

A0003302

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE PAGE OF PAGES
1 4

2. AMENDMENT/MODIFICATION NO. 0005
3. EFFECTIVE DATE 10/26/98
4. REQUISITION/PURCHASE REQ. NO. ED0000-8219-0007
5. PROJECT NO. (If applicable) de

6. ISSUED BY CODE ISSUE1
US ARMY ENGR DIST NEW ORLEANS
PO BOX 60267
NEW ORLEANS LA 70160-0267
Sheila W. Enclade SC1(504) 862-1514
7. ADMINISTERED BY (if other than Item 6) CODE ADMIN1
US ARMY ENGR DIST, NEW ORLEANS
ATTN CELMN-CT
PO BOX 60267
NEW ORLEANS LA 70160-0267

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)
CEMVN-ED-T
(GEN'L CONST)
3S & 3P
ED-TF
9A. AMENDMENT OF SOLICITATION NO. DACW29-98-B-0112
9B. DATED (SEE ITEM 11) 09/03/98
10A. MODIFICATION OF CONTRACT/ORDER NO.
10B. DATED (SEE ITEM 13)
CODE 1cyn9 FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS SEE BELOW

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 1 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.

(X) A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) 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 (such as changes in paying office, appropriation date, etc.) 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 (Specify type of modification and authority)

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.)
THE ABOVE NUMBERED SOLICITATION FOR COMPETITIVE 8(a), LAKE PONTCHARTRAIN, LA & VIC., HURRICANE PROTECTION, HIGH LEVEL PLAN, FRONTING PROTECTION AT PUMP STA. #6 ORLEANS PARISH - JEFFERSON PARISH 17TH ST. OUTFALL CANAL (METAIRIE RELIEF), ORLEANS & JEFFERSON PARISHES, LA, IS HEREBY AMENDED AS FOLLOWS:
BID OPENING DATE
BID OPENING DATE & TIME OF 9 NOVEMBER 1998, 2:00 P.M., LOCAL TIME AT PLACE
OF BID OPENING, IS HEREBY ESTABLISHED.

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

SECTION 00800

1. Page 00800-4, paragraph 5.c.(1) and (2). Delete these paragraphs in their entirety and substitute the following paragraph therefor:

"(1) Access Roads and Staging Areas. The available land based access routes via Metairie Road to the east and west sides of the pumping station are as follows:

a. For heavy construction equipment and piling more than 40 feet in length, the available access route is via Metairie Road, to Lake Avenue to the west side of the pumping station.

b. For the supply of all other construction materials, the available access route is via Metairie Road to Carrollton Avenue to Hyacinth Street to Lake Avenue or Orpheum Avenue to the west side of the pumping station.

c. Direct land access to the east side of the pumping station, via Metairie Road to Maryland Street to the pumping station, is currently blocked at Metairie Road. This access may become available after April 1999. In the interim, an alternate route via Metairie Road to Bellaire Drive to Hedwigen Lane to Maryland Drive to the pumping station will be used for access by concrete delivery trucks and by the Contractor's personnel using automobiles and pickup trucks.

(2) Power lines and low tree limbs along the access roads may restrict access by large equipment. The Contractor shall either furnish equipment that can pass through the limited access or procure permits and upgrade the access as desired, at no cost to the Government. The Contractor shall notify the Contracting Officer 30 days in advance of the proposed date of equipment access."

2. Page 00800-6, paragraph 9. Delete this paragraph in its entirety and substitute the following paragraph:

"9. CONTINUING CONTRACTS (EFARS 52.232-5001-MAR 95)

a. This is a continuing contract, as authorized by Section 10 of the River and Harbor Act of September 22, 1922, (33 US Code 621). The payment of some portion of the contract price is dependent upon reservations of funds from future appropriations, and from future contribution to the project having one or more non-federal project sponsors. The responsibilities of the Government are limited by this clause notwithstanding any contrary provision of the "PAYMENTS UNDER FIXED PRICE CONSTRUCTION CONTRACTS" clause or any other clause of this contract.

- b. The sum of \$ 1,176,000.00 has been reserved for this contract and is available for payments to the Contractor during the current fiscal year. It is expected that Congress will make appropriations for future fiscal years from which additional funds together with funds provided by one or more non-federal project sponsors will be reserved for this contract.
- c. Failure to make payments in excess of the amount currently reserved, or that may be reserved from time to time, shall not entitle the Contractor to a price adjustment under the terms of this contract except as specifically provided in paragraphs (f) and (i) below. No such failure shall constitute a breach of this contract, except that this provision shall not bar a breach-of contract action if an amount finally determined to be due as a termination allowance remains unpaid for one year due solely to a failure to reserve sufficient additional funds therefore.
- d. The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The Contracting Officer will promptly notify the Contractor of any additional funds reserved for the contract by issuing an administrative modification to the contract.
- e. If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the Contractor shall give written notice to the Contracting Officer of the estimated date of exhaustion and the amount of additional funds which will be needed to meet payments due or to become due under the contract during that fiscal year. This notice shall be given not less than 45 nor more than 60 days prior to the estimated date of exhaustion.
- f. No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract. The Contractor shall be entitled to simple interest on any payment that the Contracting Officer determines was actually earned under the terms of the contract and would have been made except for exhaustion of funds. Interest shall be computed from the time such payment would otherwise have been made until actually or constructively made, and shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97, as in effect on the first day of the delay in such payment.
- g. Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the Contractor to any price adjustment under the "SUSPENSION OF WORK" clause or in any other manner under this contract.
- h. An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

i. If, upon the expiration of sixty (60) calendar days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve sufficient additional funds to cover payments otherwise due, the Contractor, by written notice delivered to the Contracting Officer at any time before such additional funds are reserved, may elect to treat his/her right to proceed with the work as having been terminated. Such a termination shall be considered a termination for the convenience of the Government.

j. If at any time, it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the Contractor because of work performed and to be performed under the contract during the fiscal year, the Government reserves the right, after notice to the Contractor, to reduce said reservation by the amount of such excess."

SECTION 01100

Page 01100-17, paragraph 17.g. Add the following to the end of the paragraph.

"For daily cost of flagging and watchman services, the Contractor may contact Mr. Orrison at (404)-529-1450 or Mr. Decker at (404)-529-1436."

SECTION 02411

1. Page 02411-2, paragraph 5.2. Deleted the last sentence in its entirety.
2. Page 02411-4, paragraph 8.4. In the 1st sentence delete paragraph reference numbers 8.3.2, 8.3.3, and 8.3.4 and substitute "8.4.2, 8.4.3 and 8.4.4".
3. Page 02411-5, paragraph 8.4.2. In the last sentence delete "(see paragraph 5.2)".
4. Page 02411-5, paragraph 8.5. Delete paragraph reference number "8.3.3" and substitute "8.4.3".