

#### **Addendum #4**

#### **THE SCRAMBLE – INTERACTIVE STREETScape ON 1<sup>ST</sup> STREET**

**CONTRACT NO. R-18-004-201**

#### **Schedule per Addendum #3**

Pre-Bid Meeting            March 5, 2019 at 10:00 am  
Last Day for Questions   March 15, 2019  
Bid Opening                April 16, 2019 at 2:00 pm

#### **Question received during Pre-bid Meeting**

1. An Excel copy of the bid tabulation will be provided as part of this addendum.
2. Response regarding bid envelope requirements and subcontractor substitutions.

Re:    *Sealed Bids Question*

Question: “if the information on the front of his bid envelope has to be correct?”. I asked for clarification and I believe this individual wants to know if he is locked into using the subcontractors he lists on the bid envelope. Is this the case or can substitutions be made? Is there a penalty for changing/ adding subcontractors with (or without) prior approval from the City? Please advise.

Response:

Your questions involve information which is received before and after the opening of sealed bids which are reviewed based on the forms provided by the State of Tennessee. The bid document disclosures and the form only provide space for one electrical, plumbing, HVAC, and masonry contractor on the bid envelope or electronic bid document before it can be opened. The most recent changes to this statute occurred in 2014 as follows:

Per TCA 62-6-119(b)(3), “[t]he person or entity involved in the preparation of the invitation to bid or comparable bid documents, including any electronic bid documents, shall direct that the following information be written upon the bid envelope or provided within the electronic bid document . . . [t]he name, license number, expiration date thereof, and license classification of the contractor applying to bid for the electrical, plumbing, heating, ventilation, or air conditioning contracts except when such contractor’s portion of the construction project is less than twenty-five thousand dollars (\$25,000).”

In addition, TCA 62-6-119(b)(6) states, “[o]nly one (1) contractor in each of the classifications listed above shall be written on the bid envelope or provided within the electronic bid document.”

Further, according to TCA 62-6-119(c), the “[f]ailure of any bidder to furnish the required information shall void such bid and such bid shall not be considered at the time of the bid opening.”

All names of listed contractors shall be read aloud at the official bid opening and incorporated into the bid. T.C.A. § 62-6-119(c) further states that prior to awarding a contract, the entity and its authorized representatives shall verify the accuracy, correctness, and completeness of the required information and any discrepancies may be corrected within forty-eight (48) hours after the bid opening, excluding weekends and state recognized holidays.”

Therefore, the City’s interpretation of these statutes is that the required information is set forth in T.C.A. § 62-6-119(b) which is slightly different for prime contractors and subcontractors under Tennessee law. The prime contractor’s name, license number, expiration date thereof, and license classification of the prime contractor must be included on the bid packet or electronic bid documents in order for the bid to be considered. The name, license number, expiration date thereof, and license classification of the contractor applying to bid for masonry work exceeding one hundred thousand dollars (\$100,000.00); or applying to bid for electrical, plumbing, or HVAC contracts which exceed twenty-five thousand dollars (\$25,000.00) should be listed on the bid envelope or provided within the electronic bid document. Tennessee law is silent on what is required if more than one subcontractor is going to work on a project due to the current provisions of T.C.A. § 62-6-119(b)(6). The City will attempt to resolve these questions as authorized by Tennessee law and its purchasing rules.

Additionally, in regards to the substitution of a subcontractor following an award, the City has adopted written procedures which are found in Section 4.03 – “Change of Subcontractors After Award” of the City of Chattanooga Procurement Instructional Manual which states the following:

- The Prime Contractor is not allowed to change its subcontractors without prior approval from the Purchasing Agent in writing. In the event there is a request for subcontractor change, the Prime Contractor will submit the request in writing to the Purchasing Agent, copy the Department Head, and copy the Buyer. The request should state the subcontractor being replaced, the reasons for the desired replacement, the name of the new subcontractor requested for replacement, the replacement subcontractor’s experience qualifications, resume, and a letter of intent signed by the replacement subcontractor. With concurrence of the City Attorney, the approval of the replacement subcontractor shall be communicated to the prime contractor in writing by the Department Head/Project Manager with a copy of the approval to the Buyer.

Hopefully this provides answers to the current legal requirements under Tennessee law and written procedures which have been adopted by the City on your questions. Please let us know if you need any additional information.