

DEPARTMENT OF TRANSPORTATION

ESC/OE MS #43
1727 30TH Street, 2ND Floor
Sacramento, CA 95816



September 1, 2000

04-SF-101-0.614.5,0.4 9.0
04-1S1604

Addendum No. 2

Dear Contractor:

This addendum is being issued to the contract for construction on State highway in THE CITY AND COUNTY OF SAN FRANCISCO AT 0.3 km SOUTH OF BAYSHORE BOULEVARD OVERCROSSING AND AT 0.7 km WEST OF THE MARINA AVENUE OVERCROSSING.

Submit bids for this work with the understanding and full consideration of this addendum. The revisions declared in this addendum are an essential part of the contract.

Bids for this work will be opened on September 6, 2000 The original bid opening date was previously postponed indefinitely under Addendum No. 1 dated August 8, 2000.

This addendum is being issued to set a new bid opening date as shown herein and revise the Project Plans, the Notice to Contractors and Special Provisions, and the Proposal and Contract.

Project Plan Sheet No. 6 is revised. A half-sized copy of the revised sheet is attached for substitution for the like-numbered sheet.

In the Special Provisions and the Proposal, on the front covers, the paragraph following the words DISTRICT 04, ROUTE 101, is revised as follows:

"For use in connection with Standard Specifications DATED JULY 1999, Standard Plans DATED JULY 1999, and Labor Surcharge and Equipment Rental Rates."

In the Special Provisions, in the "IMPORTANT SPECIAL NOTICES," the first sentence of the first subparagraph is revised as follows:

"DBE information shall be submitted **with the bid proposal**. (See **Section 2-1.02B** of the special provisions.)"

In the Special Provisions, Section 1, "SPECIFICATIONS AND PLANS," the first paragraph is revised as follows:

"The work embraced herein shall be done in accordance with the Standard Specifications dated July 1999, and the Standard Plans dated July 1999, of the Department of Transportation insofar as the same may apply and in accordance with the following special provisions."

In the Special Provisions, Section 2, "PROPOSAL REQUIREMENTS AND CONDITIONS," is completely revised as attached.

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In the Special Provisions, Section 3, "AWARD AND EXECUTION OF CONTRACT," the second paragraph is revised as follows:

"The award of the contract, if made, will be to the lowest responsible bidder whose proposal complies with all the requirements prescribed and who has met the goal for DBE participation or has demonstrated, to the satisfaction of the Department, adequate good faith efforts to do so. Meeting the goal for DBE participation or demonstrating, to the satisfaction of the Department, adequate good faith efforts to do so is a condition for being eligible for award of contract."

In the Special Provisions, Section 5-1.093, "DBE CERTIFICATION STATUS," is added as follows:

"5-1.093 DBE CERTIFICATION STATUS

If a DBE subcontractor is decertified during the life of the project, the decertified subcontractor shall notify the Contractor in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the project, the subcontractor shall notify the Contractor in writing with the date of certification. The Contractor shall furnish the written documentation to the Engineer.

Upon completion of the contract, Form CEM-2403 (F) indicating the DBE's existing certification status shall be signed and certified correct by the Contractor. The certified form shall be furnished to the Engineer within 90 days from the date of contract acceptance."

In the Special Provisions, Section 5-1.098, "PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS," is added as follows:

"5-1.098 PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS

Attention is directed to the provisions in Sections 10262 and 10262.5 of the Public Contract Code and Section 7108.5 of the Business and Professions Code concerning prompt payment to subcontractors."

In the Special Provisions, Section 5-1.099, "PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS," is added as follows:

"5-1.099 PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS

The Contractor shall return all moneys withheld in retention from the subcontractor within 30 days after receiving payment for work satisfactorily completed, even if the other contract work is not completed and has not been accepted in conformance with Section 7-1.17, "Acceptance of Contract," of the Standard Specifications. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or noncompliance by a subcontractor."

In the Proposal and Contract, in the PROPOSAL TO THE DEPARTMENT OF TRANSPORTATION, the first paragraph is revised as follows:

"The work for which this proposal is submitted is for construction in conformance with the special provisions (including the payment of not less than the State general prevailing wage rates or the Federal minimum wage rates), the project plans described below, including any addenda thereto, the contract annexed hereto, and also in conformance with the Department of Transportation Standard Plans, dated July 1999, the Standard Specifications, dated July 1999, and the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished."

In the Proposal and Contract, page 16, the "CALTRANS BIDDER - DBE - INFORMATION," form is replaced as attached.

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To Proposal and Contract book holders:

Indicate receipt of this addendum by filling in the number of this addendum in the space provided on the signature page of the proposal.

Submit bids in the Proposal and Contract book you now possess. Holders who have already mailed their book will be contacted to arrange for the return of their book.

Inform subcontractors and suppliers as necessary.

This office is sending this addendum by UPS overnight mail to Proposal and Contract book holders to ensure that each receives it.

Sincerely,

ORIGINAL SIGNED BY

NICK YAMBAO, Chief
Office of Plans, Specifications & Estimates
Division of Office Engineer

Attachments

SECTION 2. PROPOSAL REQUIREMENTS AND CONDITIONS

2-1.01 GENERAL

The bidder's attention is directed to the provisions in Section 2, "Proposal Requirements and Conditions," of the Standard Specifications and these special provisions for the requirements and conditions which the bidder must observe in the preparation of the Proposal form and the submission of the bid.

In addition to the subcontractors required to be listed in conformance with Section 2-1.054, "Required Listing of Proposed Subcontractors," of the Standard Specifications, each proposal shall have listed therein the portion of work that will be performed by each subcontractor listed.

The Bidder's Bond form mentioned in the last paragraph in Section 2-1.07, "Proposal Guaranty," of the Standard Specifications will be found following the signature page of the Proposal.

If the Bidder submits cash or a cashier's check or a certified check as the form of bidder's security (See Section 2-1.07 of the Standard Specifications), the Bidder shall also include with the bid submittal a signed and notarized affidavit from an admitted surety insurer that contract bonds, as required by Section 3-1.02, "Contract Bonds," of the Standard Specifications, will be provided within the time specified elsewhere in these special provisions for executing and returning the contract for approval.

Submit request for substitution of an "or equal" item, and the data substantiating the request to the Department of Transportation, Division Of Construction - Duty Senior, Mail Station: 3 - B, 111 Grand Avenue / P. O. Box 23660, Oakland, Ca 94623-0660, so that the request is received by the Department by close of business on the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening.

In conformance with Public Contract Code Section 7106, a Noncollusion Affidavit is included in the Proposal. Signing the Proposal shall also constitute signature of the Noncollusion Affidavit.

If the bidder claims a mistake was made in his bid, the bidder shall give the Department written notice within 48-hours, not including Saturdays, Sundays and legal holidays, after the opening of bids of the alleged mistake, in lieu of the 5 days specified in Section 2-1.095, "Relief of Bidders," in the Standard Specifications. The notice of alleged mistake shall specify in detail how the mistake occurred.

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.

2-1.015 FEDERAL LOBBYING RESTRICTIONS

Section 1352, Title 31, United States Code prohibits Federal funds from being expended by the recipient or any lower tier subrecipient of a Federal-aid contract to pay for any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal-aid contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement.

If any funds other than Federal funds have been paid for the same purposes in connection with this Federal-aid contract, the recipient shall submit an executed certification and, if required, submit a completed disclosure form as part of the bid documents.

A certification for Federal-aid contracts regarding payment of funds to lobby Congress or a Federal agency is included in the Proposal. Standard Form - LLL, "Disclosure of Lobbying Activities," with instructions for completion of the Standard Form is also included in the Proposal. Signing the Proposal shall constitute signature of the Certification.

The above-referenced certification and disclosure of lobbying activities shall be included in each subcontract and any lower-tier contracts exceeding \$100,000. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the Engineer.

The Contractor, subcontractors and any lower-tier contractors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by the Contractor, subcontractors and any lower-tier contractors. An event that materially affects the accuracy of the information reported includes:

- A. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- B. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
- C. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

2-1.02 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

This project is subject to Part 26, Title 49, Code of Federal Regulations entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." The Regulations in their entirety are incorporated herein by this reference.

Bidders shall be fully informed respecting the requirements of the Regulations and the Department's Disadvantaged Business Enterprise (DBE) program developed pursuant to the Regulations; particular attention is directed to the following matters:

- A. A DBE must be a small business concern as defined pursuant to Section 3 of U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
- B. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies, or as a trucking company.
- C. A DBE bidder, not bidding as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 1. The bidder will meet the goal by performing work with its own forces.
 2. The bidder will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 3. The bidder, prior to bidding, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work, or portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture. The DBE joint venturer must submit the joint venture agreement with the proposal or the DBE Information form required in the Section entitled "Submission of DBE Information" of these special provisions.
- E. A DBE must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. DBEs must be certified by either the California Department of Transportation, or by a participating State of California or local agency which certifies in conformance with Title 49, Code of Federal Regulations, Part 26, as of the date of bid opening. It is the Contractor's responsibility to verify that DBEs are certified. Listings of DBEs certified by the Department are available from the following sources:
 1. The Department's DBE Directory, which is published quarterly. This Directory may be obtained from the Department of Transportation, Materiel Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, Telephone: (916) 445-3520.
 2. The Department's Electronic Information Bulletin Board Service, which is accessible by modem and is updated weekly. The Bulletin Board may be accessed by first contacting the Department's Business Enterprise Program at Telephone: (916) 227-8937 and obtaining a user identification and password.
 3. The Department's web site at <http://www.dot.ca.gov/hq/bep/index.htm>.
 4. The organizations listed in the Section entitled "DBE Goal for this Project" of these special provisions.
- G. Credit for materials or supplies purchased from DBEs will be as follows:
 1. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies will count toward the DBE goal. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 2. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies will count toward the DBE goal. A DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as

3. petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph G.2. if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this paragraph G.2.
3. Credit for materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

H. Credit for DBE trucking companies will be as follows:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting the DBE goal.
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks its owns, insures, and operates using drivers it employs.
4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
6. For the purposes of this paragraph H, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

I. Noncompliance by the Contractor with the requirements of the regulations constitutes a breach of this contract and may result in termination of the contract or other appropriate remedy for a breach of this contract.

J. Bidders are encouraged to use services offered by financial institutions owned and controlled by DBEs.

2-1.02A DBE GOAL FOR THIS PROJECT

The Department has established the following goal for Disadvantaged Business Enterprise (DBE) participation for this project:

Disadvantaged Business Enterprise (DBE): 5 percent

Bidders may use the services of the following firms to contact interested DBEs. These firms are available to assist DBEs in preparing bids for subcontracting or supplying materials. The following firms may be contacted for projects in the following locations:

Districts 04, 05 (except San Luis Obispo and Santa Barbara Counties), 06 (except Kern County) and 10:
Triaxial Management Services, Inc. - Oakland 1545 Willow Street, 1st Floor Oakland, CA 94607 Telephone - (510) 286-1313 FAX No. - (510) 286-6792

Districts 08, 11 and 12:
Triaxial Management Services, Inc. - San Diego 2725 Congress Street, Suite 1-D San Diego, CA 92110 Telephone - (619) 543-5109 FAX No. - (619) 543-5108

Districts 07 and 08; in San Luis Obispo and Santa Barbara Counties in District 05; and in Kern County in District 06:
Triaxial Management Services, Inc. - Los Angeles 2594 Industry Way, Suite 101 Lynwood, CA 90262 Telephone - (310) 537-6677 FAX No. - (310) 637-0128

Districts 01, 02, 03 and 09:
Triaxial Management Services, Inc. - Sacramento 930 Alhambra Blvd., #205 Sacramento, CA 95816 Telephone - (916) 553-4172 FAX No. - (916) 553-4173

2-1.02B SUBMISSION OF DBE INFORMATION

The required DBE information shall be submitted WITH THE BID on the "CALTRANS BIDDER - DBE INFORMATION" and "TELEPHONE LOG AND LIST OF REJECTED DBEs" forms included in the Proposal.

It is the bidder's responsibility to make enough work available to DBEs and to select those portions of the work or material needs consistent with the available DBEs to meet the goal for DBE participation or to provide information to establish that, prior to bidding, the bidder made adequate good faith efforts to do so.

The bidder's DBE information shall establish that good faith efforts to meet the DBE goal have been made. To establish good faith efforts, the bidder shall demonstrate that the goal will be met or that, prior to bidding, adequate good faith efforts to meet the goal were made.

Bidders are cautioned that even though their submittal indicates they will meet the stated DBE goal, their submittal should also include their adequate good faith efforts information along with their DBE goal information to protect their eligibility for award of the contract in the event the Department, in its review, finds that the goal has not been met.

The bidder's DBE information shall include the names, addresses and phone numbers of DBE firms that will participate, with a complete description of work or supplies to be provided by each, the dollar value of each DBE transaction, and a written confirmation from the DBE that it is participating in the contract. A copy of the DBE's quote will serve as written confirmation that the DBE is participating in the contract. When 100 percent of a contract item of work is not to be performed or furnished by a DBE, a description of the exact portion of that work to be performed or furnished by that DBE shall be included in the DBE information, including the planned location of that work. The work that a DBE prime contractor has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors, suppliers and trucking companies will count toward the goal.

The information necessary to establish the bidder's adequate good faith efforts to meet the DBE goal shall be included in the "TELEPHONE LOG AND LIST OF REJECTED DBEs" form located in the Proposal and should include:

- A. The names, dates and times of notices of all certified DBEs solicited by telephone for this project and the dates, times and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested.
- B. The names of DBEs who submitted bids which were not accepted and the reason for rejection of the DBE's bid.

It is the bidder's responsibility to be available, by phone, the day after the bid opening to answer questions and provide good faith effort clarification. The bidder shall also assure that listed DBEs are available, by phone, on the day after the bid opening.

If it is found that the goal has not been met, the Department will review the information submitted with the bid to determine the bidder's good faith effort. In the event that the Department determines that a bidder has not made a good faith effort based on the information submitted with the bid and its independent investigation, the Department's decision will be final.

CALTRANS BIDDER - DBE - INFORMATION

-- DO NOT DETACH --
THIS INFORMATION SHALL BE SUBMITTED WITH
YOUR BID PROPOSAL

DISTRICT-CO.-RTE.-K.P.: _____
DISTRICT-CONTRACT NO.: _____
BID AMOUNT: \$ _____
BID OPENING DATE: _____
BIDDER'S NAME: _____
DBE GOAL FROM CONTRACT, %: _____
DBE PRIME CONTRACTOR CERTIFICATION ¹: _____

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification # , DBE address and phone number)	DOLLAR AMOUNT DBE ³

<p>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Copies of the DBE quotes are required. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above shall be consistent, where applicable, with the names and items of work in the "List of Subcontractors" submitted with your bid pursuant to the Subcontractors Listing Law and Section 2-1.01, "General," of the Special Provisions.</p>	<p align="center">Total Claimed Participation</p> <p>\$ _____</p> <p>_____ %</p>
<p>1. DBE prime contractors shall enter their DBE certification number. DBE prime contractors shall indicate all work to be performed by DBEs including work performed by its own forces.</p> <p>2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished by DBE.</p> <p>3. See Section 2-1.02, "Disadvantaged Business Enterprise," to determine the credit allowed for DBE firms.</p>	<p>_____ Signature of Bidder</p> <p>_____ Date (Area Code) Tel. No.</p> <p>_____ Person to Contact (Please Type or Print)</p>

CT Bidder - DBE Information (12-01-99)