

ORDINANCE NO. 1612

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, PROPOSING AMENDMENTS TO THE CITY CHARTER; PROPOSING TO AMEND ARTICLE 5 TO EXEMPT INSURANCE, SOFTWARE AND IT-RELATED GOODS AND SERVICES FROM COMPETITIVE PROCUREMENT; REPEALING ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND PROVIDING THAT THE AMENDMENTS PROPOSED SHALL BE EFFECTIVE ONLY UPON THE APPROVAL OF REFERENDUM AS SPECIFIED IN THE ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 5-7 of the Charter of the City of Panama City Beach, related to Competitive Bidding is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

ARTICLE 5. - FINANCIAL PROCEDURES

Sec. 5-7. - Competitive bidding.

(a) *Required.* No purchase by or on behalf of the City requiring the expenditure of twenty five thousand dollars (\$25,000) or more shall be awarded, let or made except through competitive bidding after the advertisement for the bids in the form and manner prescribed in this Charter. No purchase or the quantity thereof shall be split for the purpose of avoiding the requirements of this section.

(b) *Publication of request for bids.* Published notice of each intended purchase by competitive bid shall be posted on a designated web-page or other digital platform noticed upon and linked to the landing page on the City's official web site for 21 consecutive days prior to the opening date of the bid. In addition to the posting requirements of this section, the City Council may direct the City Manager to notify, by whatever means it chooses, additional potential suppliers of such requests for bids whenever the City Council determines that the website posting requirement of this section is inadequate to produce

sufficiently competitive bidding. In emergency circumstances, notification time on the request may be shortened by the City Manager.

(c) *Contents of request for bids.* Each request for the submission of bids shall contain an acceptance clause granting the City a minimum of forty-five (45) days in which to accept or reject the bid, during which time the tendered bid shall remain valid. The request for the submission of bids may contain a requirement that the bidder provide a performance bond in the full amount of the contract price and may further contain such other specifications and declarations as the City Council shall determine necessary for the proper evaluation of the bidder's proposal and qualifications.

(d) *Awards.* The City Council shall award the contract to the lowest fully responsive and responsible bidder; provided, that the City Council may award the contract to a bidder other than the lowest bidder should it find that the lowest bidder does not offer the reliability, quality of service or product afforded by such other bidder. Where a bid other than the lowest bid is taken, the City Council shall state the reasons upon which such award was made.

(e) *Rejection and resubmission for bids.* The City Council may reject all submitted bids and provide for the request of additional bids whenever it finds that the bids submitted are not responsive to the request for bids, that the bids are not responsible or that the bid prices are unacceptable. Requests for such additional bids shall comply with the provisions of this section.

(f) *Purchases on failure to receive bids.* Where no bids are received and the Council determines that additional requests for bids are unlikely to produce responses, the City Council may authorize the purchase, at the best obtainable price determined through direct quotation, of such products or services as are available on the open market.

(g) *Professional services.* Contracts for professional services, including but not limited to architects, attorneys, accountants, engineers and surveyors, may, upon approval by the City Council, be entered into without competitive bidding. The City Council shall review the qualifications, work history and other relevant data before contracts for such services are rendered. The Consultants' Competitive Negotiation Act shall be followed where applicable.

(h) *Emergency purchases.* The City Council may substitute competitive quotes for the competitive bidding required by this section upon a finding by extraordinary vote that a public emergency exists making the bid delay contrary to the public interest.

(i) *Piggybacking.* Notwithstanding the foregoing, a purchase of goods made by or on behalf of the City on the same terms and conditions as were obtained by a federal, state or municipal government or cooperative purchasing entity of which the City is a member, through an advertised, competitive bidding process shall be deemed to be made through competitive bidding under this Charter, provided the contract to be piggybacked is in full

force and effect at the time of the City's purchase.

(j) *Purchase of Goods for Utilities.* Notwithstanding the foregoing, a purchase by or on behalf of the City of goods or services, or both, which are to be used exclusively for the operation or maintenance of the City's potable water, stormwater, reuse-water or wastewater utility, or any combination of those utilities, and requiring the expenditure of not more than \$100,000 may be made by substituting competitive quotes for competitive bidding if required. No purchase or the quantity thereof shall be split for the purpose of avoiding the requirements of this section. This authorization shall not be utilized in conjunction with a construction or other service contract that requires competitive bidding.

(k) *Sole Source.* Notwithstanding the foregoing, the City Council may authorize any purchase of goods requiring an expenditure of not more than \$50,000 without competitive bid when the City Council finds that the goods are to be used exclusively for the operation or maintenance of the City's potable water, stormwater, reuse-water or wastewater utility, or any combination of those utilities, that the goods are to replace a specialized, mechanical or electrical component of the utility, and that the goods are only available from a sole source of supply. The fact that the new component may increase capacity shall not disqualify this authorization. This authorization shall not be utilized in conjunction with a construction or other service contract that requires competitive bidding.

(l) **Exemptions to competitive procurement requirements. The competitive procurement requirements of this Section shall not apply to purchases of: a) maintenance and service of information technology software when the maintenance or services will be performed by the software manufacturer, the manufacturer's service representative or by a distributor of the manufacturer; b) proprietary computer software, licenses, accessories and supplies; c) goods or services necessary to prevent or address a cyber-attack or damage or loss of public records; d) insurance coverage.**

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. If approved by referendum as provided in this Ordinance, the appropriate officers and agents of the City are authorized and directed to codify, include and publish the provisions of this Ordinance within the Panama City Beach Charter.

SECTION 4. This Ordinance shall take effect immediately upon passage, but the amendments proposed hereby shall become effective immediately upon approval by a majority of the electors of the City voting in the next general election or special election called for such purpose; and if the electors shall not approve an amendment proposed by this Ordinance at such referendum, or should no referendum be held within one (1) year from the passage of this Ordinance, then the proposals not approved shall be void and of no force and effect.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 9th day of February, 2023.



MARK SHELDON, MAYOR

ATTEST:



CITY CLERK

EXAMINED AND APPROVED by me this 9th day of February, 2023.



MARK SHELDON, MAYOR

Posted on pcbfl.gov on the 27th day of January, 2023.

Posted on publicnoticesbaycountyfl.gov on the 30th day of January, 2023.