "Procurement Officer" means the "purchasing agent" or other designee of the ~~Finance~~
17 Director to lead all phases of the purchasing and procurement process pursuant to
18 Section 2.20.030.A. of this Code.
- 19 ~~KK~~38. "Professional services" means services, such as accounting, financial advice, legal,
20 architectural, actuarial, property appraisals, consulting, and lobbying, performed by a
21 business whose specialized knowledge and academic preparation have led the business
22 to be a recognized professional within its vocation and, as such, the services are
23 customarily negotiated because the individuality of the service does not lend itself to a
24 fixed-price bid.
- 25 ~~LL~~39. "Proposal" means a written offer to supply or furnish goods, services, insurance, or
26 construction in response to a request for proposals in which competitive sealed
27 proposals or negotiations are used rather than the competitive bid process.
- 28 ~~MM~~40. "Proposer" means a business that submits a proposal in connection with a request for
29 proposals.
- 30 ~~NN~~41. "Public entity" means any Federal, State, or local government, agency, committee,
31 commission, board, institution, or political subdivision created by Federal, State, or
32 local law to exercise some sovereign power or to perform some governmental duty.
- 33 ~~OO~~42. "Public notice" means the City's notice of a solicitation by posting a pending
34 procurement on the City's website and may include other notice, such as publication in
35 a newspaper, use of an electronic mailing list, or posting on one or more additional
36 websites.

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- 1 ~~PP~~43. "Purchase order" means a document issued by the City that encumbers available
2 appropriations for the purpose of paying a contractor.
- 3 ~~QQ~~44. "Request for expressions of interest" or "request for information" means a solicitation
4 for unpriced offers when the Procurement Officer in the Procurement Officer's sole
5 discretion determines that it is impracticable to initially prepare a purchase description
6 to support a contract award.
- 7 ~~RR~~45. "Request for Proposals" means a formal solicitation through a competitive sealed
8 proposal under which the contract award is made to a responsible proposer through
9 evaluation of both a cost proposal and a technical proposal.
- 10 ~~SS~~46. "Responsible bidder" means a business that has the capability in all respects to perform
11 fully the contract requirements and the tenacity, perseverance, experience, integrity,
12 reliability, capacity, facilities, equipment, and credit to ensure good faith performance.
- 13 ~~TT~~47. "Responsive bidder" means a bidder that has submitted a bid that conforms in all
14 material respects to the invitation for bids.
- 15 ~~UU~~48. "Responsible offeror" means the same as responsible bidder.
- 16 ~~VV~~49. "Responsible proposer" means the same as responsible bidder.
- 17 ~~WW~~50. "Services" means the furnishing of labor, time, or effort by a contractor that does not
18 require the delivery of a specific end product, other than reports incidental to the
19 required performance, but the term does not include employment agreements or
20 collective bargaining agreements.
- 21 ~~XX~~51. "Small procurement" means a procurement that is less than twenty-five thousand
22 dollars.
- 23 ~~YY~~52. "Solicitation" means a procurement request by the City for one or more contractors to
24 provide an offer to provide goods, services, insurance, or construction in accordance
25 with specified requirements or parameters.
- 26 ~~ZZ~~53. "Solicitation method" means the manner and process by which the City seeks offers
27 from contractors to provide goods, services, insurance, or construction under specified
28 levels of competition.
- 29 ~~AAA~~54. "Specification" means any description of the physical or functional characteristics or
30 the nature of a good, service, insurance, or construction item, and it may include a
31 description of any requirement for inspecting, testing, or preparing a good, service,
32 insurance, or construction item for delivery.
- 33 ~~BBB~~55. "Tie bids" are responsive bids from responsible bidders that are identical in price,
34 terms, and conditions and that meet all the requirements and evaluation criteria set
35 forth in the invitation for bids.
- 36 ~~CCC~~56. "Using department" means any City department, office, or agency that uses goods,
37 services, insurance, or construction procured under this chapter.

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1 ~~DDD~~57. "Written" or "in writing" includes information that is electronically transmitted or
2 stored.

3
4 **6.08.050 Authority and duties of the Procurement Officer.**

5 The Procurement Officer shall have the authority and responsibility to:

- 6 A. Procure or supervise the procurement of all goods, services, insurance, and
7 construction needed by the City;
- 8 B. Exercise general supervision and control over all inventories of goods belonging to the
9 City;
- 10 C. Pursuant to the direction and administration of the ~~Finance~~ Director develop
11 procedures, standards, policies, and forms as may be necessary for the effective
12 implementation of this chapter;
- 13 D. Conduct pre-bid or pre-proposal conferences when appropriate;
- 14 E. Make written recommendations for the award of contracts;
- 15 F. Keep informed of current developments in the field of purchasing, prices, market
16 conditions, and new products or innovations;
- 17 G. Establish and maintain programs for the inspection, testing, and acceptance of goods,
18 services, insurance, and construction;
- 19 H. Maintain contract files associated with procurements;
- 20 I. Change specifications in solicitations and terminate solicitations;
- 21 J. Make determinations of responsiveness and responsibility;
- 22 K. Require bonds, insurance, and other forms of protection for the City in connection with
23 a procurement;
- 24 L. Ensure compliance with this chapter by reviewing and monitoring procurements
25 conducted by any employee with delegated authority under Section 6.08.070; and
- 26 M. Perform other functions and duties as required by this chapter or as may be assigned by
27 the ~~Finance~~ Director.

28
29 **6.08.090 Claim by contractor; contract voidable.**

- 30 A. A City officer, agent, or employee may not order the procurement of any goods, services,
31 insurance, or construction except under the requirements and conditions of this chapter. Any
32 purchase order or contract made contrary to the provisions of this chapter is voidable by the

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1 Procurement Officer with the approval of the ~~Finance~~ Director, and the City may not be
2 bound thereby.

- 3 B. If any officer, agent, or employee of the City knowingly violates or assists in the violation
4 of any provision of this chapter, the officer, agent, or employee may be subject to
5 disciplinary actions as prescribed in the Charter, this Code, and City personnel regulations,
6 and the officer, agent, or employee also may be deemed personally responsible for any costs
7 incurred as a result of an unauthorized procurement.

8
9 **6.08.100 Source selection; solicitation method.**

10 In accordance with this chapter, the ~~Finance~~ Director or Procurement Officer may approve
11 any method of procurement source selection or solicitation method that it deems to be in the best
12 interests of the City.

13
14 **6.08.110 Formal solicitation—Competitive sealed bid.**

- 15 A. Formal contracts shall be awarded by full, fair, and open competitive sealed bids.
- 16 B. An invitation for bids shall include specifications and all contractual terms and conditions
17 applicable to the procurement.
- 18 C. Public notice of the invitation for bids shall be given at least fifteen days prior to the date set
19 for the opening of bids as specified in the invitation for bids, unless the Procurement Officer
20 determines in writing that circumstances require a shorter notice period.
- 21 D. Bids shall be opened publicly in the presence of one or more witnesses at the time and place
22 designated in the invitation for bids. The Procurement Officer shall ensure that all relevant
23 information is recorded, including the amount of each bid and the name of each bidder. The
24 record and each bid, except for information identified by the bidder as confidential or
25 proprietary and determined by the ~~Finance~~ Director or Procurement Officer to be
26 confidential or proprietary, shall be open to public inspection after contract execution.
- 27 E. Bids received after the date and time specified in the invitation for bids may not be
28 accepted.
- 29 F. Except as authorized in this section, bids shall be accepted without alteration or correction.
30 Bids shall be evaluated based on the requirements set forth in the invitation for bids, which
31 may include criteria to determine acceptability such as inspection, testing, quality,
32 workmanship, delivery, and suitability for a particular purpose. No criteria may be used in a
33 bid evaluation that were not set forth in the invitation for bids.
- 34 G. The Procurement Officer may waive a minor informality or irregularity if the Procurement
35 Officer determines that a waiver is in the best interests of the City. The decision of the

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- 1 Procurement Officer with respect to whether a requirement is a minor informality or
2 irregularity is final and may not be challenged by a bidder.
- 3 H. Correction or withdrawal of bids; cancellation of contract awards.
- 4 1. When a mistake is discovered before bid opening, the bidder may modify or withdraw
5 the bid by written or electronic notice received by the Procurement Officer prior to the
6 time set for bid opening.
- 7 2. When a mistake in a bid is discovered after bid opening, but prior to contract award,
8 the bid:
- 9 a. May be corrected if the mistake made and the intended bid price can be determined
10 solely from the bid documents submitted, and the Procurement Officer determines
11 that the mistake was inadvertent and unintentional; or
- 12 b. May be withdrawn by the bidder if the bid was submitted in good faith and the bid
13 price is substantially lower than other bids due solely to an unintentional arithmetic
14 error or an unintentional omission of a quantity of work, labor, or material made
15 directly in the compilation of a bid and the unintentional arithmetic error or
16 unintentional omission can clearly be shown by objective evidence drawn from an
17 inspection of the original work papers, documents, and materials used in the
18 preparation and submission of the bid.
- 19 3. When an error is discovered in the successful bid after the contract award and the
20 conditions of Subsection 6.08.140.H.2.a. or 6.08.140.H.2.b. of this section are satisfied,
21 the bid may be corrected or withdrawn, respectively, and the contract award amended
22 or rescinded as appropriate, provided that no bid correction or contract award
23 modification shall be permitted that would cause the contract price to exceed the next
24 lowest bid.
- 25 4. A bid may not be withdrawn or a contract award cancelled when the result would be
26 prejudicial to the interests of the City or fair competition.
- 27 5. If a bid is withdrawn or a contract award cancelled under the authority of this section,
28 the lowest remaining bid from a responsive and responsible bidder shall be deemed to
29 be the low bid.
- 30 6. Nothing in this section shall prevent the City from rejecting all bids or cancelling an
31 invitation for bids if deemed to be in the interests of the City or fair competition.
- 32 7. A decision to permit the correction or withdrawal of a bid or cancellation of a contract
33 award based upon bid mistakes shall be supported by a written determination made by
34 the Procurement Officer.
- 35 I. Subject to the provisions set forth in this section, contracts shall be awarded to the lowest
36 responsive and responsible bidder whose bid meets the requirements and criteria set forth in
37 the invitation for bids.

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- 1 1. When the terms and conditions of the invitation for bids provide that multiple contract
2 awards may be made, contract awards may be made to more than one bidder.
- 3 2. If the bid from the lowest responsive and responsible bidder exceeds available
4 appropriations or is deemed excessive in the judgment of the Procurement Officer, the
5 Procurement Officer may, in consultation with the using department, negotiate with
6 that bidder to obtain an acceptable contract price. If the negotiations are unsuccessful,
7 the Procurement Officer may enter into negotiations with the next lowest responsive
8 and responsible bidder or reject all bids.
- 9 3. When the contract is not awarded to the lowest responsive and responsible bidder, the
10 Procurement Officer shall prepare and maintain in the contract file a written statement
11 of the reasons for awarding the contract to another bidder.
- 12 J. In the case of a tie bid for the lowest responsive and responsible bid, the Procurement
13 Officer may negotiate with the tie bidders to obtain best and final offers from each bidder.
14 The Procurement Officer may make the contract award to the lowest responsive and
15 responsible bidder based on the best and final offers. The City may also reject all bids and
16 rebid the contract.
- 17 K. When it is considered impracticable to initially prepare a purchase description to support a
18 contract award, a request for expressions of interest may first be issued in accordance with
19 Section 6.08.130.
- 20 L. The City may use multi-step sealed bidding when the City wishes to prequalify all offerors
21 who will be permitted to respond to a subsequent solicitation. Prequalification of an offeror
22 may not constitute a conclusive determination that an offeror is responsible, and the offeror
23 may be rejected as non-responsible at any time on the basis of subsequently discovered
24 information.
- 25 M. If only a single bid is received and the price is not acceptable to the City, the City may
26 either negotiate with the bidder for a more acceptable price or reject the bid. If the bid is
27 rejected, the City may cancel the invitation for bids, re-solicit for bids, or use any other
28 solicitation method reasonably designed to obtain the best price.

29

30 **6.08.120 Formal solicitation—Competitive sealed proposals.**

- 31 A. Formal contracts may be awarded by competitive sealed proposals when the Procurement
32 Officer, in consultation with the using department, determines that competitive sealed
33 bidding is either not practicable or not advantageous to the City.
- 34 B. The Procurement Officer shall issue a request for proposals indicating in general terms that
35 which is sought to be procured and the applicable contractual terms and conditions,
36 including any unique capabilities or qualifications that will be required of the contractor.

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- 1 C. Public notice of the request for proposals shall be given in the manner provided in Section
2 6.08.110.C.
- 3 D. There shall be no public opening of proposals, and a proposal may not be handled so as to
4 permit disclosure of the contents of any proposal to competing proposers, except for the
5 identity of the proposer, during the evaluation process. The proposals shall be open for
6 public inspection after contract execution, except for information identified by the proposer
7 as confidential or proprietary information and determined by the ~~Finance~~ Director or the
8 Procurement Officer to be confidential or proprietary information.
- 9 E. Proposals received after the date and time specified in the request for proposals may not be
10 accepted.
- 11 F. If provided for in the request for proposals, the Procurement Officer, the using department,
12 or both may conduct discussions with responsible proposers who submit proposals
13 determined to be reasonably susceptible of being selected for contract award. The purpose
14 of the discussions is for clarification so as to ensure full understanding and accuracy of
15 responses to the requirements in the request for proposals. Proposers shall then be afforded
16 an opportunity to revise their proposals prior to contract award for the purpose of the City
17 obtaining best and final proposals. In conducting discussions, the City may not disclose any
18 information derived from proposals submitted by competing proposers.
- 19 G. The Procurement Officer in consultation with the using department shall evaluate the final
20 proposals based on criteria contained in the Request for Proposal on a best value basis and
21 shall rank in order of preference the most qualified proposers. The Procurement Officer may
22 request best and final offers from one or more proposers and may negotiate contracts with
23 the highest ranked proposer or proposers. The contract shall be awarded to the highest
24 ranked proposer with whom a satisfactory contract has been negotiated. If a contract
25 satisfactory to the City cannot be reached, negotiations may be terminated, and the
26 solicitation process may start over. If at any time during the process the Procurement
27 Officer determines in writing that only one proposer is fully qualified or that one proposer is
28 more highly qualified than the others under consideration, the Procurement Officer may
29 negotiate and award a contract to that proposer.
- 30 H. Multiple contract awards may be made under a single request for proposals if the request for
31 proposals provides for multiple contract awards.

32
33 **6.08.130 Formal solicitation—Selection based on qualifications.**

- 34 A. Formal contracts may be awarded through qualifications-based selection when the
35 Procurement Officer, in consultation with the using department, determines that competitive
36 sealed bidding or competitive sealed proposals are either not practicable or not
37 advantageous to the City. This competitive selection may be used for projects that are not

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- 1 well defined and need flexibility and adaptability to establish the scope of work, are of an
2 unusual nature, or are exceptionally complex.
- 3 B. The Procurement Officer shall issue a request for statements of qualifications indicating in
4 general terms a preliminary scope of work and the applicable contractual terms and
5 conditions, including any unique capabilities or qualifications that will be required of the
6 contractor.
- 7 C. Public notice of the request for statements of qualifications shall be given in the manner
8 provided in Section 6.08.110.C.
- 9 D. There shall be no public opening of statement of qualifications proposals, and a proposal
10 may not be handled so as to permit disclosure of the contents of any proposal to competing
11 proposers, except for the identity of the proposer, during the evaluation process. The
12 proposals shall be open for public inspection after contract execution, except for
13 information identified by the proposer as confidential or proprietary information and
14 determined by the ~~Finance~~ Director or the Procurement Officer to be confidential or
15 proprietary information.
- 16 E. Proposals received after the date and time specified in the request for proposals may not be
17 accepted.
- 18 F. If provided for in the request for statement of qualifications proposals, the Procurement
19 Officer, the using department, or both may conduct discussions with responsible proposers
20 who submit proposals determined to be reasonably susceptible of being selected for contract
21 award. The purpose of the discussions is for clarification so as to ensure full understanding
22 and accuracy of responses to the requirements in the request for proposals. Proposers shall
23 then be afforded an opportunity to revise their proposals prior to contract award for the
24 purpose of the City obtaining best and final proposals. In conducting discussions, the City
25 may not disclose any information derived from proposals submitted by competing
26 proposers.
- 27 G. The Procurement Officer in consultation with the using department shall evaluate the final
28 proposals based on criteria contained in the request for statement of qualifications and shall
29 rank in order of preference the most qualified proposers. The Procurement Officer may
30 request best and final offers from one or more proposers and may negotiate contracts with
31 the highest ranked proposer or proposers. The contract shall be awarded to the highest
32 ranked proposer with whom a satisfactory contract has been negotiated. If a contract
33 satisfactory to the City cannot be reached, negotiations may be terminated, and the
34 solicitation process may start over. If at any time during the process the Procurement
35 Officer determines in writing that only one proposer is fully qualified or that one proposer is
36 more highly qualified than the others under consideration, the Procurement Officer may
37 negotiate and award a contract to that proposer.
- 38 H. Multiple contract awards may be made under a single request for proposals if the request for
39 proposals provides for multiple contract awards.

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6.08.150 Small procurements.

- A. A procurement that is less than twenty-five thousand dollars may be made in accordance with small procurement procedures established by the Procurement Officer and approved by the ~~Finance~~ Director without soliciting competitive sealed bids or competitive sealed proposals. The small procurement procedures shall require the Procurement Officer to ensure that requests for quotes or offers are made to no fewer than three businesses that can meet the City's needs based on a best value basis.
- B. The award of a small procurement shall be made to the lowest responsible and responsive business meeting the City's needs. The Procurement Officer shall maintain a record in the contract file of the businesses asked to provide quotes and the names of the businesses who responded to the request, including the date and amount of each quote.

6.08.190 Non-competitive procurement.

- A. A contract of any value may be awarded without competitive procurement when the Procurement Officer determines based on a good faith review of available sources that:
 - 1. There is only one source practicably available for the required goods, services, insurance, or construction that can meets the City's needs. The basis for identifying a sole source includes:
 - a. Proprietary, patented, or copyrighted items or information available from only one source;
 - b. The valid performance or delivery due dates required by the City can be met by only one source;
 - c. The required compatibility of equipment, accessories, software, or replacement parts can be met by only one source, the availability of used machinery or equipment is limited, or a delay in procurement would be detrimental to the City;
 - d. The City requires for trial use or testing an item or service available from only one source; or
 - e. A continuous series of procurements from a single source over a period of time is advantageous as demonstrated by a cost benefit analysis from the using department showing that considerations of training, replacement parts, and compatibility with existing capital investments justify the use of a sole source.
 - 2. An emergency procurement is permissible in accordance with Section 11.48.070 of this Code;
 - 3. A contractor has been specifically identified in a grant accepted by the City; or
 - 4. The time required to comply with procurement would not otherwise benefit the public good, provided that any procurement shall be limited to only those goods or services

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1 necessary to meet the applicable situation, shall conform to the procurement
2 requirements to the extent practicable under the circumstances, and shall be
3 documented for the purpose and basis.

- 4 B. The Procurement Officer shall maintain a record of non-competitive procurements that lists
5 each contractor's name, the amount and type of each contract, a listing of the item procured
6 under each contract, and the reasons justifying the non-competitive procurement.
- 7 C. The Procurement Officer shall submit to the ~~Finance~~ Director an annual report of all non-
8 competitive procurement contracts.

9

10 **6.08.240 Responsibility of offerors.**

- 11 A. A contract may not be awarded to an offeror that is not responsible. The Procurement
12 Officer shall make a determination as to the capability of the offeror to fully perform the
13 contract requirements in all respects. When a competitive procurement is used, the
14 Procurement Officer's determination of non-responsibility shall be made in writing.
- 15 B. The Procurement Officer shall consider any factors that the Procurement Officer deems
16 relevant to determining whether an offeror is responsible and shall also consider the
17 following factors:
- 18 1. Price and other criteria set forth in the solicitation;
 - 19 2. The ability, capacity, organization, facilities, skill, and financial resources of the
20 offeror to perform the contract or provide the services required within the time
21 specified without delay, interruption, or interference;
 - 22 3. The character, integrity, reputation, judgment, experience, and efficiency of the
23 offeror;
 - 24 4. The quality of performance of previous contracts or services for the City or other
25 businesses and past unsatisfactory performance for any reason is sufficient to justify a
26 finding of non-responsibility;
 - 27 5. The offeror's previous and existing compliance with laws and ordinances relating to a
28 contract or services;
 - 29 6. The offeror's sufficiency of financial resources to perform the contract or provide the
30 services;
 - 31 7. The offeror's ability to provide any required future maintenance and services;
 - 32 8. The certification of an appropriate accounting system, if required by the type of
33 services to be provided under the contract;
 - 34 9. Bid security and the ability of the offeror to furnish a performance security;
 - 35 10. The ability of offeror to furnish sufficient insurance;

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- 1 11. The offeror's status and standing with the Maryland State Department of Assessments
2 and Taxation; and
- 3 12. Past debarment by the City or another public entity.
- 4 C. An offeror is deemed to be non-responsible if the offeror has been disbarred by a public
5 entity or is in default on payment of taxes, licenses, fees, fines, or other monies due the City
6 for whatever reason.
- 7 D. The Procurement Officer may find an offeror non-responsible if the offeror fails to provide
8 in a timely manner information requested by the Procurement Officer in connection with an
9 inquiry relating to responsibility.
- 10 E. Confidential or proprietary information furnished by an offeror pursuant to this section may
11 not be made public without the prior written consent of the offeror or as otherwise required
12 by law. The offeror shall indicate on a document if the offeror believes that document
13 contains confidential or proprietary information. The Procurement Officer or ~~Finance~~
14 Director shall determine whether he or she concurs that the document contains confidential
15 or proprietary information. If the Procurement Officer or ~~Finance~~ Director does not concur
16 that the identified information is confidential or proprietary, the City shall provide the
17 offeror with reasonable notice and a reasonable opportunity to request a court to prevent its
18 release.

19

20 **6.08.270 Standard contract provisions.**

- 21 A. Contracts shall include standard provisions that may be authorized or required by law or by
22 a procedure or policy or purchasing manual approved by ~~Finance~~ Director.
- 23 B. Certain transactions, at the discretion of the City Manager, may require the use of electronic
24 signatures. For such transactions, the City shall request that the other party to the transaction
25 agree to all terms and conditions presented in any document or agreement for proper use
26 and acceptance of the electronic signatures by any and all parties. Said electronic signatures
27 by the parties shall be as legally binding as a handwritten signature.

28

29 **6.08.330 Protest and appeal procedures.**

- 30 A. An offeror shall file a written protest of contract award with the Procurement Officer not
31 later than three business days after the release of the Notice of Award. A protest based on
32 alleged improprieties in the solicitation that are apparent either before the offer opening or
33 before the closing date for receipt of initial offers shall be filed not later than three business
34 days before the opening date. Oral objections are not protests.
- 35 B. An offeror shall file a written protest of offer rejection with the Procurement Officer not
36 later than three business days from the date of its rejection. Oral objections are not protests.

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- 1 C. In order to be considered by the Procurement Officer, all written protests shall include the
2 following:
- 3 1. Name and address of protestor.
 - 4 2. Solicitation number.
 - 5 3. Reasons for protest.
 - 6 4. Supporting exhibits, evidence, or documents to support protest.
- 7 D. For offers of ten thousand dollars or more, there will be a "Protest Filing Fee" of five
8 hundred dollars. For offers under ten thousand dollars, there will be a "Protest Filing Fee" of
9 one hundred dollars. This fee may be refunded at the sole discretion of the Procurement
10 Officer.
- 11 E. The Procurement Officer will review the offeror's protest and provide a written response to
12 the offeror by certified mail not more than ten business days of receipt of protest.
- 13 F. The offeror may appeal the decision by the Procurement Officer to the ~~Finance~~ Director.
14 The offeror shall file a written appeal not later than three business days from receipt of the
15 Procurement Officer's response. Oral objections are not appeals. The appeal must comply
16 with subsection (c) of this section, but may include any additional documentation as deemed
17 necessary and appropriate by the offeror.
- 18 G. The ~~Finance~~ Director will review the offeror's appeal and provide a written response to the
19 offeror by certified mail not more than fifteen business days of receipt of appeal to the
20 ~~Finance~~ Director.
- 21 H. The offeror may appeal the decision by the ~~Finance~~ Director to the City Manager. The
22 offeror shall file a written appeal with the City Manager not later than three business days
23 from the receipt of the Director's response. Oral objections are not appeals. The appeal must
24 comply with subsection (c) of this section, but may include any additional documentation as
25 deemed necessary and appropriate by the offeror.
- 26 I. The City Manager or the City Manager's duly authorized designee shall review the offeror's
27 appeal and provide a written response to the offeror by certified mail not more than twenty
28 business days of receipt of appeal to the City Manager.
- 29 J. The written decision of the City Manager or the City Manager's duly authorized designee is
30 final and binding.
- 31 K. If a timely protest or appeal of a contract award occurs as described in this section, the
32 applicable contract shall not be executed until the review process is completed and a final
33 decision is rendered or until a determination is made by the ~~Finance~~ Director that a contract
34 award is required to protect the interests of the City. The Procurement Officer shall notify
35 all affected offerors promptly in the event that a protest or appeal has been filed.
- 36

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1 **6.08.360 Authority to debar or suspend contractors.**

- 2 A. After reasonable notice to the business involved and a reasonable opportunity for the
3 business to be heard, the Procurement Officer, after consulting with the City Attorney, is
4 authorized to debar a business for cause from consideration for award of contracts. The
5 debarment shall be for a period of not more than two years. During the pendency of a
6 debarment proceeding, a contractor may be suspended from receiving a contract award for a
7 period not to exceed six months.
- 8 B. The causes for debarment and temporary suspension include:
- 9 1. Conviction for the commission of a criminal offense as an incident to obtaining or
10 attempting to obtain a public or private contract or subcontract or in the performance of
11 a contract or subcontract;
- 12 2. Conviction under State or Federal statutes of embezzlement, theft, forgery, bribery,
13 falsification, or destruction of records, receiving stolen property, or any other offense
14 indicating a lack of business integrity;
- 15 3. Conviction under State or Federal antitrust statutes arising out of the submission of
16 offers;
- 17 4. Violation of contract provisions so serious as to justify a debarment action, including:
- 18 a. Deliberate failure without good cause to perform in accordance with the
19 specifications or within the time limit provided in the contract; or
20 b. A recent record of failure to perform or of unsatisfactory performance in accordance
21 with the terms of one or more contracts, except that a failure to perform or
22 unsatisfactory performance caused by acts beyond the control of the contractor may
23 not be considered as a basis for debarment.
- 24 5. Any other cause determined to be so serious and compelling as to affect responsibility
25 as a City contractor, including debarment by another public entity for any cause listed
26 in this chapter; and
- 27 6. Violation of Chapter 2.08 of this Code or any provision of this chapter.
- 28 C. The Procurement Officer shall issue a detailed written decision to debar that shall be sent by
29 certified mail to the debarred or suspended business.
- 30 D. A decision of the Procurement Officer to debar a contractor may be appealed in accordance
31 with the same procedures and deadlines for a contract award or offer rejection as described
32 in Section 6.08.320.

33

34 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
35 **ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect upon passage

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