

ORDER

ORDER FINDING THAT INSTEAD OF COMPETITIVE SEALED BIDS, THAT COMPETITIVE SEALED REQUEST FOR PROPOSALS (RFP) PROCUREMENT SHOULD BE USED TO CONTRACT FOR THE CONSTRUCTION OF THE BALLARD PARK INCLUSIVE PLAYGROUND

WHEREAS, competitive sealed bids are the preferred procurement method of awarding of contracts for public construction, unless competitive sealed bids are not practicable and advantageous to the purchasing authority; and

WHEREAS, the sealed competitive bidding procurement method has been determined to not be practical and advantageous when the following scenarios are present in the procurement process:

- (a) Whether quality, availability or capability is overriding in relation to price in procurements for research and development, technical supplies or services;
- (b) Whether the initial installation needs to be evaluated together with later maintenance and service capabilities and what priority should be given to these requirements in the best interests of the governing authority; and
- (c) Whether the marketplace will respond better to a solicitation permitting not only a range of alternative proposals but evaluation and discussion of them before making the award.

WHEREAS, purchasing regulations and guidance define several factors necessary to determine practicability:

- (a) Whether the contract needs to be a contract other than a fixed-price type contract;
- (b) Whether oral or written discussions may need to be conducted with offerers concerning technical and price aspects of their proposals;
- (c) Whether offerers may need to be afforded the opportunity to revise their proposals, including price;
- (d) Whether the award may need to be based upon a comparative evaluation of differing price and contractual factors as well as quality factors that include technical and performance capability and the content of the technical proposal; and
- (e) Whether the primary consideration in determining award may not be price; and

WHEREAS, purchasing regulations and guidance define several factors necessary to determine if the method is advantageous and in the best interest of the purchasing entity:

- (a) The need for flexibility;
- (b) The type of evaluations that will be needed after offers are received;
- (c) Whether the evaluation factors involve the relative abilities of offerers to perform, including degrees of technical or professional experience or expertise;
- (d) Whether the type of need to be satisfied involves weighing artistic and aesthetic values to the extent that price is a secondary consideration;
- (e) Whether the types of supplies, services or construction may require the use of comparative judgmental evaluations to evaluate them adequately; and
- (f) Whether prior procurements indicate that a request for proposals may result in more beneficial contracts for the governing authority; and

WHEREAS, upon evaluation of the factors above and the needs, objectives and best interests of the City of Tupelo, the sealed competitive bidding procurement method is not practicable and advantageous for the Ballard Park Inclusive Playground project ; and

WHEREAS, the City of Tupelo Parks and Recreation Department has recommended that sealed competitive requests for proposals would be the most practicable and advantageous procurement method for the Ballard Park Inclusive Playground project, and it would be in the best interest of the city to utilize this procurement method; and

NOW THEREFORE, it is hereby resolved and ordered by the City Council of Tupelo as follows:

1. The prefatory paragraphs of this Order are hereby adopted, found, determined and incorporated herein to be accordance with the necessary and warranted exercise of the authority of the City of Tupelo upon proper finding to utilize sealed competitive request for proposals.
2. The City Council finds that sealed competitive bidding would not be practicable and advantageous for the procurement of the construction of the Ballard Park Inclusive Playground project.
3. The City Council finds that the sealed competitive requests for proposals procurement method is in the best interest of the city in the construction of the Ballard Park Inclusive Playground project.
4. The Tupelo Parks and Recreation Department is hereby authorized to seek sealed competitive request for proposals to procure the construction the Ballard Park Inclusive Playground project, subject to the award of any bid and contract by this City Council.

After a full discussion of this matter, Council Member _____ moved that the foregoing Order be adopted and said motion was seconded by Council Member

_____ and upon the question being put to a vote, the results were as follows:

Councilmember Mims voted _____
Councilmember Bryan voted _____
Councilmember Beard voted _____
Councilmember Davis voted _____
Councilmember Palmer voted _____
Councilmember Gaston voted _____
Councilmember Jones voted _____

The motion having received the affirmative vote of a majority of the members present, the President declared the motion carried and the resolution adopted.

WHEREUPON, the foregoing Resolution was declared, passed and adopted at a regular meeting of the Council on this the ___ day of _____, 2024.

CITY OF TUPELO, MISSISSIPPI

By: _____
TRAVIS BEARD, Council President

ATTEST:

MISSY SHELTON
Clerk of the Council

APPROVED:

Todd Jordan, Mayor

DATE