



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Materials Management

ACM: Mario Canizares

DATE: August 1, 2017

SUBJECT

Receive a report and hold a discussion regarding solicitation and contracting incentives used to expedite public work projects.

BACKGROUND

Materials Management and Engineering have developed a policy for the use of Cost Plus proposals and incentives/disincentives clauses. These tools can assist in expediting public works projects that significantly impact the local community or economy. The City policy (Exhibit 2) guides staff in the utilization of incentives in proposal evaluation and contract utilization.

The alternatives to the basic competitive bidding model of construction procurement include best value competitive sealed proposals, construction manager at-risk and design-build contracting. Best value allows for an alternative means to using the lowest responsible bidder and provides more flexibility for the City. With the passage of the alternative methods for procurement on a best value basis by the Texas Legislature, which was codified in Chapter 2269 of the Tex. Gov't Code, all methodologies for civil works projects are now governed under that chapter in lieu of Chapter 252 of the Tex. Loc. Gov't Code, so long as the City makes a determination that a method other than competitive sealed bidding provides the best value for the City.

The alternative methods outlined in Chapter 2269 do not prohibit the use of incentives or Cost-Plus methodologies, and there is not any specific Charter or statutory prohibition on its use at this time. In fact, the incentives for early performance or the disincentives for late performance can be used as selection criteria under the pricing provisions of an alternative proposal. Disincentives can be used in conjunction with liquidated damages as a penalty, if the Council chooses to make that policy decision. Section 2269.056 sets forth three basic criteria that the City must use when considering use of a method other than competitive sealed bidding: (1) before advertising determine which method provides the best value to the City, (2) advertise the selection criteria and the applicable weight given to each of the criterion; and (3) the City is required to document the basis of its selection and make it public no later than the seventh day after the contract is awarded. Section 2269.055(8) provides a list of criteria that can be used in determining the award of a contract to include: "(8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications." Therefore, it is clear that the City has flexibility to use Cost plus methodology in these construction contracts.

The availability of alternatives to standard procurement practices will provide staff with additional tools to expedite projects that may impact citizens and motorists. This policy would be incorporated into the Materials Management and Payment Procedures Manual.

FISCAL INFORMATION

Not Applicable

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Organizational Excellence

Related Goal: 2.1 Optimize resources to improve quality of City Roadways

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Solicitation and Contract Incentives for Public Works Projects Procedures

Exhibit 3: Presentation

Respectfully submitted:
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