



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

ADDENDUM NO. 1

North McDowell Boulevard Complete Streets Project City Project Number C16102147

May 26, 2022

This Addendum No. 1 modifies the Bidding Documents for the North McDowell Boulevard Complete Streets Project, City Project Number C16102147. This Addendum shall become part of the Contract and all provisions of the Contract shall apply thereto. Bidders shall acknowledge all Addendums in the Bid Schedule.

NOTICE INVITING BID CHANGE

Refer to page 1, item 2 of the Notice of Inviting Bids. The Bids will be ~~publicly~~ opened and ~~read at 2:00 PM (enter time) on June 9th, 2022~~ **read at 2:00 PM (enter time) on Thursday, June 9, 2022**, at the ~~above-mentioned~~ office of the CITY. The CITY reserves the right to postpone the date and time for opening of Bids at any time prior to the aforesaid date and time.

The following paragraphs of the "Notice Inviting Bids" will be modified as described.

1. RECEIPT OF BIDS: Bids for this project will be submitted by email before 2:00 PM on **Thursday, June 9, 2022**. The emailed bid will include all of the completed documents found in the BID FORMS section of the Contract Documents. The bids will be emailed to: CITYCLERK@cityofpetaluma.org. **Note:** Please limit emailed bid file size to 15MB. If needed the respondent may submit multiple emails so long as they are properly labeled and submitted **before** the above-stated time. The email subject line will be "North McDowell Boulevard Complete Streets Project (C16102147)". The response email from the City Clerk will indicate the time stamp of the bid receipt.

2. Original copies of the Sealed Bids will be sent by standard United States Postal Service (USPS) mail services and received by the mail clerk at 11 English Street, Petaluma CA 94952. The Sealed Bids will be postmarked at USPS not later than the date of **June 9, 2022**. Sealed Bids postmarked after **June 9, 2022**, may not be considered. The Sealed Bids sent via USPS will include all of the original signed and sealed documents included in the Bid Form section of the Contract Documents. This packet will be clearly marked on the outside of the package "North McDowell Boulevard Complete Streets Project (C16102147)".

OPENING OF BIDS: The emailed bids will be opened by the Project Manager and the City Clerk. The bids will be documented on the Bid Result template with the name of the bidding contractor and ranked by the Base Bid dollar amount. The Bid results will be posted on the City's webpage at <https://cityofpetaluma.org/bid-opportunities-2/>

Teresa Barrett
Mayor

Brian Barnacle
D'Lynda Fischer
Mike Healy
Dave King
Kevin McDonnell
Dennis Pocekay
Councilmembers

Public Works & Utilities

City Engineer
11 English Street
Petaluma, CA 94952
Phone (707) 778-4303

Environmental Services
Ellis Creek Water
Recycling Facility
3890 Cypress Drive
Petaluma, CA 94954
Phone: (707) 776-3777
Fax: (707) 656-4067

Parks & Facility
Maintenance
840 Hopper St. Ext.
Petaluma, CA 94952
Phone (707) 778-4303
Fax (707) 206-6065

Transit Division
555 N. McDowell Blvd.
Petaluma, CA 94954
Phone (707) 778-4421

Utilities & Field Operations
202 N. McDowell Blvd.
Petaluma, CA 94954
Phone (707) 778-4546
Fax (707) 206-6034

E-Mail: publicworks@cityofpetaluma.org

NOTICE INVITING BID SECTION ADDITIONS AND UPDATE

The following two (2) paragraphs, #18 and #19 will be added to the “Notice Inviting Bids” as described.

18. FINDING OF SUBSTANTIAL COMPLEXITY

Pursuant to Public Contract Code section 7201(b)(3) the CITY’s Public Work’s Director has found that the WORK is substantially complex due to:

1. The amount of technical and scientific knowledge needed to complete the project
 - a. New and novel technology
 - b. Dependence on technological processes
2. The number of resources needed to complete the project including number of days, workers, and labor
3. The urgency for project completion
4. The number of tasks needed to complete the project
5. Number of organizational stakeholders needed to satisfy
6. The environmental complexity
 - a. Complicated geological conditions
 - b. Changing conditions;
7. The Federal Aviation Administration Grant Funding Requirements

and therefore, this is a unique project that is not regularly performed and requires a higher retention amount than 5 percent.

Notwithstanding Public Contract Code Section 7201 or any other law or regulation that purports to provide otherwise, public contracting is a quintessential municipal affair, subject to charter cities’ home rule power, and the California Constitution grants charter cities supreme authority over municipal affairs, which include public works, procurement, and the mode of municipal contracting (see, Public Contract Code Section 1100.7 and e.g., *Bishop v. City of San Jose* (1969) 1 C3d 56).; and it is the courts, not the legislature, that determines which matters are municipal affairs (see, e.g., *California Federal Savings and Loan v. City of Los Angeles* (1991) 54 C3d 1); and

Article X, Section 67 of the Petaluma Charter provides in pertinent part:

“ . . . no progressive payments can be provided for or made at any time which, with prior payments, if there have been such, shall exceed in amount at that time ninety percent of the value of the labor done and the materials used up to that time, and no contract shall provide for or authorize or permit the payment of more than ninety percent of the contract price before the completion of the work done under said contract and the acceptance thereof . . .; and”

City charters are documents of limitation and a restriction on the City Council’s powers imposed by the voters (see, e.g., *City of Glendale v. Trondsen* (1957) 48 C2d 93) and, as a result, the City Council’s contracting power is limited by the retention requirement in Article X, Section 67, and the City Council and City staff lack the power to provide for public works contract retention other than as specified in the City Charter.

19. GOVERNMENT CODE SECTION 1090

The successful Bidder may be precluded from competing for, or participating in, subsequent contracts that result from or relate to the Work performed pursuant to this Bid. The ethics laws that apply to the City and all its consultants, contractors, and vendors include California Government Code Section 1090 and following, which prohibits government officials, employees, and contractors from participating in making

government contracts in which the official, employee or contractor has a financial interest. Because City contractors always have a financial interest in their City contracts, the Section 1090 prohibition regarding City contractors focuses on whether a contractor is or would be "making a government contract" in a quasi-governmental capacity for purposes of Section 1090. Section 1090 prohibits City contractors from using their role as a contractor to influence how the City spends the public's funds in a way that benefits the contractor. For example: if a City contractor prepared a scope of work the City intended to release to solicit proposals to perform the scope of work, that contractor would most likely be prohibited from being awarded a contract to perform that scope of work, because preparation of the scope of work could influence the spending of City funds in a way that benefits the contractor. Similarly, if a City contractor prepared Plans Specifications and Estimates for a publicly-bid construction project or played a role in developing the scope for a construction project, such as through performing site analysis, environmental studies or CEQA or NEPA documents for the project, the consultant would most likely be prohibited from being awarded a contract to build the project, or to provide construction management services for the project. Penalties for violating Section 1090 are severe, and may include felony criminal penalties, permanent disqualification from holding public office in California, disgorgement of any benefit received by the financially interested contractor, civil and administrative penalties, and voiding of the prohibited contract.

The following paragraph of the "Notice Inviting Bids" will be modified as described.

~~18-20.~~ **CITY'S RIGHTS RESERVED:** The CITY reserves the right to reject any or all bids, to waive any minor irregularity in a bid, and to make awards to the lowest responsive, responsible bidder as it may best serve the interest of the CITY.

QUESTIONS AND ANSWERS

Q: *What is the engineer's Base Bid estimate for the project?*

A: The engineer's Base Bid estimate for the project is \$9,000,000.00.

Q: *Section 30E of the specifications lays out a schedule with regards to Full Depth Reclamation and Asphalt Paving. Since there is no FDR on this job can you confirm or clarify if this schedule and summer break timeline applies to the project?*

A: This section does not apply to the North McDowell Complete Streets Project and can/should be discarded.

Q: *Are there any alternative paving fabrics that can be used in place of the Glasgrid 8511TF?*

A: No not at this time. Please bid the project as specified in the project technical specifications.

Q: *Can the traffic control plan be submitted without the signature and stamp of a registered traffic engineer?*

A: No, the traffic control plan shall be signed and stamped by a California registered traffic engineer.

Q: *What is the last day for bid questions?*

A: Please submit final bid questions by 2 PM Thursday, June 2nd to allow time for a bid addendum to be issued.

Summary of Changes: Bids will be emailed in to the City Clerk, and original copies of the sealed bids will be mailed in. The “Notice Inviting Bids” has been updated as stated above. Some project questions have been answered above. All other items of the bid documents shall remain unchanged.

City of Petaluma,



Ken Eichstaedt, P.E, T.E.
Senior Traffic Engineer
Public Works & Utilities Department

A signed copy of this Addendum and the attached acknowledgment form shall be attached to the bid proposal. Failure to do so may cause rejection of your bid as being non-responsive.

ADDENDUM NO. 1

**North McDowell Boulevard Complete Streets Project
City Project Number C16102147**

May 26, 2022

ACKNOWLEDGEMENT

Receipt of Addendum No. 1 is hereby acknowledged by _____
(Contractor's Name)
on the _____ day of _____, 2022.

By: _____
Signature

Title

Company