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..Title
Market House Tenant Solicitation – For the purpose of establishing a public process for selecting a Market House tenant.

..Body

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 16-17

Introduced by: Alderman Budge

**Referred to
Economic Matters Committee
Finance Committee**

AN ORDINANCE concerning

Market House Tenant Solicitation

FOR the purpose of establishing a public process for selecting a Market House tenant.

WHEREAS, among the express powers provided to municipal corporations in §5-204 of the Local Government Article of the Annotated Code of Maryland is establishing and regulating markets; and

WHEREAS, Article III, Section 2 of the Annapolis City Charter states the City has the power to erect and regulate markets; and

WHEREAS, the City of Annapolis established and began operating a market house in Market Space in 1787; and

WHEREAS, the present Market House structure was constructed in 1858 and operated continuously as a market until 2005; and

WHEREAS, the City, with generous financial assistance from the Maryland State Legislature, refurbished the Market House beginning in 2005; and

WHEREAS, City Administrations solicited and selected Market House vendors in 2004, 2005, 2009, 2010, 2011 and 2013; and

WHEREAS, Ordinance 46-11, adopted by the Annapolis City Council on November 17, 2011, authorized the Mayor to enter into vendor leases for the Market House on behalf of the City for terms not to exceed five (5) years; and

WHEREAS, the Mayor of Annapolis entered into eight vendor leases for the Market House in 2013; and

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WHEREAS, existing vendor leases for Market House tenants expire on December 31, 2017; and

WHEREAS, the Mayor’s authorization to enter into further vendor leases for the Market House expired on November 17, 2016; and

WHEREAS, in accordance with Article III, Section 8 of the Charter of the City of Annapolis, the City Council must authorize any lease of City land or the improvements on the land; and

WHEREAS, the City Council believes a thriving Market House contributes to the overall social and economic vitality of the City’s historic downtown; and

WHEREAS, the City Council desires to re-establish the Market House as a vibrant public resource, as a key anchor of the City’s downtown commercial area, and as a gathering space for residents, tourists, and workers from all walks of life; and

WHEREAS, the City Council expressly finds that the lease of space in the Market House between the City of Annapolis and a Market House Vendor will better serve the public need for which the Market House property and improvements were acquired; and

WHEREAS, the City Council wishes that the selection of the next Market House Vendor be an open and transparent process.

NOW, THEREFORE,

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that, pursuant to Article III, Section 8 of the Annapolis City Charter, the Mayor shall solicit competitive bids by legally appropriate means for the purpose of leasing the Market House to one tenant who will operate the facility under Section 7.28.020 of the Annapolis City Code either as the sole tenant or in conjunction with sub-tenants selected by that tenant.

SECTION II: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that all qualified bids received shall be presented to the Annapolis City Council by July 1, 2017 for a public hearing, evaluation and selection of a winning bidder in open session, except for those portions of the bids deemed confidential which shall be evaluated by designated City staff.

SECTION III: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Annapolis City Council shall consider and evaluate the following criteria in selecting a winning bidder:

- 1 • The general business concept.
- 2 • The product and service offerings.
- 3 • The bidder's experience in running a similar business.
- 4 • Evaluation of the bid's likelihood of success at the Market House.
- 5 • The bidder's ability to pay rent equal to or greater than the real property taxes that
- 6 would be due on an equivalent commercial structure at Market Space.
- 7 • The bid's fit with Section 7.28.020 of the Annapolis City Code.
- 8 • Operational aspects including the amount of space requested, a simple sketch of
- 9 the floor plan, any changes to the structure, requirements for electricity and water,
- 10 heat generation the operation would produce, expected hours of operation, a
- 11 conceptual marketing plan, and any other operational requirements or
- 12 considerations.
- 13 • The bid's compatibility with Market House's current infrastructure (eg: HVAC,
- 14 electrical supply, etc.).
- 15 • Any proposed alterations to the structure to improve vitality, such as openable
- 16 windows, that are made at the bidder's expense and conform to all applicable
- 17 laws, regulations, and easements.
- 18 • The bidder's ability to assume full responsibility for maintenance and operation of
- 19 the Market House.
- 20 • Other information the bidder believes is relevant to the bid.
- 21 • Comments from City Staff review of the bids.
- 22 • The results of City Staff's confidential evaluation of the bidders' financial
- 23 qualifications, business standing, and references.
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25 **SECTION IV: BE IT ESTABLISHED AND ORDAINED BY THE**
26 **ANNAPOLIS CITY COUNCIL** that the Annapolis City Council reserves the right to
27 request information from the bidders in addition to the information specified in Section
28 III and the solicitation document.

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30 **SECTION V: BE IT ESTABLISHED AND ORDAINED BY THE**
31 **ANNAPOLIS CITY COUNCIL** that the Mayor shall negotiate a lease agreement with
32 the winning bidder chosen by the City Council for ratification by the City Council; said
33 lease agreement to include at a minimum the following terms:

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- 35 • Tenant keeps the Market House stalls occupied in a fashion consistent with its
- 36 City-accepted bid and keeps the building open as a viable enterprise through the
- 37 term of the lease.
- 38 • Five to ten year total term, which may include an initial period and a renewal
- 39 period.
- 40 • Triple-Net Lease where tenant pays rent, utilities, repair and maintenance, taxes
- 41 (if any), and insurance, and the City only retains responsibility for the roof,
- 42 structural elements and exterior surfaces.
- 43 • \$0.00 allowance from the City for tenant finish-out of the building and related
- 44 premises.
- 45 • Tenant is responsible for marketing and communication.

- 1 • Provisions for early termination at the tenant’s convenience pursuant to set terms
- 2 and for termination for cause by the City.
- 3 • Not transferable or assignable without City Council written consent.
- 4 • Sub-tenants compatible with the bid (and any related business plan) are
- 5 permissible with City consent, and subject to reasonable provisions concerning
- 6 vacancy and nuisance issues.
- 7 • Tenant conforms to Maryland Historic Trust easements on Market House and
- 8 applicable Historic District regulations.
- 9 • Annual report to the City Council that includes the City-approved business plan
- 10 and proposed modifications thereof, any changes in sub-tenancy, management or
- 11 operating procedures, repairs and maintenance, proposed improvements, and any
- 12 other items as reasonably requested by the City Council.
- 13 • The City intends to offer existing outdoor furniture to the tenant.
- 14 • Other terms as the City Manager and City Attorney deem appropriate.

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17 **SECTION VI: BE IT ESTABLISHED AND ORDAINED BY THE**
18 **ANNAPOLIS CITY COUNCIL** that the Annapolis City Council reserves the right to
19 discard all bids.

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21 **SECTION VII: AND BE IT FURTHER ESTABLISHED AND ORDAINED**
22 **BY THE ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the
23 date of its passage.

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27 **EXPLANATION**

28 CAPITAL LETTERS indicate matter added to existing law.

29 ~~Strikethrough~~ indicates matter stricken from existing law.

30 Underlining indicates amendments.