

RESOLUTION NO. 20220915-006

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 March 30, 2000, Council adopted Resolution No. 000330-13, establishing purchasing procedures for Austin Energy, the municipally-owned and operated electric utility for the City, for the public purpose of protecting and enhancing the competitive position of Austin Energy; 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, Section 7 of the SB7 Resolution provides that, “[o]nce it has been determined that a procurement is necessary to meet a critical business need of Austin Energy, the Purchasing Manager will manage the procurement so as to assure that it expeditiously meets the critical business need of Austin Energy while providing competition to the extent possible and maintaining a fair process”; 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

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

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

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

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

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

WHEREAS, Section 2269.056(a) of the Texas Government Code provides that the governing body of a governmental entity that considers a construction

contract using a method authorized by Chapter 2269 other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity; and

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

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

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

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

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

WHEREAS, Council finds that these purchasing procedures for the Program will benefit the public purpose, the citizens of Austin, and the customers and ratepayers of Austin Energy by providing for the Austin Energy purchase to

conform to the substance of applicable state procurement laws to the greatest extent possible while assuring that the procurement is both beneficial and cost-effective for Austin Energy and its customers and fair and equitable to suppliers;
NOW, THEREFORE,

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

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

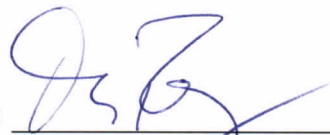
8. The base term for each IDIQ contract may not exceed two years, with the option for renewals annually for not more than three additional years.

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: September 15, 2022

ATTEST:



Myrna Rios
City Clerk