

**ORDINANCE 2019-24**

**AN ORDINANCE REVISING CHAPTER 5 OF THE MUNICIPAL CODE OF THE CITY OF FRANKLIN, ENTITLED PURCHASING, TO ALLOW FOR THE USE OF COMPETITIVE SEALED PROPOSALS AS A PROCUREMENT METHOD**

**WHEREAS**, the City of Franklin (“City”) desires to perform its governmental functions in as efficient and effective manner as possible; and

**WHEREAS**, Tennessee law allows municipalities to use competitive sealed proposals as a method of procurement and purchasing, in addition to invitations to bid and requests for qualifications; and

**WHEREAS**, Tennessee law requires a municipality to adopt an ordinance if using competitive sealed proposals as a procurement method; and

**WHEREAS**, the ability to use competitive sealed proposals as a method of purchasing would be beneficial to the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN FOR THE CITY OF FRANKLIN, TENNESSEE**, that Title 5 of the Municipal Code of the City of Franklin shall be amended by adding the following section, which will read as follows:

**CHAPTER 5. – PURCHASING**

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**Sec. 5-504. – Competitive sealed proposals.**

- (1) The Purchasing Manager may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids if the board determines that the use of competitive sealed bidding is either not practicable or not advantageous for the City.
- (2) In the event of an emergency caused by unforeseen circumstances such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the board. A record of any emergency purchase shall be made by the person or body authorizing the emergency purchase, specifying the amount paid, the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase shall be made as soon as possible by the person or department authorizing the purchase to the board.
- (3) In making the decision to use competitive sealed proposals, the Purchasing Manager shall follow the Purchasing Policy.
- (4) Competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase, and:
  - (a) When there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or
  - (b) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.
- (5) Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided for competitive sealed bids.

- (6) Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after the intent to award the contract to a particular proposer is announced.
- (7) The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.
- (8) As provided in the request for competitive sealed proposals and in the Purchasing Policy, discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible proposers who submit proposals determined by the Purchasing Manager to be reasonably susceptible of being selected. The proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before the intent to award to a particular proposer is announced to obtain the best and final offers. In conducting discussions, the Purchasing Manager and other City personnel shall make no disclosure to any proposer of any information derived from proposals submitted by competing proposers.
- (9) The award shall be made to the responsible proposer whose proposal the Purchasing Manager, subject to approval by the board as necessary, is the most advantageous to the City, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals and factors set forth for competitive sealed bids to determine the lowest responsible proposer. No other factor may be used in the evaluation. The Purchasing Manager shall place in the contract file a statement containing the basis on which the award was made.
- (10) An aggrieved proposer may protest the intended award to another proposer if a protest is filed within seven (7) calendar days after the intended award is announced. The protest shall be filed with and decided by the board.

BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

**ATTEST:**

By: \_\_\_\_\_  
**Eric S. Stuckey**  
 City Administrator/Recorder

**CITY OF FRANKLIN, TENNESSEE:**

By: \_\_\_\_\_  
**Dr. Ken Moore**  
 Mayor

Approved as to form by:

\_\_\_\_\_  
 William E. Squires  
 Assistant City Attorney

PASSED FIRST READING: \_\_\_\_\_

PASSED SECOND READING: \_\_\_\_\_