

A Resolution

NO. _____

RESCINDING RESOLUTION NO. 4735-01-2017 AND ADOPTING REVISED AND RESTATED RULES GOVERNING THE RECEIPT OF ELECTRONIC BIDS AND PROPOSALS IN ACCORDANCE WITH SECTION 252.0415 OF THE TEXAS LOCAL GOVERNMENT CODE

WHEREAS under Chapter 252 of the Texas Local Government Code, the City of Fort Worth (the “City”) is subject to competitive procurement requirements for certain contracts involving the expenditure of municipal funds in excess of \$50,000.00; and

WHEREAS the City is authorized under Section 252.0415 of the Texas Local Government Code to receive competitive bids and competitive proposals through electronic transmission if the City Council adopts rules to ensure the identification, security, and confidentiality of electronic bids and proposals, and to ensure that they remain effectively unopened until the proper time; and

WHEREAS the increased use of electronic communications by business and governmental entities necessitates the ability to accept bids and proposals through electronic submission; and

WHEREAS it is anticipated that receiving bids and proposals via electronic transmission will increase the number of bids and proposals received by the City, thereby enhancing competition, improving efficiency, and lowering costs associated with the solicitation process for both vendors and the City; and

WHEREAS electronic bidding offers opportunities to promote business equity firms and local businesses in the City to a greater extent than traditional processes; and

WHEREAS in 2017, the City Council adopted Resolution No. 4735-01-2017 (“2017 Rules”), which adopted rules and procedures for electronic bid and proposal submission; and

WHEREAS the 2017 Rules do not reflect current technology and must be updated to ensure the City’s compliance with the Local Government Code; and

WHEREAS the City Council desires to formally rescind the 2017 Rules and replace them with revised and restated rules for receipt of electronic bids and proposals so that the City can take advantage of the benefits anticipated by such action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:

I.

Resolution 4735-01-2017 and the rules adopted thereunder are hereby rescinded;

II.

In order for the City to receive bids and proposals submitted pursuant to Chapter 252 of the Texas Local Government Code through electronic transmission, the City Council hereby adopts the rules attached hereto in **Exhibit "A"** (the "Rules") to ensure the identification, security, and confidentiality of electronic bids and proposals and to ensure that such bids and proposals remain effectively unopened until the proper time, as required by Section 242.0415 of the Texas Local Government Code;

III.

The Rules will take effect immediately upon adoption; and

IV.

By Resolution, the City Council may amend these Rules at any time in order to promote efficiencies in the City's procurement practices and to comply with applicable laws and regulations.

Adopted this 12th day of December 2023.

ATTEST:

By: _____

Jannette S. Goodall, City Secretary

Exhibit "A"

RULES GOVERNING THE RECEIPT OF ELECTRONIC RESPONSES TO CITY SOLICITATIONS

I. POLICY STATEMENT FOR ELECTRONIC RESPONSES TO CITY SOLICITATIONS

These rules establish the City of Fort Worth's ("City") rules for electronic solicitation in accordance with Section 252.0415 of the Texas Local Government Code to ensure the identification, security, and confidentiality of electronic bids and proposals, and to ensure that bids and proposals submitted electronically remain effectively unopened until the proper time ("Rules"). The Rules will apply to all responses submitted to the City in response to a City solicitation.

II. ADMINISTRATION OF RULES FOR ELECTRONIC RESPONSES TO CITY SOLICITATIONS

The City Manager through the Chief Procurement Officer shall have the authority to adopt procedures as necessary to further implement and comply with these Rules. The Chief Procurement Officer will be responsible for the administration of the City's electronic solicitation process in accordance with the City's procurement procedures and relevant laws. City staff responsible for assisting with electronic solicitation shall be trained to ensure compliance with the Rules and procedures. Additionally, the Chief Procurement Officer shall provide adequate notice to all participants in the City's electronic solicitation process of any procedures interpreting or impacting application of the Rules. The Chief Procurement Officer shall report any known violations of the Rules by staff to the City Manager and the Human Resources Employee and Labor Relations Division in accordance with the City of Fort Worth Personnel Rules and Regulations, as amended.

III. RULES FOR ELECTRONIC RESPONSES TO CITY SOLICITATIONS

A. Definitions

1. **Competitive Procurement** – Process in which Bidders are evaluated against each other to obtain the most advantageous terms for the City. The process may be Formal or Informal.
 - i. **Formal Procurements** are those that involve an expenditure of more than \$50,000.00 and must be published in a newspaper as required by and in accordance with state law.
 - ii. **Informal Procurements** are those that involve an expenditure of \$50,000.00 or less and that do not require newspaper publication. For any purchase involving an expenditure of more than \$3,000.00 but less than \$50,000.00, state law requires contacting at least two historically underutilized businesses on a rotating basis to make them aware of the procurement opportunity (unless there are no such businesses in the county). In addition, the informal bid documents should be sent

to all Bidders, including MWBE Bidders, who have registered with the City with the commodity code that is bring procured.

2. **Electronic Bid** – Any response to a City procurement solicitation that is submitted in response to an opportunity made available through the City’s Electronic Bidding Platform.
3. **Electronic Bidding Platform** – Strategic Sourcing Software used by the City to digitize bidding processes including posting bid opportunities, receiving bids and proposals, documenting evaluation, and performing other required steps in the procurement process.
4. **Public Works Contracts** – Contracts for constructing, altering, or repairing public infrastructure, including public buildings; roads; streets; bridges; water, wastewater, and other utilities; airport runways and taxiways; storm drainage and flood control infrastructure; and transit structures. The term also includes contracts for associated architectural, engineering, design, construction, or inspection services.

B. Rules

The City may use an Electronic Bidding Platform to solicit, receive, and process any and all procurements, including procurements for Public Works Contracts, so long as the platform complies with the following:

1. All procurements using an Electronic Bidding Platform shall include proper notice to potential bidders of how bids can be submitted and include directions or links to directions for how to submit bid responses;
2. The City may contract with a third-party provider of an Electronic Bidding Platform so long as staff in the Purchasing Division and Information Technology Solutions Department review the capabilities and technical specifications of the platform and determine in their reasonable professional opinion that the platform has features to ensure (1) the identification, security, and confidentiality of Electronic Bids, (2) that Electronic Bids remain effectively unopened until unsealed by designated City staff, and (3) an audit trail is maintained of all key processes, including creating a bid, opening a bid, and sharing bids with others; the Bonfire platform has been reviewed and determined to comply with all such requirements;
3. Only Electronic Bids received prior to the published deadline shall be considered;
4. The Electronic Bidding Platform must have a mechanism to block any additional Electronic Bids or modifications to Electronic Bids after the submission deadline;
5. All modifications to a procurement shall be announced in an addendum or other similar method published through the applicable Electronic Bidding Platform;
6. Electronic Bids shall be opened publicly at the time and place designated in the bid procurement document;
7. The Chief Procurement Officer or their Designee must be able to verify when Bid information and other relevant data are received in order to address any bid protests due to technical issues encountered in submitting Electronic Bids;
8. The Electronic Bidding Platform vendor may not impose any charge on potential bidders seeking to sign up on the Electronic Bidding Platform in order to view and participate in the City’s solicitations;

9. Electronic Bids and related documents must be able to be transmitted securely and confidentially through bid encryption or other protection measures;
10. Each bidder must receive prompt confirmation of the electronic filing of the bidder's Electronic Bid;
11. Each bidder must be able to submit, resubmit, replace, or withdraw the bidder's filed Electronic Bid prior to the bid submission deadline;
12. Each Electronic Bid submitted in response to a Formal Procurement or a procurement for a Public Works Contract must remain inaccessible or unreadable to all others except for the bidder prior to the time Bids are opened. This restriction must apply to City staff as well as other bidders.
13. (i) Electronic Bid submission is subject to electronic interface latency, which can result in transmission delays; (ii) bidders assume the risk of late transmission/submission; and (iii) the City shall not be held liable if an interested bidder is unable to submit a complete Electronic Bid prior to the published deadline due to transmission delays or any other technical issues or obstructions. Bidders are strongly encouraged to submit bids early and to give adequate time in the event an issue arises.
14. If, upon being opened, an Electronic Bid is unreadable to the degree that material conformance to the requirements of the procurement specifications cannot be ascertained, such Electronic Bid will be rejected without liability to the City, unless such bidder provides clear and convincing evidence (a) of the content of the Electronic Bid as originally submitted and (b) that the unreadable condition of the Electronic Bid was caused solely by error or malfunction of the Electronic Bidding Platform. Failure to scan a clear or readable copy of a bid into the system does not constitute and shall not be considered an error or malfunction of the Electronic Bidding Platform. Bidders are encouraged to fully review each page of every document within their bid prior to submitting to ensure all documents are clear, legible, and complete;
15. Any tampering with the Electronic Bidding Platform, the electronic bidding process, or Electronic Bid documents by an interested bidder shall result in the Electronic Bid of such bidder being rejected;
16. All bid requirements in the City's Purchasing Administrative Procedure that do not conflict with the requirements of these Rules shall remain enforceable, including compliance with M/WBE requirements.