



EMERGENCY ORDER NO. 2020-08

ORDER RELATING TO TEMPORARY PROCUREMENT PROCESSES AND THE CONDUCT OF PUBLIC PROCUREMENT MEETINGS BY COMMUNICATIONS MEDIA TECHNOLOGY

WHEREAS, the Novel Coronavirus Disease 2019 (COVID-19) epidemic may cause life threatening conditions for the residents of the City of North Port; and

WHEREAS, on March 9, 2020, Florida Governor Ron DeSantis issued Executive Order Number 20-52, declaring that a state of emergency exists in every county in the State of Florida; and

WHEREAS, on March 17, 2020, the City Commission of the City of North Port, Florida adopted Ordinance No. 2020-18, declaring a state of local emergency due to the COVID-19; and

WHEREAS, the City Manager extended the state of emergency on March 24, 2020; March 31, 2020; April 7, 2020; April 14, 2020; April 21, 2020; April 28, 2020; and May 5, 2020; and

WHEREAS, Ordinance No. 2020-18 conferred on the City Manager or designee the power and authority set forth in Florida Statutes Section 252.38(3)(a); and

WHEREAS, Florida Statutes Section 252.38(3)(a)5 provides authority for cities to declare a state of local emergency and to waive the procedures and formalities otherwise required of the City by law pertaining to matters including but not limited to the performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community; and

WHEREAS, pursuant to Florida Statutes Section 252.46, the City Manager has the power to issue emergency orders with the force of the law; and

WHEREAS, the COVID-19 pandemic presents an immediate danger to the public's health, safety, and welfare requiring emergency action; and

WHEREAS, to implement the orders and recommendations of government entities and public health organizations regarding social distancing and the avoidance of public gatherings during the COVID-19 pandemic, to allow for the continuing conduct of public business and citizen participation, and to otherwise facilitate the use of communications media technology, this order is necessary for emergency management purposes and to ensure the health, safety, and welfare of the community; and

WHEREAS, on March 23, 2020, the City Manager issued Emergency Order No. 2020-03, suspending the public comment procedures in Section 2-55 of the Code of the City of North Port, Florida; suspending in-

person public comment and attendance at public meetings; and providing that the City would make reasonable efforts to provide alternative methods for public comment and participation in public meetings; and

WHEREAS, on April 8, 2020, the City Manager issued Emergency Order No. 2020-06 and on April 16, 2020, the City Manager issued Emergency Order No. 2020-06 (revised), providing procedures for the City Commission and boards to meet via communications media technology; and

WHEREAS, several sections of the Purchasing Procedures Manual of the City of North Port, Florida provide for public meetings to conduct pre-bid, pre-proposal, and pre-construction conferences with staff; and

WHEREAS, Section 2-402 of the Code of the City of North Port, Florida provides that written solicitations for sealed competitive bids (Requests for Bid) and sealed competitive proposals (Request for Proposals) will be opened in the public; and

WHEREAS, Section 2-404(a) and (d), Code of the City of North Port, Florida provide that competitive sealed bids shall be utilized and opened by the purchasing agent or designee in the presence of the City Clerk or designee, at the time and place designated in the request for bids; and

WHEREAS, Section 2-405(a) and (e), Code of the City of North Port, Florida require a competitive sealed proposal method of procurement and for the purchasing manager to open the proposals, and Section 2-406(c) provides that a register of sealed proposals shall be prepared; and

WHEREAS, Section 255.0815, Florida Statutes, states that a construction bid opening will be conducted consistent with the requirements for public meetings pursuant to Section 286.011, Florida Statutes, including notice, accessibility of the public, and a record, which is traditionally meeting minutes; and

WHEREAS, Section 2-406(g) of the Code of the City of North Port, Florida provides that the professional services review committee will provide public notice of its meeting; and

WHEREAS, selection committee meetings are public, except those that may, under specific safeguards, limit public attendance pursuant to Section 286.0114, Florida Statute; and

WHEREAS, Section 255.0525, Florida Statutes, provides that a local government may modify bid opening procedures in any manner that is reasonable under the emergency circumstances; and

WHEREAS, the City intends to change its practice of opening bids and proposals on the day of receipt, and instead allow for the opening of bids and proposal on the third (3rd) business day after the day of receipt; and

WHEREAS, the City intends to allow for virtual public meetings related to procurement via communications media technology; and

WHEREAS, defining meeting procedures for public meetings via communications media technology and allowing for electronic bidding protects the health, safety, and welfare of the community and of City employees, while allowing the government to conduct meetings open to public participation and in compliance with state law; and

WHEREAS, the procedures in this order are fair under the circumstances; provide at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution; and are the least restrictive measures necessary to continue the emergency operations of the city and to protect the public interest; and

WHEREAS, this order does not conflict with any of the governor's executive orders issued during this emergency.

IN HIS EMERGENCY AUTHORITY, THE CITY MANAGER OF THE CITY OF NORTH PORT, FLORIDA ORDERS:

1. Findings. The recitals outlined above are incorporated by reference as findings of fact.
2. Authorization to Use CMT. Due to the state of local emergency and public health concerns, and in accordance with the City Manager's Emergency Order No. 2020-03, there will be no physical meeting locations where the public can participate in person at a public meeting.
 - a. The City may utilize communications media technology ("CMT") to conduct public openings of requests for bid ("RFB") and requests for proposals ("RFP") in accordance with the procedures established in this order.
 - b. The City may utilize CMT to conduct pre-bid, pre-proposal, and pre-construction conferences in accordance with the procedures established in this order.
 - c. The City may utilize CMT to conduct procurement selection committee meetings in accordance with the procedures established in this order.
 - d. CMT includes one or more of the following: the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, or digital video by any method available.
 - e. Nothing in this order may be construed as waiving the City's obligation to comply with all other applicable requirements of the Sunshine Law, Florida Statutes Chapter 286. No meeting subject to the Sunshine Law may be conducted exclusively by means of CMT if the available technology is insufficient to permit interested persons to attend.
 - f. If during the course of a meeting conducted by CMT, technical problems develop with the City's communications network that prevent the use of CMT for the conduct of the meeting, then the meeting must be recessed or adjourned until the problems have been corrected.

2. Notice of Meetings Held Via CMT.
 - a. Posting. The notice of any public meeting to be held via CMT must be provided in the same manner as required for a non-CMT meeting. If City Hall is closed to the public, making the bulletin board inaccessible, notice must be posted on the front windows. Additionally, notice must be posted on the City's Online Meeting webpage at www.cityofnorthport.com/onlinemeetings and on the agenda management site at <https://cityofnorthport.legistar.com/Calendar.aspx>.
 - b. Content. The notice must:
 - (1) Plainly state that the meeting is to be conducted utilizing CMT and identify the specific type of CMT to be used;
 - (2) Describe how interested persons may attend and participate in the meeting (*i.e.*, telephone number, link to connect to video conference session, or other method); and
 - (3) Include the address, email address, and telephone number of a designated individual to whom an interested person may contact for additional information or assistance, and the person who should receive materials to be considered, if applicable.
3. Form of Communications Media Technology. The City Manager or designee, will designate one or more approved platforms (*i.e.*, Zoom, WebEx, GoToMeeting, Skype, or other platform) for the conduct of meetings by CMT.
4. Minutes of Meetings Held Via CMT; Recording. Minutes of all meetings conducted by CMT must be kept in the same manner as required for a non-CMT meeting. Where practicable, all meetings conducted by CMT should be recorded or otherwise captured by digital means.
5. Timing of Opening. Bids and proposals will be opened three business days after the close of the solicitation period.
6. Submittal of Electronic Bids and Proposals. The requirements of Sections 2-402, 2-404, 2-405, and 2-406 of the Code of the City of North Port, Florida requiring bids and proposals to be submitted in sealed envelopes is hereby waived. With the exception of any bids or proposals solicited prior to the entry of this emergency order, all bid and proposal submittals must be delivered electronically by the method, due date and time as instructed in the solicitation, via the DemandStar electronic bidding system at www.demandstar.com. If a bidder or proposer does not have the capability to submit their bid or proposal electronically, the City will make reasonable accommodations for the bid or proposal to be delivered to City Hall. Any such accommodations must be coordinated via telephone through Alla Skipper at (941) 705-8883, or via email at Purchasing@cityofnorthport.com.
7. This order does not modify, suspend, or waive any other regulations related to procurement.

8. To the extent this order conflicts with any provision of the Code of the City of North Port, Florida, this order controls.

This order is effective immediately. Unless otherwise terminated, this order expires simultaneously with the expiration of the state of local emergency.

ORDERED ON AND FILED WITH THE CLERK OF THE CITY OF NORTH PORT, FLORIDA ON MAY 6, 2020 AT 12:00 A.M. P.M. BY



Peter D. Lear, CPA, CGMA
City Manager

