



## Recommendation for Action

**File #: 22-2459, Agenda Item #: 6.**

9/15/2022

### **Posting Language**

Approve a resolution finding the use of the competitive sealed proposal method of contracting is the project delivery method that provides the best value to the City for Austin Energy's Chilled Water Right-of-Way Construction Program ("Program") and adopting purchasing procedures and requirements for the Program in accordance with Section 252.022(c) of the Texas Local Government Code.

### **Lead Department**

Financial Services Department

### **Managing Department**

Austin Energy

### **Fiscal Note**

A Recommendation for Council Action with the not to exceed contract amount for the resultant contracts will be presented to Council once the solicitation and selection process has been completed.

### **Purchasing Language:**

This request is for Council to authorize the use of the competitive sealed proposal method of soliciting contracts; therefore, no solicitation has yet been initiated.

### **For More Information:**

Respondents to this resolution, and their representatives, shall direct inquiries to Rolando Fernandez, 512-974-7749 or Beverly Mendez, 512-974-3596.

### **Additional Backup Information:**

Austin Energy's chilled water system improves energy efficiency using a large thermal energy storage system to make ice or cold water during the night when electric costs are low. Austin Energy then uses the ice/cold water to produce chilled water the next day allowing large chillers to idle on hot summer afternoons decreasing the electric load on Austin Energy's power delivery system during time when demand for electricity is highest. The chilled water system services the Downtown, Domain, Mueller, and Austin Community College at Highland locations.

For the construction services necessary to construct or install, maintain and repair the delivery infrastructure for Austin Energy's chilled water system, referred to here as Austin Energy's Chilled Water Right-of-Way Construction Program ("Program"), Austin Energy requires ready access to qualified contractors, materials, and equipment to safely and properly construct or install, maintain and repair the chilled water delivery system within the right-of-way.

Staff recommends that the construction services for the Program be delivered under the CSP method of contracting set forth under Chapter 2269 of the Government Code. CSP is the method most closely related to traditional competitive bidding. The principal difference is that when using the CSP method, the City makes its selection of the respondents based on evaluation criteria consisting of but not limited to a contractor's

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qualifications for performing the same or similar type of work, comparable relevant experience, safety record and safety practices, sustainability practices, local business presence, financial stability, and price. Unlike traditional competitive bidding, which focuses primarily on price and bidder responsibility; price is a strong factor in the CSP method, but not the only factor in the overall evaluation score.

State law requires the governing body of a governmental entity that considers a construction contract using a method other than competitive bidding, before advertising, to determine which method provides the best value for the governmental entity. Therefore, in the proposed Resolution, Council finds that use of the competitive sealed proposal method of contracting is the project delivery method that provides the best value to the City for the Program.

Also in the proposed Resolution, Council establishes certain procedures for the Program procurement and sets out the public purpose to be achieved by those procedures.

Under the proposed Resolution, Austin Energy's Purchasing Manager may:

- assign a weighted value of price lower than 50 percent, and lower than 36.9 percent if necessary to meet the competitive needs of Austin Energy;
- award or use Indefinite Delivery/Indefinite Quantity (IDIQ) contracts based substantially on predescribed and prepriced tasks that do not exceed two years for the base term, with the option for renewals annually for not more than three additional years;
- 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;
- award to one or more contractors in connection with each solicitation or request for competitive sealed proposals;

Under the proposed Resolution, Austin Energy's Purchasing Manager must:

- use competitive sealed proposals to solicit and procure construction services for the Program
- select or designate a licensed engineer registered in the State of Texas to prepare the construction documents for each IDIQ assignment or project
- follow the City Charter, Resolution No. 040610-02, the proposed Resolution, and applicable state law, including the applicable provisions under Chapter 2269 of the Texas Government Code that do not conflict with the proposed Resolution

Austin Energy has determined that the procurement for the Chilled Water Right of Way Construction Services 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 accordance with Senate Bill 7 (76th Legislature, R.S., 1999) and Resolution No. 040610-02.

A delay in approving this Resolution would result in a delay in the issuance of the solicitation and will affect Austin Energy's ability to provide chilled water services to City Hall, Dell's Children's Hospital, Austin Community College at Highland, hotels, and businesses in these areas.

This solicitation and evaluation process is approximately five months.

**Strategic Outcome(s):**

Safety, Health and Environment.