

CITY OF HIGH POINT

AGENDA ITEM

**Title: Prequalification Policy**

From: Terry Houk, Director of Public Services

Meeting Date: March 5, 2018

Public Hearing: No

Advertising Date: N/A

Advertised By:

Attachments: Prequalification Process Policy

Purpose/Background:

Public Services would like to prequalify bidders for work to be performed related to the Multi-Use Stadium project. In order to do so, N.C.G.S. 143-135.8 requires City Council to first adopt an objective prequalification policy setting forth procedures for the assessment of applicants.

Budget Impact:

There is no budget impact.

Recommendation:

Staff recommends, City Council adopt an objective Prequalification Process Policy in accordance with N.C.G.S. §143-135.8.

CITY OF HIGH POINT PREQUALIFICATION POLICY

It is the policy of the City of High Point (“City”) to award construction contracts through a competitive bidding process consistent with North Carolina General Statutes, and to award public building construction and repair contracts to the lowest responsible, responsive bidder.

The purpose of this policy is to provide an objective process for the prequalification of bidders on individual projects selected by the City and for all projects utilizing the Construction Management at Risk (“CMAR”) delivery method in accordance with North Carolina General Statute (N.C.G.S.) § 143-135.8.

A. Purpose

In accordance with N.C.G.S. §143-135.8, the City hereby adopts this Prequalification Policy to prequalify a contractor(s) (“Bidder”) to bid on construction and repair projects when the City believes prequalification is preferred.

Prequalification is defined under N.C.G.S. §143-135.8(f)(2) as “*A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work.*”. Furthermore, N.C.G.S. §143-135.8(b)(2) requires a governmental entity to “*adopt an objective prequalification policy applicable to all construction or repair work prior to the advertisement of the contract for which the governmental entity intends to prequalify bidders.*”

B. Requirements for Use of Prequalification

In accordance with N.C.G.S. §143-135.8(b), the City may prequalify Bidders for a particular construction or repair work project when **all** of the following apply:

- (1) The City is using one of the construction methods authorized in N.C.G.S. §143-128(a1)(1) through N.C.G.S. §143-128(a1)(3); and
- (2) Prior to advertising the contract for which the City intends to prequalify Bidders, the City has adopted an objective prequalification policy applicable to all construction or repair work; and
- (3) The City has adopted an assessment tool and criteria for the specific project, which includes the prequalification scoring values and minimum required score for the prequalification on that project.

C. Requirements for an Objective Prequalification Policy

In accordance with N.C.G.S. §143-135.8(c), this Prequalification Policy is:

- (1) Uniform, consistent, and transparent in its application to all Bidders;
- (2) All Bidders who meet the prequalification criteria to be prequalified are allowed to bid on the construction or repair work project;
- (3) Prequalification Criteria must be:
 - a. Rationally related to construction or repair work;
 - b. The Bidder is not required to have been previously awarded a construction or repair project by the City; and
 - c. Bidders are permitted to submit history or experience with projects of similar size, scope, or complexity;
- (4) Assessment process of prequalification is clearly stated in this policy;
- (5) A process for a denied Bidder to protest is stated below in this policy;
- (6) A process for written notification to a Bidder that has been denied prequalification is stated below in this policy.

D. Review of Application

(1) **Prequalification Committee** – The City, (and CMAR if applicable) shall appoint a Prequalification Committee which will review the prequalification applications submitted and determine each Bidder’s prequalification eligibility.

(2) **Review of Application** – The City shall advertise for prequalification to potential Bidders at least two (2) months prior to actual bid date to allow sufficient time for possible protests and/or appeals. The Prequalification Committee shall use the objective assessment process developed by the City. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system based upon the Bidder’s initial response to the solicitation for qualified Bidders. If the City opts to prequalify Bidders, a bid submitted by any Bidder that is not prequalified shall be deemed nonresponsive.

(3) **Notice of Decision/Informal Meeting** – All Bidders that submitted applications for prequalification shall be promptly notified of the Prequalification Committee’s decision, including the reason for denial, via e-mail. Upon denial, a Bidder may request an informal meeting with the City’s representative and (and CMAR if applicable) to receive feedback and suggestions for improvement and such meeting shall hold a be held within two (2) weeks of the request. Such meeting shall be made open to all unsuccessful applicants who have not appealed. An Informal meeting shall not be required in order for a Bidder, that has been denied, to file an appeal as described below.

F. Appeals Procedure

1. A Bidder may appeal a denial of prequalification as follows:

(a) **Initial Protest** – A Bidder denied prequalification may protest the

Prequalification Committee's decision by filing a written appeal, via hand-delivery or e-mail, to the Prequalification Committee within three (3) business days of the e-mailed notice that the Bidder has been denied prequalification. The written appeal shall clearly articulate the reasons why the Bidder is contesting the denial (i.e., explaining how the Bidder satisfied all required criteria for prequalification in the City's solicitation in its initial response) and attach all documents supporting the Bidder's position. The Prequalification Committee may contact the Bidder regarding the information provided prior to ruling on the protest. The Prequalification Committee should review the written protest within five (5) business days of receipt. If the Prequalification Committee is satisfied that the Bidder should be prequalified, the Bidder shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the Prequalification Committee upholds its denial, the Bidder shall be notified in writing via e-mail.

(b) **Appeal** – Within three (3) business days of the City's emailed notice of the Prequalification Committee's written protest decision, the denied Prequalified Bidder may appeal the Prequalification Committee's decision, in writing, via hand-delivery or e-mail, to the Prequalification Committee. The Prequalification Committee should review the appeal within five (5) business days. In the event the Prequalification Committee is unable to review in a timely manner, it may designate a representative that is not a member of the Prequalification Committee to handle the appeal.

(c) **Decision on Appeal** – The decision of the Prequalification Committee or Representative on the appeal shall be final, and the Bidder shall be promptly notified of the decision.

(d) **General Rules for Protests and Appeals** – Bidders submitting prequalification applications shall be provided an e-mail address for the communication with the City (and CMAR if applicable) during the protest and appeal process. The Bidder shall provide at least two (2) e-mail addresses for use by the City (and CMAR if applicable) in communicating with the Bidder. In the event the Prequalification Committee or Representative is unable to render a decision on either the initial protest or the appeal prior to the bid date, the Bidder shall be allowed to submit a bid on the project subject to a final decision on the protest or appeal. If the Bidder's bid is opened prior to a final decision on the protest or appeal and the bid is not the lowest monetary bid for the project, the appeal shall be terminated and rendered moot. Bids received from Bidders who have been ruled disqualified to bid shall not be opened. A Bidder's failure to comply with any requirements of the protest and appeals procedures of this section shall result in the Bidder's protest or appeal being terminated and rendered moot.

Adopted by the High Point City Council this 5th day of March, 2018.