

WHEREAS, Senate Bill 7, enacted into law by the 76th Session of the Texas Legislature and signed by the Governor with an effective date of September 1, 1999, amended Chapter 252 of the Texas Local Government Code to exempt from the requirements of Chapter 252 expenditures made by and for a municipally-owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures; and,

WHEREAS, on June 10, 2004, Council adopted Resolution No. 040610-02 (“SB7 Resolution”), replacing the March 30, 2000 Resolution in its entirety in order to modify such purchasing procedures for Austin Energy; and

WHEREAS, Austin Energy has determined that the procurement for the Chilled Water Right of Way Construction Services Program (“Program”) is necessary to protect the competitive interests or position of Austin Energy and has designated the Program and related expenditures as a Critical Business Need in

26 accordance with Senate Bill 7 (76th Legislature, R.S., 1999) and Resolution No.
27 040610-02; and

28 **WHEREAS**, Chapter 2269 of the Texas Government Code applies to public
29 work contracts made by a governmental entity, and does not prevail over
30 conflicting procedures in a resolution passed by the governing body of a
31 municipally-owned electric utility that requires the use of competitive bidding or
32 competitive sealed proposals and that sets out the public purpose to be achieved by
33 those procedures; and

34 **WHEREAS**, by this Resolution Council establishes procedures for Austin
35 Energy's Chilled Water Right-of-Way Construction Program (Program) that
36 requires the use of competitive sealed proposals and sets out the public purpose to
37 be achieved by the procedures; and

38 **WHEREAS**, Subchapter D of Chapter 2269 of the Texas Government,
39 "Competitive Sealed Proposal Method," describes the Competitive Sealed Proposal
40 (CSP) method authorized by that subchapter as a project delivery method by which
41 a governmental entity requests proposals, ranks the proposals, negotiates as
42 prescribed, and then contracts with a general contractor for the construction,
43 rehabilitation, alteration, or repair of a facility or any improvement to real
44 property; and

45 **WHEREAS**, the CSP method is used to consider not just price but each
46 contractor's qualifications and experience successfully completing like projects, on
47 time and within budget, to determine the best value to the City; and
48

49 **WHEREAS**, Section 2269.056(a) of the Texas Government Code provides
50 that the governing body of a governmental entity that considers a construction
51 contract using a method authorized by Chapter 2269 other than competitive
52 bidding must, before advertising, determine which method provides the best value
53 for the governmental entity; and

54 **WHEREAS**, in relation to the Program specifics and requirements, staff
55 has considered the methods described in Chapter 2269, and recommends the CSP
56 method authorized by Subchapter D of Chapter 2269 as the project delivery
57 method that provides the best value for the City; and

58 **WHEREAS**, Section 2269.153 of the Texas Government Code provides
59 that, for civil works projects, the weighted value assigned to price must be at least
60 50 percent of the total weighted value of all selection criteria, unless the governing
61 body determines that assigning a lower weighted value to price is in the public
62 interest; and

63 **WHEREAS**, Council has determined that assigning a lower weighted value
64 to price in the selection criteria related to the Program is in the public interest; and

65 **WHEREAS**, the Program work is of a recurring nature but the delivery
66 times, type, and quantities of work required are indefinite, so that the work needs
67 to be awarded substantially on the basis of predescribed and prepriced tasks under
68 an indefinite delivery/indefinite quantity contract; and

69 **WHEREAS**, with respect to the Program needs, the Purchasing Manager
70 has determined that more than one contract should be awarded in connection with
71 the solicitation; and
72

73 **WHEREAS**, Council finds that these purchasing procedures for the
74 Program will benefit the public purpose, the citizens of Austin, and the customers
75 and ratepayers of Austin Energy by providing for the Austin Energy purchase to
76 conform to the substance of applicable state procurement laws to the greatest
77 extent possible while assuring that the procurement is both beneficial and cost-
78 effective for Austin Energy and its customers and fair and equitable to suppliers;
79 **NOW, THEREFORE,**

80 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

- 81 1. Council finds that the above recitals are hereby approved and adopted.
 - 82 2. Council finds that the CSP method of contracting described by
83 Subchapter D of Chapter 2269 of the Texas Government Code with respect to
84 expenditures necessary for Austin Energy's Chilled Water Right-of-Way
85 Construction Services Program (Program) provides the best value for the City.
 - 86 3. Council determines that assigning a lower weighted value to price is
87 in the public interest, and that the Purchasing Manager may assign to price a
88 weighted value of 36.9 percent of the total weighted value of all selection criteria
89 or lower, if the Purchasing Manager determines that a lower weighted value is
90 needed to meet the business needs of Austin Energy.
 - 91 4. Procurement procedures for the Program require the use of the CSP
92 method, and the Purchasing Manager must follow the procedures in this Resolution
93 and the provisions of Chapter 2269 of the Texas Government Code that do not
94 conflict with this Resolution.
- 95

5. The Purchasing Manager may award Indefinite Delivery / Indefinite Quantity (IDIQ) contracts for the work substantially on the basis of prescribed and prepriced tasks.

6. The Purchasing Manager may establish contractual unit prices for the assignments of work by specifying one or more published construction unit price books and the applicable divisions or line items; or by providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.

7. The Purchasing Manager may award to one or more contractors in connection with each solicitation or request for competitive sealed proposals.

8. The base term for each IDIQ contract may not exceed two years, with the option for renewals annually for not more than three additional years.

9. The Purchasing Manager must select or designate a licensed engineer registered in the State of Texas to prepare the construction documents for each IDIQ assignment or project.

10. The Purchasing Manager must manage the procurement for the Program to assure that it complies with the City Charter, Resolution No. 040610-02, this Resolution, and applicable state law, including the applicable provisions under Chapter 2269 of the Texas Government Code that do not conflict with this Resolution.

ADOPTED: _____, 2022 **ATTEST:** _____

Myrna Rios
City Clerk