



CITY OF MORGAN HILL

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ADDENDUM NO. 3

DATE: **January 8, 2024**

TO: **ALL PLANHOLDERS OF THE MADRONE CHANNEL TRAIL PHASE 2 PROJECT**

FROM: **KRISTIAN WALLACE – PROJECT ENGINEER**

RE: **BID OPENING DATE REVISION AND NOTICE INVITING BIDS, INSTRUCTION TO BIDDERS, BID BOND, AND GENERAL CONDITIONS UPDATE**

1. The Bid Opening Date has been revised to **January 18, 2024, at 1:30 P.M.**

2. Item 5.2 in the Notice Inviting Bids shall be replaced with the following:

5.2 Bid Security. The Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier's or certified check made payable to City of Morgan Hill, or a bid bond executed by a surety licensed to do business in the State of California on the Bid Bond form included with the Contract Documents. The bid security must guarantee that within ten (10) days after City issues the Notice of Award, the successful bidder will execute the Contract and submit payment and performance bonds, insurance certificates and endorsements, valid Certificates of Reported Compliance as required under the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) ("Off-Road Regulation"), if applicable, and any other submittals required by the Contract Documents and the Notice of Award.

3. Item 9 in the Notice Inviting Bids shall be replaced with the following:

9. Subcontractor List. Each Subcontractor must be registered with the DIR to perform work on public projects. Each bidder must submit a completed Subcontractor List form with its Bid Proposal, including the name, location of the place of business, California contractor license number and DIR registration number and percentage of the Work to be performed (based on the base bid price) for each Subcontractor who will perform Work or service or fabricate or install Work for the prime contractor in excess of one-half (1/2) of one percent (1%) of the bid price, using the Subcontractor List form included with the Contract Documents. For street or highway construction, this requirement applies to any subcontract of \$10,000 or more.

4. Item 4 in the Instructions to Bidders shall be replaced with the following:

4. Bid Security. Each Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier's check or certified check, made payable to the City, or bid bond using the form included in the Contract Documents and executed by a surety licensed to do business in the State of California. The bid security must guarantee that, within ten days after issuance of the Notice of Award, the bidder will: execute and submit the enclosed Contract for the bid price; submit payment and performance bonds for 100% of the maximum Contract Price; submit the insurance certificates and endorsements; and submit valid Certificates of Reported Compliance as required by the Off-Road Regulation, if applicable, and any other submittals, if any, required by the Contract Documents or the Notice of Award.

5. Item 19 shall be added to the Instructions to Bidders and is as follows:

19. In-Use Off-Road Diesel-Fueled Fleets. If the Project involves the use of vehicles subject to the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) ("Off-Road Regulation"), then within ten calendar days following City's issuance of the Notice of Potential Award to the successful bidder, the bidder must submit to City valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, in accordance with the Off-Road Regulation, unless exempt under the Off-Road Regulation.

6. The Bid Bond shall be replaced with the attached revised Bid Bond.

7. Item 7.9 (A) of the General Conditions shall be replaced with the following:

(A) **Air Emissions Control.** Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws. Contractor must comply with all Laws, including the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.).

ADDENDUM ACKNOWLEDGMENT

Bidder acknowledges receipt of this addendum, which shall be attached to the proposal.

Contractor's Representative

Date

THIS DOCUMENT SHALL BECOME A PART OF THE PROJECT SPECIFICATIONS

BID BOND

____ ("Bidder") has submitted a bid, dated _____, 20____ ("Bid"), to the City of Morgan Hill ("City") for work on the _____ ("Project"). Under this duly executed bid bond ("Bid Bond"), Bidder as Principal and _____, its surety ("Surety"), are bound to City as obligee in the penal sum of ten percent (10%) of the maximum amount of the Bid (the "Bond Sum"). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. **General.** If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with City in accordance with the terms of the Bid.
2. **Submittals.** Within ten days following issuance of the Notice of Award to Bidder, Bidder must submit to City the following:
 - 2.1 **Contract.** The executed Contract, using the form provided by City in the Project contract documents ("Contract Documents");
 - 2.2 **Payment Bond.** A payment bond for one hundred percent (100%) of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
 - 2.3 **Performance Bond.** A performance bond for one hundred percent (100%) of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents;
 - 2.4 **Insurance.** The insurance certificate(s) and endorsement(s) required by the Contract Documents, and any other documents required by the Instructions to Bidders; and
 - 2.5 **Certificates of Reported Compliance.** Valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, in accordance with the In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) ("Off-Road Regulation"), if the Project involves the use of vehicles subject to the Off-Road Regulation; and any other documents required by the Instructions to Bidders or Notice of Potential Award.
3. **Enforcement.** If Bidder fails to execute the Contract or to submit the bonds, insurance certificates and endorsements, and valid Certificates of Reported Compliance, as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to City. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: _____
Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
Email: _____

4. Duration; Waiver. If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise, it will remain in full force and effect for ninety days following the bid opening or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code Sections 2819 and 2845.

This Bid Bond is entered into and is effective on _____, 20____.

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgement, Notary Seal, and Attorney-In-Fact Certificate)

CONTRACTOR:

s/ _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Donald A. Larkin, City Attorney

Date: _____