

DOCUMENT 00 9113

ADDENDA NO. 1

SPECIFICATION NO. 23-11600-C

CITY OF BERKELEY

CENTRAL LIBRARY HVAC REPLACEMENT

2090 KITTREDGE STREET

The following Addenda were issued, modifying the Project Manual:

Addendum No. 1, issued on **September 19, 2023**

ADDENDUM NO. 1
SEPTEMBER 19, 2023

The bid documents for Specification No. 23-11600-C for the Central Library HVAC Replacement Project are amended as follows:

1-1. ARTICLE 1.06, DOCUMENT 00 1113 – NOTICE INVITING BIDS

City will conduct an additional Pre-Bid Conference and Site Visit at 2090 Kittredge Street, at 11:00AM on Tuesday September 21, 2023.

1-2. ARTICLE 1.01, DOCUMENT 00 2113 – INSTRUCTIONS TO BIDDERS

City will conduct an additional Pre-Bid Conference and Site Visit at 2090 Kittredge Street, at 11:00AM on Tuesday September 21, 2023.

Questions and Responses:

2-1. What are the existing HVAC controls?

City Response: Existing HVAC controllers are Syserco/Allerton.

2-2. Specifications shows a Class B license is required to bid this project. However, the website shows Class A – General Engineering Contractor is required. Which is correct?

City Response: The Specifications are correct – a Class B license is required to bid this project. The website will be revised and corrected to reflect the Specifications.

2-3. What time is the bid due on October 3, 2023.

City Response: Sealed bids are due no later than 2:00PM on October 3rd, 2023.

2-4. Are there any pre-qualifications for bidding?

City Response: No. Refer to Project Specifications for bid requirements.

2-5. Is a hazardous materials survey available?

City Response: No.

2-6. Can contract duration be adjusted for long-lead equipment?

City Response: Yes, refer to Modification Procedures, Document 01 2600 and Progress Schedules and Submittals, Document 01 3230 of the Contract Documents for schedule modification procedures.

2-7. Will audited or reviewed financial statements be required?

City Response: No. Refer to Statement of Qualifications for Construction Projects, Document 00 4513. City reserves the right to request audited or reviewed financial statements after bid opening, but preparation or submittal of financial statements is not a requirement to bid.

2-8. Will there be an additional non-mandatory pre-bid site visit?

City Response: Yes, an additional pre-bid site visit will be held at 11AM on Thursday, September 21, 2023 at 2090 Kittredge Street, Berkeley, CA 94704.

END OF DOCUMENT

DOCUMENT 00 1113**NOTICE INVITING BIDS****ARTICLE 1 - INVITATION TO BID**

- 1.01 Notice Inviting Bids:** City of Berkeley ("City") will receive sealed Bids at City of Berkeley, Purchasing Manager's Office, located at the Martin Luther King Jr. Civic Center, 2180 Milvia Street, Third Floor, Berkeley, CA 94704, Telephone (510) 981-7320, until **Tuesday October 3, 2023** for the following public work:

**SPECIFICATION NO. 23-11600-C
CITY OF BERKELEY
Central Library HVAC Replacement
2090 Kittredge Street**

- 1.02 Project Description:** Removal and replacement of roof-top mechanical equipment and associated electrical upgrades, including ancillary work in accordance with the terms and conditions of the Contract Documents. Work shall be completed within **90** Calendar Days from the date when Contract Time commences to run.
- 1.03 Procurement of Bidding Documents:** Bidding Documents contain the full description of the Work. Bidders may obtain Bidding Documents by Tuesday September 5, 2023 from City of Berkeley's Public Works website under Current Construction Project Bid Opportunities:
http://www.cityofberkeley.info/Public_Works/Bids_-_Contracts/Current_Construction_Project_Bid_Opportunities.aspx#ConstructionProjects.
For information pertaining to the Bidding Documents, please contact the Project Manager, Titus Chen, 1947 Center Street, 4th Floor, Berkeley, CA 94704, by Email at TChen@berkeleyca.gov or by Telephone at (510) 981-6410 or by FAX **(510) 981-6390**.
- 1.04 Planholders List:**
Bidders are responsible for notifying Titus Chen, via email at TChen@berkeleyca.gov to be included on the Planholders List. Please include the following in the email subject header: "Planholders list for Specification No. 23-11600-C for Central Library HVAC Replacement". In the body of the email, please state the Name of the Company Representative, Company Name, Address, Telephone Number, Fax Number, and Email Address.
- 1.05 Instructions:** Bidders shall refer to Document 00 2113 (Instructions to Bidders) for required documents and items to be submitted in a sealed envelope for deposit into the Bid Box, located at **City of Berkeley, Purchasing Manager's Office, Martin Luther King Jr. Civic Center, 2180 Milvia Street, Third Floor, Berkeley, CA 94704, Telephone (510) 981-7320** no later than the time and date set forth in Paragraph 1.01 above.
- 1.06 Non-Mandatory Pre-Bid Site Visit:** City will conduct a non-mandatory Pre-Bid Conference and Site Visit at 2090 Kittredge Street. The location of work is open to the public during normal business or daylight hours. It is recommended that potential bidders visit the site independently to review site conditions prior to bid. City will conduct a Pre-Bid Conference and Site Visit at 2090 Kittredge Street, at 11:00AM on Tuesday September 12, 2023, and at 11:00AM on Thursday September 21, 2023.
- 1.07 Bid Preparation Cost:** Bidders are solely responsible for the cost of preparing their Bids.

- 1.08 Reservation of Rights:** City specifically reserves the right, in its sole discretion, to reject any or all Bids, to re-bid, or to waive inconsequential defects in bidding not involving time, price or quality of the work. City may reject any and all Bids and waive any minor irregularities in the Bids.

ARTICLE 2 - LEGAL REQUIREMENTS

- 2.01 Required Contractor's License(s):** A California "B" contractor's license is required to bid this contract. Joint ventures must secure a joint venture license prior to award of this Contract. Specialty work may require a specialty contractor's license, held by Bidder or a listed subcontractor.
- 2.02 Bid Alternates:** Bid alternates are identified in Document 00 4113 (Bid Form). The determination of lowest bid shall be based upon: Base contract bid price only.
- 2.03 Substitution of Securities:** City will permit the successful bidder to substitute securities for any retention monies withheld to ensure performance of the contract, as set forth in Document 00 6290 Escrow Agreement For Security Deposits In Lieu Of Retention and incorporated herein in full by this reference, in accordance with Section 22300 of the California Public Contract Code.
- 2.04 Prevailing Wage Laws:** The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in the Contract Documents. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at <http://www.dir.ca.gov/oprl/pwd/> and are deemed included in the Bidding Documents. The successful Bidder shall post the applicable prevailing wage rates at the Site.
- 2.05 Community Workforce Agreement:** This contract **WILL** be subject to the Community Workforce Agreement approved by the Berkeley City Council on June 23, 2015 (See Document 00 6580 – City of Berkeley Contracting Policies). The successful bidder and all subcontractors, at any tier, **WILL** be required to sign an Agreement to be Bound as a condition precedent to entering into any contract for this project.
- 2.06 First Source Construction Agreement:** This contract will not be subject to the First Source Construction Agreement (See Document 00 6580 – City of Berkeley Contracting Policies).
- 2.07** This contract **WILL NOT** be subject to Supplementary Conditions for Federal Funding. Section 00 7201.

END OF SECTION

DOCUMENT 00 2113**INSTRUCTIONS TO BIDDERS**

Bids are requested by City of Berkeley ("City"), for a general construction contract, or work described in general, as set forth in Document 00 1113 (Notice Inviting Bids), and the following additional terms.

ARTICLE 1 - PROCEDURES FOR SUBMISSION OF BIDS**1.01 Required Pre-Bid Conference and Site Visit**

- A. City **WILL** conduct a non-mandatory Pre-Bid Conference and Site Visit at 2090 Kittredge Street, at 11:00 AM on Tuesday September 12, 2023, and at 11:00AM on Thursday September 21, 2023. The location of work is open to the public during normal business or daylight hours. It is recommended that potential bidders visit the site independently to review site conditions prior to bid.
- B. Questions regarding the site and the Bid Documents may be sent to the City's Representative to clarify such matters as Bidders may request. The Site Visit may be the Bidders' only opportunity to investigate conditions at the Site. Other Pre-Bid Site Visits may be scheduled at City's sole discretion, depending on staff availability.
- C. City will issue Minutes of the Pre-Bid Conference, which shall constitute the sole and exclusive record and statement of the results of the Pre-Bid Conference. The Minutes issued by City are not Contract Documents.

1.02 Required Pre-Bid Investigations

- A. Prior to submission of Bid, Bidder must conduct a careful examination of Bidding Documents and understand the nature, extent, and location of Work to be performed. Refer to Document 00 7200 (General Conditions) on required pre-bid investigations.
- B. Bidders may examine any available existing conditions information (e.g., record documents, specifications, studies, drawings of previous work), as well as applicable environmental assessment information (if any) regarding the Project, which will be posted on the website location indicated in Document 00 1113 (Notice Inviting Bids), paragraph 1.03.

1.03 Bidder Questions and Answers

- A. Bidders must direct all questions about the meaning or intent of Bidding Documents to City's Project Manager in writing as indicated in Document 00 1113 (Notice Inviting Bids), paragraph 1.03. Interpretations or clarifications considered necessary by City in response to such questions will be issued by written Addenda posted to the City's website.
- B. Questions received less than ten (10) calendar days prior to the date for opening Bids may not be answered.
- C. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect, and Bidders shall not rely on oral statements.

1.04 Addenda

- A. Addenda may also be issued to modify the Bidding Documents as deemed advisable by City. Addenda shall be acknowledged by number in Document 00 4113 (Bid Form) and shall be part of the Contract Documents. A complete listing of Addenda may be secured from City on the website as indicated in Document 00 1113 (Notice Inviting Bid), paragraph 1.03.
 - 1. It is the Contractor's responsibility to check the City's website for Addenda prior to submitting their bid.

ARTICLE 2 - RECEIPT OF BIDS**2.01 Date and Time**

- A. Sealed Bids will be received by the City until the date and time indicated in Document 00 1113 (Notice Inviting Bids). All Bid envelopes will be time-stamped to reflect their submittal time. City shall reject all Bids received after the specified time and will return such Bids to Bidders unopened. Bidders must submit Bids in accordance with this Document 00 2113.

2.02 Two Envelope Bid Submission:

- A. City will receive Bids in opaque sealed 10 inch x 13 inch envelopes, containing the required items described herein.
- B. Bidders must submit Bids in two envelopes: "Envelope A – Bid Submittals" and "Envelope B – Statement of Qualifications."
- C. Bidders should mark their Bid envelopes using the name, address, identifying information and specification number, indicated in Document 00 1113 (Notice Inviting Bids).

2.03 Required Contents of "Envelope A – Bid Submittals"

- A. Document 00 4113 (Bid Form). Bidders must submit Bids on Document 00 4113 (Bid Form) in accordance with the provisions of Document 00 4113. Bidders must complete all Bid items and supply all information required by Bid documents and specifications.
- B. Document 00 4313 (Bond Accompanying Bid). Bidders must submit Document 00 4313 (Bond Accompanying Bid) accompanied by a cashier's check, certified check (certified without qualification and drawn on a solvent bank of the State of California or a National Bank doing business in the State of California) or completed form of Document 00 4313 of not less than 10% of the base Bid, payable to City and completed in accordance with the provisions of Document 00 4313.
- C. Document 00 4314 (Bidder Registration and Experience Form). Bidders must submit Document 00 4314 (Bidder Registration and Experience Form), completed in accordance with the provisions of Document 00 4314.
- D. Document 00 4330 (Subcontractor List). Bidders must submit Document 00 4330 (Subcontractors List) completed in accordance with the provisions of Document 00 4330. The Subcontractors List must include the names of all subcontractors for those subcontractors who will perform any portion of work, including labor, rendering of service, or specially fabricating and installing a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in excess of one half of one percent (0.5%) of the total Bid amount. Any violation of this requirement may result in a Bid being deemed non-responsive and not being considered.
- E. Document 00 4519 (Non-Collusion Affidavit). Bidders must submit Document 00 4519 (Non-Collusion Affidavit) completed in accordance with the provisions of Document 00 4519.
- F. Document 00 4546 (Bidder Certifications). Bidders must submit Document 00 4546 (Bidder Certification) completed in accordance with the provisions of Document 00 4546.

2.04 Required Contents of "Envelope B – Statement of Qualifications"

- A. Document 00 4513 (Statement of Qualifications for Construction Work). Bidder must submit Document 00 4513 (Statement of Qualifications for Construction Work) in accordance with the provisions of Document 00 4513.

ARTICLE 3 - BID OPENING AND EVALUATION**3.01 Determination of Apparent Low Bidder**

- A. City will open each Bidders' Envelope A at the time and place indicated in Document 00 1113 (Notice Inviting Bids), initially evaluate them for responsiveness, and determine an Apparent Low Bidder as specified herein.

- B. Apparent Low Bid will be determined solely on the total amount of all Bid items based on terms contained in Document 00 1113 (Notice Inviting Bids) and Document 00 4113 (Bid Form). All Bidders are required to submit Bids on all Bid items (including any alternates).
- C. For the purposes of award, the apparent low Bidder will be the conforming responsible Bidder offering the lowest total amount for the Total Base Bid shown in the Bid Form. Once the low bidder is determined as herein described, the City reserves the right to award any combination of Additive Bid alternates, or not award any Additive Bid alternates, as it deems to be in the best interest of the City, regardless of whether the total bid of the particular combination selected is higher or lower than any other bidder for that same combination.
- D. For the Apparent Low Bidder only, City will open Envelope B and evaluate the Apparent Low Bidder for responsiveness to the requirements of Document 00 4513 and for Responsibility.
- E. If Apparent Low Bidder is determined to be non-responsive or non-responsible, then City may proceed to the next Apparent Low Bidder's Bid pursuant to any procedures determined in its reasonable discretion, and proceed for all purposes as if this Apparent Low Bidder were the original Apparent Low Bidder.

3.02 Evaluation of Bids

- A. Bids must be full, complete, clearly written and using the required forms. Bidders shall make any change in the Bid by crossing out the original entry, entering and initialing the new entry. Bidder's failure to submit all required documents strictly as required entitles City to reject the Bid as non-responsive. All Bidders must submit Bids containing each of the fully executed documents supplied in this Project Manual.
- B. In evaluating Bids, City will consider Bidders' qualifications, whether or not the Bids comply with the prescribed requirements, unit prices, and other data, as may be requested in Document 00 4113 (Bid Form) or prior to the Notice of Award.
- C. City may conduct reasonable investigations and reference checks of Bidder and other persons and organizations as City deems necessary to assist in the evaluation of any Bid and to establish Bidder's responsibility, qualifications, financial ability and ability to perform the Work in accordance with the Contract Documents to City's satisfaction within the prescribed time. Submission of a Bid constitutes Bidder's consent to the foregoing.
- D. City shall have the right to consider information provided by sources other than Bidder. City shall also have the right to communicate directly with Bidder's surety regarding Bidder's bonds.
- E. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between written words and figures will be resolved in favor of the words.
- F. Bids shall be deemed to include the written responses of the Bidder to any questions or requests for information of City made as part of Bid evaluation process after submission of Bid.

3.03 Reservation of Rights

- A. City reserves the right to reject any or all nonconforming, non-responsive, unbalanced, or conditional Bids, and to reject the Bid of any Bidder as non-responsive as a result of any error or omission in the Bid, or if City believes that it would not be in the best interest of Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City. For purposes of this paragraph, an "unbalanced Bid" is one having nominal prices for some Bid items and enhanced prices for other Bid items.
- B. City may retain Bid securities and Bid bonds of other than the Apparent Low Bidder for a period of 90 Days after award or full execution of the Contract, whichever first occurs.
- C. City may reject any or all Bids and waive any informalities or minor irregularities in the Bids. City also reserves the right, in its discretion, to reject any or all Bids and to re-Bid the Project.

ARTICLE 4 - MANDATORY BID PROTEST PROCEDURES**4.01 Submission of Written Bid Protest**

- A. Any Bid protest in connection with the construction contract or work described in general in Document 00 1113 (Notice Inviting Bids) must be submitted in writing to the Project Manager as indicated in Document 00 1113, paragraph 1.03 before 3:30 p.m. of the fifth Business Day following opening of the Bidders' envelopes.
- B. The initial protest document must contain a complete statement of the basis for the protest.
- C. The protest must refer to the specific portion of the document that forms the basis for the protest.
- D. The protest must include the name, address, and telephone number of the person representing the protesting party.
- E. Only Bidders who the City otherwise determines are responsive and responsible are eligible to protest a Bid; protests from any other Bidder will not be considered. In order to determine whether a protesting Bidder is responsive and responsible, City may evaluate all information contained in any protesting Bidder's Bid, and conduct the same investigation and evaluation as City is entitled to take regarding an Apparent Low Bidder.
- F. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

4.02 Exclusive Remedy

- A. The procedure and time limits set forth in this paragraph are mandatory and are Bidder's sole and exclusive remedy in the event of Bid protest. Bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings. A Bidder may not rely on a protest submitted by another Bidder, but must timely pursue its own protest.

ARTICLE 5 - AWARD AND EXECUTION OF CONTRACT**5.01 Notice of Intent to Award and Submittal of Executed Contract Documents**

- A. If Contract is to be awarded, it will be awarded to the lowest responsible responsive Bidder. City will issue Document 00 5100 Notice of Intent to Award. Such Award, if made, will be made within sixty (60) calendar days after the opening of the Bid Proposals.
- B. Successful Bidder must execute and submit to City the "Required Contract Documents and Proof of Insurance" set forth below, by 5:00 p.m. of the 10th calendar Day following the Notice of Intent to Award.

5.02 Required Contract Documents and Proof of Insurance

- A. Document 00 5200 (Agreement), fully executed by successful Bidder. Submit two originals, each bearing an original signature (in blue ink) and initials on each page.
- B. Document 00 6113.13 (Construction Performance Bond), fully executed by successful Bidder and surety, in the amount set forth in Document 00 6113.13. Submit two originals.
- C. Document 00 6113.16 (Construction Labor and Material Payment Bond), fully executed by successful Bidder and surety, in the amount set forth in Document 00 6113.16. Submit two originals.
- D. Document 00 6536 (Guaranty), fully executed by successful Bidder. Submit two originals.
- E. Insurance certificates and endorsements required by Document 00 7316 (Supplementary Conditions — Insurance and Indemnification): Submit one original set.
- F. Document 006580 (City Contracting Policies), fully executed by successful bidder. Submit one original set.

5.03 Failure to Execute and Deliver Documents:

- A. If Bidder to whom Contract is awarded, within the period described in this Document 00 2113, fails or neglects to execute and deliver all required Contract Documents and file all required bonds, insurance certificates, and other documents, City may, in its sole discretion, rescind the award, recover on Bidder's surety bond, or deposit Bidder's cashier's check or certified check for collection, and retain the proceeds thereof as liquidated damages for Bidder's failure to enter into the Contract Documents. Bidder agrees that calculating the damages City may suffer as a result of Bidder's failure to execute and deliver all required Contract Documents would be extremely difficult and impractical and that the amount of Bidder's required Bid security shall be the agreed and presumed amount of City's damages.
- B. Upon such failure to timely deliver all required Contract Documents as set forth herein, City may determine the next Apparent Low Bidder and proceed accordingly. Such Award, if made, will be made within sixty (60) calendar days after the opening of the Bid Proposals.

ARTICLE 6 - GENERAL CONDITIONS AND REQUIREMENTS**6.01 Modification of Commencement of Work:**

- A. City expressly reserves the right to modify the date for the Commencement of Work under the Contract and to independently perform and complete work related to Project. City accepts no responsibility to Contractor for any delays attributed to its need to complete independent work at the Site.
- B. City shall have the right to communicate directly with Apparent Low Bidder's proposed performance bond surety, to confirm the performance bond. City may elect to extend the time to receive faithful performance and labor and material payment bonds.

6.02 Conformed Project Manual:

- A. Following Award of Contract, City may prepare a conformed Project Manual reflecting Addenda issued during bidding, which will, failing objection, constitute the approved Project Manual.

6.03 Payment Bond:

- A. If the Project described in Document 00 1113 (Notice Inviting Bids) involves an expenditure in excess of twenty-five thousand dollars (\$25,000), the successful Bidder must file a payment bond with and approved by City prior to entering upon the performance of the Work, in accordance with Civil Code § 3247.

6.04 Wage Rates:

- A. The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in the Contract Documents. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at <http://www.dir.ca.gov/oprl/pwd/> and are deemed included in the Bidding Documents. The successful Bidder shall post the applicable prevailing wage rates at the Site.

6.05 Withdrawal of Bids:

- A. Bidders may withdraw their Bids at any time prior to the Bid opening time fixed in this Document 00 2113, only by written request for the withdrawal of Bid filed with City's Purchasing Department, at 2180 Milvia Street, 3rd Floor, Berkeley, CA 94704. Bidder or its duly authorized representative shall execute request to withdraw Bid.

6.06 Ineligible Contractors and Subcontractors:

- A. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

- B. City shall not accept a Bid from a Bidder who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code section 1777.1 or 1777.7. Bidders and the Contractor who is awarded the project contract shall not utilize, or allow work by, any subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code Section 1777.1 or 1777.7. (See California Public Contract Code Section 6109.) The California Division of Labor Standards Enforcement publishes a list of debarred contractors and subcontractors on the Internet at www.dir.ca.gov/DLSE/debar.html.

6.07 Substitutions:

- A. Bidders must base their Bids on products and systems specified in Contract Documents or listed by name in Addenda. City will consider substitution requests only for "or equal items." Bidders wanting to use "or equal" item(s) may submit Document 00 6325 (Substitution Request Form) no later than 35 calendar days after Notice of Award. As a limitation on Bidder's privilege to request substitution of "or equal" items, City has found that certain items are designated as City standards and certain items are designated to match existing items in use on a particular public improvement either completed or in the course of completion or are available from one source. As to such items, City will not permit substitution. Such items are described in the Bidding Documents.

6.08 Definitions:

- A. All abbreviations and definitions of terms used in this Document 00 2113 are set forth in Document 00 7200 (General Conditions) and Section 01 4200 (References and Definitions).

END OF SECTION