

RESOLUTION NO. 498

**A RESOLUTION OF THE CITY OF CHESTERFIELD, MISSOURI, ADOPTING
BIDDING PROTEST PROCEDURES FOR USE IN THE NORTH OUTER 40
SANITARY SEWER IMPROVEMENTS PROJECT.**

WHEREAS, the City applied to the Missouri Department of Natural Resources for certain federal grant funds related to the American Rescue Plan Act and was awarded grant funds for use in constructing infrastructure improvements located along North Outer Highway 40; and,

WHEREAS, the City's receipt of the aforementioned grant funds is conditioned on the City establishing bidding protest provisions for the project prior to bid solicitation, as required by 2 CFR 200.318(k).

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF CHESTERFIELD, MISSOURI AS FOLLOWS:**

Section I:

- A. Applicability. The bidding protest procedures set forth in this section shall only be applicable to the City of Chesterfield North Outer 40 Sanitary Sewer Improvements project (the "Project").
- B. Notice. The Director of Public Works shall include the protest procedures in the bid specifications for the Project, as set forth in this Resolution, prior to bid solicitation.
- C. Protest Provisions. Any actual or prospective bidder who is aggrieved in connection with the solicitation or award of a contract for the Project may protest to the Director of Public Works as set forth below.
 - 1. Time Limit. Any protest shall be submitted in writing within forty-eight (48) hours after such aggrieved person knows or should have known the facts giving rise to their protest. In no case shall a protest be submitted later than seventy-two (72) hours following award of a bid.
 - 2. Contents. The protest shall identify specific issues that are being protested and the facts that the protestor believes supports the protestor's claim. It shall be the protestor's responsibility to establish the protestor's claim(s).
 - 3. Intervenors. The Director of Public Works shall send a copy of any timely filed written protest to the party awarded the bid. Any party

which was awarded a bid shall have the right to intervene and submit a written statement in response to the protest.

4. **Review of Protest.** The Director of Public Works shall have the authority to resolve a protest of an aggrieved bidder concerning the solicitation or award of a contract. This authority shall be exercised in accordance with the city's purchasing policies and subject to the approval of the City Administrator.
5. **Decision.** The Director of Public Works shall issue a written decision no later than the third business day following receipt of the protest. The decision shall state the reasons for the action taken.
6. **Notice of Decision.** A copy of the decision shall be mailed or otherwise furnished immediately to the protestor or any other party intervening.
7. **Appeal.** A protestor may appeal the decision of the Director of Public Works by submitting a written appeal to the City Administrator within forty-eight (48) hours following receipt of the Director of Public Works' decision. The written appeal shall state with specificity the facts supporting the protestor's position. The appeal shall be reviewed by the City Administrator, or his designee, who will issue a decision in writing no later than the third business day following receipt of the timely filed written appeal.
8. **Finality of Decision.** A decision shall be considered final and is not subject to appeal or further consideration unless a timely appeal is filed. In the event a timely appeal is filed, the decision of the City Administrator, or the City Administrator's designee, shall be considered final and not subject to appeal or further consideration.
9. **Stay of Procurements.** In the event a timely written protest has been made to the Director of Public Works, the City shall not proceed further with the solicitation, the award of the contract, or the execution of the contract until the Director of Public Works issues a decision and the time for an appeal has expired. If a timely written appeal has been filed, the City shall not proceed further with the solicitation, the award of the contract, or the execution of the contract until the City Administrator issues a decision.
10. **Lifting Stay of Procurements.** The Director of Public Works may, following consultation with the City Administrator, make a written determination that the award of the contract and/or execution of the contract without delay is necessary to protect the substantial interest of the City.

Passed and approved this 4TH day of March, 2024.

Bob Nation
Presiding Officer

Bob Nation
Bob Nation, Mayor

ATTEST:

Vickie McGownd
Vickie McGownd