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|--|-------------------|--|---------------------------------------|---|
| AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT | | | 1. CONTRACT ID CODE | PAGE OF PAGES |
| 2. AMENDMENT/MODIFICATION NO. | 3. EFFECTIVE DATE | 4. REQUISITION/PURCHASE REQ. NO. | 5. PROJECT NO. <i>(If applicable)</i> | |
| 6. ISSUED BY | CODE | 7. ADMINISTERED BY <i>(If other than Item 6)</i> | CODE | |
| 8. NAME AND ADDRESS OF CONTRACTOR <i>(No., street, county, State and ZIP Code)</i> | | | (✓) | 9A. AMENDMENT OF SOLICITATION NO. |
| | | | | 9B. DATED <i>(SEE ITEM 11)</i> |
| | | | | 10A. MODIFICATION OF CONTRACT/ORDER NO. |
| | | | | 10B. DATED <i>(SEE ITEM 13)</i> |
| CODE | FACILITY CODE | | | |

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA *(If required)*

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

| | |
|-----|--|
| (✓) | A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: <i>(Specify authority)</i> THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. |
| | B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES <i>(such as changes in paying office, appropriation date, etc.)</i> SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). |
| | C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: |
| | D. OTHER <i>(Specify type of modification and authority)</i> |

E. IMPORTANT: Contractor is not, is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

| | | | |
|--|------------------|---|------------------|
| 15A. NAME AND TITLE OF SIGNER <i>(Type or print)</i> | | 16A. NAME AND TITLE OF CONTRACTING OFFICER <i>(Type or print)</i> | |
| 15B. CONTRACTOR/OFFEROR | 15C. DATE SIGNED | 16B. UNITED STATES OF AMERICA | 16C. DATE SIGNED |
| <i>(Signature of person authorized to sign)</i> | | BY _____ <i>(Signature of Contracting Officer)</i> | |

PREVIOUS EDITION UNUSABLE

1252.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Clause (OCT 1994)

Offers shall be evaluated without an amount for an economic price adjustment being added. Offers will be rejected which: (1) increase the ceiling stipulated; (2) limit the downward adjustment; or (3) delete the economic price adjustment clause. If the offer stipulates a ceiling lower than that included in the solicitation, the lower ceiling will be incorporated into any resulting contract.

(End of Provision)

52.204-11 American Recovery and Reinvestment Act – Reporting Requirements (Mar 2009)

NOTICE: The requirement at FAR 52.204-11(d) for submitting quarterly reports to www.FederalReporting.gov is hereby amended. The contractor shall submit the quarterly reports directly to the FHWA contracting officer in lieu of www.FederalReporting.gov. The FHWA will, in turn, submit the information to www.FederalReporting.gov.

In addition, contractors are required to submit a monthly report using the form FHWA-1589. This form may be transmitted electronically to the contracting officer.

(a) *Definitions.* As used in this clause—

Contract, as defined in FAR 2.101, means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq. For discussion of various types of contracts, see FAR Part 16.

First-tier subcontract means a subcontract awarded directly by a Federal Government prime contractor whose contract is funded by the Recovery Act.

Jobs created means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

Jobs retained means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

Total compensation means the cash and noncash dollar value earned by the executive during the contractor's past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(3) *Earnings for services under non-equity incentive plans.* Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) *Other compensation.* For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

(b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

(c) Reports from contractors for all work funded, in whole or in part, by the Recovery Act, and for which

an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.

(d) The Contractor shall report the following information, using the online reporting tool available at <http://www.FederalReporting.gov>.

- (1) The Government contract and order number, as applicable.
- (2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool.
- (3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.
- (4) Program or project title, if any.
- (5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.
- (6) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (i.e., not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.
- (7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and only address the impact on the contractor's workforce. At a minimum, the contractor shall provide—
 - (i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and
 - (ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.
- (8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—
 - (i) In the Contractor's preceding fiscal year, the Contractor received—
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
- (9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.
- (10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is over \$25,000 and not subject to reporting under paragraph 9, the contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the contractor for the purposes of the quarterly report. The contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act. The contractor shall provide detailed information on these first-tier subcontracts as follows:
 - (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.
 - (ii) Name of the subcontractor.
 - (iii) Amount of the subcontract award.
 - (iv) Date of the subcontract award.
 - (v) The applicable North American Industry Classification System (NAICS) code.
 - (vi) Funding agency.

- (vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
- (viii) Subcontract number (the contract number assigned by the prime contractor).
- (ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
- (x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
- (xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if--
 - (A) In the subcontractor's preceding fiscal year, the subcontractor received—
 - (1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(End of clause)

52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (SEP 2006)

52.211-10 Commencement, Prosecution, and Completion of Work. (APR 1984) - Alternate I (APR 1984)

The Contractor shall be required to (a) commence work under this contract within **ten (10)** calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than **see subsection 108.01 of the SCRs**. The time stated for completion shall include final cleanup of the premises.

The completion date is based on the assumption that the successful offeror will receive the notice to proceed **no later than 70 days after bids are due**. The completion date will be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

(End of clause)

52.211-12 Liquidated Damages - Construction. (SEP 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of **see subsection 108.04 of the FP** for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

52.211-13 Time Extensions. (SEP 2000)

52.211-18 Variation in Estimated Quantity. (APR 1984)

Schedule at least 2 non-work days out of every 14 calendar days. The selected non-work days do not need to be consecutive, but they must be scheduled. Provide at least 2 weeks notice before changing the scheduled days off.

Exemptions to scheduled days off may be granted by written approval from the CO for specific project operations and/or for periods of limited duration.

Add the following:

A Notice to Proceed must be issued before commencement of any work. Final construction completion date is April 2, 2010 for Schedule A and May 27, 2010 for Schedule B.

A construction progress and scheduling meeting will be held each week with the contractor, CO, and NPS. The meeting will be held at a regularly scheduled day and time to be determined at the pre-construction meeting. At each meeting the contractor must provide an update on the progress of work completed to date and the schedule of work to be completed for the upcoming week. Additional items to be discussed will be determined by the CO and NPS. The purposes of the meetings are to provide the NPS and CO with information on the construction operations and ensure the overall construction schedule is met.

Section 109. - MEASUREMENT AND PAYMENT

109.02 Measurement Terms and Definitions.

(b) Cubic yard. Delete the line and substitute the following:

(c) Cubic yard.

(m) Square yard. Delete the text and substitute the following:

(m) Square yard. 9 square feet. Measure on a plane parallel to the surface being measured. No deductions from the area computation will be made for individual fixtures having an area of 9 square feet or less. Do not measure overlaps.

109.06 Pricing of Adjustments Add the following:

ASPHALT BINDER PRICE ADJUSTMENT PROVISION

GENERAL *The Asphalt Binder Price Adjustment Provision provides for a price adjustment in the form of payment to the Contractor or a rebate to the Government for fluctuations in the cost of asphalt binder used in the performance of applicable construction work for CA PRA-DEVA 11(2). Price adjustment provisions are applicable only to the asphalt binder, as defined in Section 702.01, and incorporated in the following contract pay items:*

- 40201-4700 Hot asphalt concrete pavement, Hveem test, class B, grading C or E

The price adjustment provisions are also applicable to eligible pay items when the Government adds extra work to the Contract.

*The provision will remain in effect throughout the duration of the contract. Enactment of the Asphalt Binder Price Adjustment Provision will only be considered when the **increase or decrease** in the price of asphalt binder exceeds 10 percent.*

The Asphalt Binder Price Adjustment Provision is intended to reduce but not eliminate the cost effects of price uncertainty to the Contractor and the Government for asphalt binder used in the construction of this contract. It provides for sharing by the Government a portion of the Contractor's risk, which could result from unusual price fluctuations. The provision is not intended to compensate the Contractor for normal day-to-day fluctuations and seasonal changes or to serve as a guarantee of full compensation for asphalt binder price fluctuations.

PRICE INDEXES *The Government will post a monthly performance price index at:*

<http://www.cflhd.gov/procurement/construction/price-indexes/>

Poten and Partners, Inc. (PPI), publishes a weekly report (Asphalt Weekly Monitor) on high and low selling prices for states in five regions throughout the United States including:

- *East Coast/Northeast*
- *Mid-Continent/Midwest*
- *Gulf Coast/Mid South*
- *Rocky Mountains*
- *West Coast/Northwest*

Weekly high and low selling price data reported for Northern and Southern California will be averaged and used to establish a base price index, BPI, for this project and a monthly performance price index, MPPI, for the duration of the contract. These indexes are defined as follows:

- **BASE PRICE INDEX** *The base price index, BPI, is the price index posted by the Government as determined by arithmetic average, as specified above, shown in the four weekly publications immediately preceding the bid opening. It is as follows:*

**BASE PRICE INDEX (BPI) FOR ASPHALT BINDER
PER SHORT TON (TON) = \$_____**

- **MONTHLY PERFORMANCE PRICE INDEX** *The monthly performance price index, MPPI, is the monthly price index at the time of performance of applicable work as determined by arithmetic average, as specified above, shown in the four weekly publications issued prior to the last Wednesday of the month (i.e. the monthly performance price index during which asphalt binder is used in the performance of applicable construction work).*

PRICE ADJUSTMENTS *Price adjustments calculated by the Government are not intended to reflect the Contractor's actual purchase price. The ratio of the monthly performance price index and the base price index (MPPI/BPI) is calculated and used to determine price adjustments as follows:*

- **No Price Adjustment** – *When the ratio MPPI/BPI falls within the range of 0.90 to 1.10, no price adjustment will be made for any asphalt binder used in construction work performed during the relevant month.*

- **Government Rebate** – When the ratio MPPI/BPI is calculated to be less than 0.90, the Government is due a rebate determined in accordance with the following formula:

$$\text{Government Rebate} = [0.90 - (\text{MPPI}/\text{BPI})] (\text{BPI}) (Q)$$

- **Contractor Payment** - When the ratio MPPI/BPI is calculated to be greater than 1.10, the Contractor is due additional payment determined in accordance with the following formula:

$$\text{Contractor Payment} = [(\text{MPPI}/\text{BPI}) - 1.10] (\text{BPI}) (Q)$$

The following definitions are applicable to both the Government Rebate and the Contractor Payment formulas:

MPPI = Monthly Performance Price Index for the month during which asphalt binder is used in the performance of applicable construction work.

BPI = Base Price Index that is established immediately preceding the bid opening.

Q = Quantity in tons of asphalt binder for each pay item that was used on the project during the progress payment period. The quantity will be calculated using the asphalt content of the approved mix design and the following formula:

$$Q = \text{Asphalt Concrete Pavement tons placed} \times (\% \text{ Asphalt}/100)$$

PRICE ADJUSTMENT COMPENSATION Monthly adjustments will be accrued. The final price adjustment will be paid, or rebated, after completion of all work for each eligible pay item. The Contractor may request in writing a partial price adjustment payment once every 12 months, or when the unpaid accrued increase exceeds \$10,000. The Government will take a rebate when the deductive accrual exceeds \$10,000.

No price adjustments will be made for work performed beyond the Government-approved Contract completion date.

The maximum allowable monthly and final price adjustment to the Contractor or rebate to the Government is limited to a (MPPI/BPI) ratio of 1.6 and 0.4, respectively.

109.08 Progress Payments.

(b) Closing date and invoice submittal date. Delete the last sentence and substitute the following:

Submit invoices to the designated billing office by the 7th day after the closing date. Invoices received by the designated billing office after the 16th day following the closing date will not be accepted for payment processing that month. Include late, unprocessed invoice submittals in the following month's invoice.

**Section 402. - HOT ASPHALT CONCRETE PAVEMENT BY
HVEEM OR MARSHALL MIX DESIGN METHOD**

Section 402 Delete the Section and substitute the following:

Description

402.01 This work consists of constructing one or more courses of Hveem ~~or Marshall~~ hot asphalt concrete pavement.

The mix design method is designated as Hveem ~~or Marshall~~. Hot asphalt concrete pavement class is designated as shown in Table 402-1. Aggregate grading is designated as show in Table 703-4. Pavement roughness type is designated as shown in Subsection 402.16. Asphalt binder is designated as shown in AASHTO M 320.

A minimum of one percent lime is required in the hot asphalt concrete mixture.

Pavement roughness is type IV

Asphalt binder grade is PG 70-10. Pressure Aging Vessel test temperature shall be 230°F (110°C).

Material

402.02 Conform to the following Subsections:

| | |
|---------------------------|--------|
| Aggregate | 703.07 |
| Antistrip additive | 702.08 |
| Asphalt binder | 702.01 |
| Mineral filler | 725.05 |
| Recycled asphalt pavement | 703.19 |
| Recycling agent | 702.06 |

Construction Requirements

402.03 Composition of Mix (Job-Mix Formula). Furnish mixes of aggregate, asphalt binder, recycled asphalt pavement, and additives that meet the applicable aggregate gradation in Table 703-4 and design parameters in Table 402-1 for the mix class shown in the bid schedule.

If more than 1.0 percent hydrated lime is proposed in the job-mix formula provide AASHTO T 283 tests results showing the additional lime is necessary to meet the minimum moisture susceptibility requirements in Table 402-1.

(a) Recycled asphalt pavement use. Up to 20 percent recycled asphalt pavement material by mass may be used in the job-mix formula.