

**ORDER ADOPTING RULES FOR ELECTRONIC BIDDING**

Fort Bend County Toll Road Authority (“Authority”) is a local government corporation created by the County, pursuant to Chapter 431 of the Texas Transportation Code.

Pursuant to Section 262.0235 of the Texas Local Government Code (as may be amended), the Authority is authorized to receive bids for certain contracts through electronic transmission.

The Authority now desires to adopt this Order for the purpose of establishing rules to ensure the identification, security, and confidentiality of electronic bids and to ensure that any electronic bids received by the Authority, or its agents, remain effectively unopened until the proper time.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF FORT BEND COUNTY TOLL ROAD AUTHORITY:

Section 1: The Board of Directors (“Board”) hereby approves and adopts the Rules for Electronic Bidding attached hereto as **Exhibit A** (“Rules”). The Board further directs that the Rules shall be implemented as of the date of this Order for any contracts directed by the Board to be eligible to receive electronic bids.

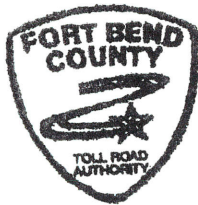
Section 2: The Rules shall remain in effect until modified or revoked by action of the Board.

PASSED AND APPROVED on April 21, 2021.

FORT BEND COUNTY TOLL ROAD  
AUTHORITY

Bobbie Tallas  
Vice Chairman, Board of Directors

(SEAL)



## EXHIBIT A

### FORT BEND COUNTY TOLL ROAD AUTHORITY

#### RULES FOR ELECTRONIC BIDDING

##### I. GENERAL

Fort Bend County Toll Road Authority (“Authority”) is establishing the Rules for Electronic Bidding (“Rules”) in accordance with Section 262.0235 and 262.011(o), Texas Local Government Code.

##### II. RULES

Section 1. Acceptance of Electronic Bids. The Authority may receive competitive, sealed bids through electronic means, as authorized by Section 262.0235, Texas Local Government Code. Prior to accepting any electronic bids, the Authority’s Engineer, or other person designated by the Authority (“Authority Representative”), shall establish a program that ensures the following:

- (a) The identification, security, and confidentiality of electronic bids;
- (b) The electronic bids shall remain effectively unopened until the proper time;
- (c) The electronic bids satisfy the sealed bid requirements of Chapter 262, Texas Local Government Code.

The Authority Representative shall provide electronic bid submission procedures with every bid invitation for a project designated by the Authority to have bids submitted by electronic means.

Section 2. Electronic Bid Program. The program for accepting electronic bids (“Program”) shall be designed and implemented by the Authority Representative. To meet the standards set forth in Section 1 of the Rules, the program shall include the following minimum criteria:

- (a) Bid encryption or other protection measures to ensure secure and confidential transmission of electronic bids;
- (b) Electronic certification and validation of submitted bids;
- (c) Notice of the program’s availability and submission deadlines in bid invitations;
- (d) Prompt confirmation of timely submitted bids;
- (e) Mechanism to reject bids submitted after the submission deadline;
- (f) The ability for bidders to submit, resubmit, replace, and/or withdraw a bid prior to bid opening;
- (g) Exclusive accessibility and readability of the bid to the bidder only prior to bid opening;
- (h) Mechanism to prevent additional bids or modifications to bids at and after bid opening;
- (i) Authority Representative’s full and immediate access to bids and bid bonds at the designated time for bid opening only;
- (j) Publication through the electronic bidding system of any modification to bid invitations; and
- (k) The opening of electronic bids publicly in the presence of at least one witness.

Section 3. Electronic Transmission Failure. The Program must also provide that any bidder be fully responsible for the complete and proper submission of an electronic bid. The Authority or its agents shall not be liable for any electronic bids that were not submitted prior to the published deadline due to any technical issues or obstructions related to the transmission system implemented by the Authority or the Authority's Representative.

Section 4. Unreadable Electronic Bid. If, upon being opened, an electronic bid is unreadable to the degree that conformance to the essential requirements of the bid invitation cannot be ascertained, the bid will be rejected, without liability to the Authority or Authority Representative, unless the bidder provides clear and convincing evidence: (1) of the content of the electronic bid as originally submitted; and (2) that the unreadable condition of the electronic bid was caused solely by error or malfunction of the Authority or the Authority Representative's software or hardware, or other Authority or Authority Representative mishandling.

Section 5. Authority Representative's Certification. If electronic bids are submitted, the Authority Representative shall include a certification in the recommendation of award that the Rules and Sections 262.0235 and 262.011(o), Texas Local Government Code, have been followed in soliciting, opening, reviewing, and recommending award of the winning bid. The certification shall be in substantially the same form as **Appendix I** attached.

Section 6. Effective Date. The Rules shall be effective as of the date of the Order adopting these Rules and until such time the Rules are amended, modified, rescinded, or revoked by a formal action of the Board of Directors of the Authority.

**APPENDIX I**

**REPRESENTATIVE'S CERTIFICATE OF COMPLIANCE  
ELECTRONIC BIDDING**

I, the undersigned, a duly registered professional engineer under the laws of the State of Texas and authorized representative of \_\_\_\_\_, the duly appointed and acting engineer for Fort Bend County Toll Road Authority ("Authority") do hereby certify that:

I am familiar with and have examined Sections 262.0235 and 262.011(o), Texas Local Government Code, the Authority's Electronic Bidding Rules ("Rules"), and the software under which the Authority received bids for the project for the project referenced below through electronic transmission.

I hereby certify (i) compliance with 262.0235 and 262.011(o), Texas Local Government Code and the Rules, (ii) that said software is designed to assure the identification, security, and confidentiality of the bids; and (iii) that electronically submitted bids remain effectively unopened until the proper time.

WITNESS MY HAND AND PROFESSIONAL SEAL on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Registered  
Professional Engineer  
Registration No. \_\_\_\_\_

(SEAL)

Project identification for which electronic bids received:

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