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October 31, 2024

**NOTICE OF ADDENDUM
ADDENDUM 1
CONTRACT NO. 9517
PHEASANT BRANCH GREENWAY ENHANCEMENT PROJECT**

Revise and amend the contract document(s) for the above project as stated in this addendum, otherwise, the original document shall remain in effect.

SPECIFICATIONS:

REPLACE:

- Page i
- Page A-1
- Section C in its entirety

PROPOSAL:

NO CHANGES MADE TO THE PROPOSAL

PLANS:

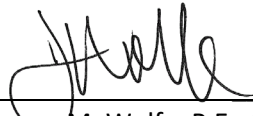
NO CHANGES MADE TO THE PLANS

Electronic version of these documents can be found on the Bid Express web site at:

<http://www.bidexpress.com>

If you are unable to download plan revisions associated with the addendum, please contact the Engineering office at 608-266-4751 receive the material by another route.

Sincerely,



James M. Wolfe, P.E., City Engineer

**PHEASANT BRANCH GREENWAY ENHANCEMENT PROJECT
CONTRACT NO. 9517**

INDEX

SECTION A: ADVERTISEMENT FOR BIDS AND INSTRUCTIONS TO BIDDERSA-1

SECTION B: PROPOSALB-1

SECTION C: TARGETED BUSINESS ENTERPRISE C-1

SECTION D: SPECIAL PROVISIONS..... D-1

SECTION E: BIDDER'S ACKNOWLEDGEMENTE-1

SECTION F: BEST VALUE CONTRACTINGF-1

SECTION G: BID BOND G-1

SECTION H: FEDERAL AND LOCAL CERTIFICATIONS H-1

SECTION I: AGREEMENT I-1

..... ADDENDUM A TO AGREEMENT: FEDERAL FUNDING COMPLIANCE REQUIREMENTS

SECTION J: PAYMENT AND PERFORMANCE BOND..... J-1

This Proposal, and Agreement have
been prepared by:

**CITY ENGINEERING DIVISION
CITY OF MADISON
MADISON, DANE COUNTY, WISCONSIN**



James M. Wolfe, P.E., City Engineer

JMW: jo

SECTION A: ADVERTISEMENT FOR BIDS AND INSTRUCTIONS TO BIDDERS

REQUEST FOR BID FOR PUBLIC WORKS CONSTRUCTION CITY OF MADISON, WISCONSIN

A BEST VALUE CONTRACTING MUNICIPALITY

PROJECT NAME:	Pheasant Branch Greenway Enhancement
CONTRACT NO.:	9517
TBE GOAL	10%
BID BOND	5%
TBE PRE BID MEETING (1:00 P.M.)	10/31/2024
PREQUALIFICATION APPLICATION DUE (2:00 P.M.)	11/7/2024
BID SUBMISSION (2:00 P.M.)	11/14/2024
BID OPEN (2:30 P.M.)	11/14/2024
PUBLISHED IN WSJ	10/24/2024, 10/31/2024, & 11/7/2024

TBE PRE BID MEETING: Pre-Bid Meetings are being held virtually. Advance registration is required. Visit the TBE Meeting web page on Engineering's web site:

<https://www.cityofmadison.com/engineering/developers-contractors/contractors/how-to-bid-public-works-contracts/small-business>.

Questions regarding TBE Program requirements may be directed to Tracy Lomax, Affirmative Action Division. Tracy may be reached at (608) 267-8634, or by email, TLomax@cityofmadison.com.

PREQUALIFICATION APPLICATION: Forms are available on our website, www.cityofmadison.com/engineering/developers-contractors/contractors/how-to-get-prequalified. If not currently prequalified in the categories listed in Section A, an amendment to your Prequalification will need to be submitted prior to the same due date. Postmark is not applicable.

SAM UNIQUE ENTITY ID REQUIRED: Prior to bid award, all bidders for this project must submit a SAM Unique Entity ID to the City for all proposed prime and subcontractors listed in the bid. Go to SAM.gov for information on getting a SAM ID.

BIDS TO BE SUBMITTED by hand to 1600 EMIL ST., MADISON, WI 53713 or online at www.bidexpress.com.

Bids may be submitted on line through Bid Express or in person at 1600 Emil St. The bids will be posted on line after the bid opening. If you have any questions, please call Alane Boutelle at (608) 267-1197, or John Fahrney at (608) 266-9091.

STANDARD SPECIFICATIONS

The City of Madison's Standard Specifications for Public Works Construction - 2024 Edition, as supplemented and amended from time to time, forms a part of these contract documents as if attached hereto.

These standard specifications are available on the City of Madison Public Works website, www.cityofmadison.com/engineering/developers-contractors/standard-specifications.

The Contractor shall review these Specifications prior to preparation of proposals for the work to be done under this contract, with specific attention to Article 102, "BIDDING REQUIREMENTS AND CONDITIONS" and Article 103, "AWARD AND EXECUTION OF THE CONTRACT." For the convenience of the bidder, below are highlights of three subsections of the specifications.

SECTION C: TARGETED BUSINESS ENTERPRISE
Instructions to Bidders
City of Madison
TBE Information

2 Targeted Business Enterprise (TBE) Information

2.1 Policy and Goal

This contract is subject to the federal targeted business enterprise (TBE) requirements set forth in Sec. 200.321 of 2 CFR Part 200, Subpart D, which reads as follows:

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

The City of Madison reaffirms its policy of nondiscrimination in the conduct of City business by maintaining a procurement process which remains open to all who have the potential and ability to sell goods and services to the City. It is the policy of the City of Madison to allow) maximum feasible opportunity to participate in City of Madison contracting. The bidder acknowledges that its bid has been submitted in accordance with the TBE program and is for the public's protection and welfare.

Please refer to the "ADVERTISEMENT FOR BIDS" for the goal for the utilization of TBES on this project. TBES may participate as subcontractors, vendors and/or suppliers, which provide a commercially useful function. The dollar value for TBE suppliers or 'materials only' vendors shall be discounted to 60% for purposes of meeting TBE goals.

A bidder which achieves or exceeds the TBE goal will be in compliance with the TBE requirements of this project. In the event that the bidder is unable to achieve the TBE goal, the bidder must demonstrate that a good faith effort to do so was made. Failure to either achieve the goal or demonstrate a good faith effort to do so will be grounds for the bidder being deemed a non-responsible contractor ineligible for award of this contract.

A bidder may count towards its attainment of the TBE goal only those expenditures to TBEs that perform a commercially useful function. For purposes of evaluating a bidder's responsiveness to the attainment of the TBE goal, the contract participation by an TBE is based on the percentage of the total base bid proposed by the Contractor. The total base bid price is inclusive of all addenda.

Work performed by an TBE firm in a particular transaction can be counted toward the goal only if it involves a commercially useful function. That is, in light of industry practices and other relevant considerations, does the TBE firm have a necessary and useful role in the transaction, of a kind for which there is a market outside the context of the TBE Program, or is the firm's role a superfluous step added in an attempt to obtain credit towards goals? If, in the judgment of the Affirmative Action Division, the TBE firm will not perform a commercially useful function in the transaction, no credit towards goals will be awarded.

The question of whether a firm is performing a commercially useful function is completely separate from the question of whether the firm is an eligible TBE. A firm is eligible if it meets the definitional criteria and ownership and control requirements, as set forth in the City of Madison's TBE Program.

If the City of Madison determines that the TBE firm is performing a commercially useful function, then the City of Madison must then decide what that function is. If the commercially useful function is that of an TBE vendor / supplier that regularly transacts business with the respective product, then the City of Madison will count 60% of the value of the product supplied toward TBE goals.

To be counted, the TBE vendor / supplier must be engaged in selling the product in question to the public. This is important in distinguishing an TBE vendor / supplier, which has a regular trade with a variety of customers, from a firm which performs supplier-like functions on an ad hoc basis or for only one or two contractors with whom it has a special relationship.

A supplier of bulk goods may qualify as an eligible TBE vendor / supplier if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment; e.g., a fleet of trucks, the term "operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party; e.g., a prime contractor, or leases such a party's trucks on an ad hoc basis for a specific job.

If the commercially useful function being performed is not that of a qualified TBE vendor / supplier, but rather that of delivery of products, obtaining bonding or insurance, procurement of personnel, acting as a broker or manufacturer's representative in the procurement of supplies, facilities, or materials, etc., only the fees or commissions will apply towards the goal.

For example, a business that simply transfers title of a product from manufacturer to ultimate purchaser; e. g., a sales representative who re-invoices a steel product from the steel company to the Contractor, or a firm that puts a product into a container for delivery would not be considered a qualified TBE vendor / supplier. The Contractor would not receive credit based on a percentage of the cost of the product for working with such firms.

Concerning the use of services that help the Contractor obtain needed supplies, personnel, materials or equipment to perform a contract: only the fee received by the service provider will be counted toward the goal. For example, use of a TBE sales representative or distributor for a steel company, if performing a commercially useful function at all, would entitle the Contractor receiving the steel to count only the fee paid to the representative or distributor toward the goal. This provision would also govern fees for professional and other services obtained expressly and solely to perform work relating to a specific contract.

Concerning transportation or delivery services: if an TBE trucking company picks up a product from a manufacturer or a qualified vendor / supplier and delivers the product to the Contractor, the commercially useful function it is performing is not that of a supplier, but simply that of a transporter

of goods. Unless the trucking company is itself the manufacturer or a qualified vendor / supplier in the product, credit cannot be given based on a percentage of the cost of the product. Rather, credit would be allowed for the cost of the transportation service.

The City is aware that the rule's language does not explicitly mention every kind of business that may contribute work on this project. In administering these programs, the City would, on a case-by-case basis, determine the appropriate counting formula to apply in a particular situation.

2.2 Contract Compliance

Questions concerning the TBE Program shall be directed to the Contract Compliance Officer of the City of Madison Department of Civil Rights, Affirmative Action Division, 210 Martin Luther King, Jr. Blvd., Room 523, Madison, WI 53703; telephone (608) 266-4910.

2.3 Certification of TBE by City of Madison

The Affirmative Action Division maintains a directory of TBEs which are currently certified as such by the City of Madison. Contact the Contract Compliance Officer as indicated in Section 2.2 to receive a copy of the TBE Directory or you may access the TBE Directory online at

<https://www.cityofmadison.com/civil-rights/contract-compliance/targeted-business-enterprise-programs/directories>.

All contractors, subcontractors, vendors and suppliers seeking TBE status must complete and submit the **Targeted Business Certification Application** to the City of Madison Affirmative Action Division by the time and date established for receipt of bids. A copy of the Targeted Business Certification Application is available by contacting the Contract Compliance Officer at the address and telephone indicated in Section 2.2 or you may access the Targeted Business Certification Application online at

<https://www.cityofmadison.com/civil-rights/contract-compliance/targeted-business-enterprise-programs/directories>.

. Submittal of the Targeted Business Certification Application by the time specified does not guarantee that the applicant will be certified as a TBE eligible to be utilized towards meeting the TBE goal for this project.

2.4 Targeted Business Enterprise Compliance Report

2.4.1 Good Faith Efforts

Bidders shall take all necessary affirmative steps to assure that TBEs are utilized when possible and that the established TBE goal for this project is achieved. A contractor who self performs a portion of the work, and is pre-qualified to perform that category of work, may subcontract that portion of the work, but shall not be required to do so. When a bidder is unable to achieve the established TBE goal, the bidder must demonstrate that a good faith effort to do so was made. Such a good faith effort should include the following:

- 2.4.1.1 Attendance at the pre-bid meeting.
- 2.4.1.2 Using the City of Madison's directory of certified TBEs to identify TBEs from which to solicit bids.
- 2.4.1.3 Assuring that TBEs are solicited whenever they are potential sources.
- 2.4.1.4 Referring prospective TBEs to the City of Madison Affirmative Action Division for certification.
- 2.4.1.5 Dividing total project requirements into smaller tasks and/or quantities, where economically feasible, to permit maximum feasible TBE participation.
- 2.4.1.6 Establishing delivery schedules, where requirements permit, which will encourage participation by TBEs.
- 2.4.1.7 Providing TBEs with specific information regarding the work to be performed.

- 2.4.1.8 Contacting TBEs in advance of the deadline to allow such businesses sufficient time to prepare a bid.
- 2.4.1.9 Utilizing the bid of a qualified and competent TBE when the bid of such a business is deemed reasonable (i.e. 5% above the lowest bidder), although not necessarily low.
- 2.4.1.10 Contacting TBEs which submit a bid, to inquire about the details of the bid and confirm that the scope of the work was interpreted as intended.
- 2.4.1.11 Completion of Cover Page (page C-6), Summary Sheet (page C-7) and TBE Contact Reports (pages C-8 and C9) if applicable.

2.4.2 Reporting TBE Utilization and Good Faith Efforts

The Targeted Business Enterprise Compliance Report is to be submitted by the bidder with the bid: This report is due by the specified bid closing time and date. Bids submitted without a completed TBE Compliance Report as outlined below may be deemed non-responsible and the bidder ineligible for award of this contract. Notwithstanding any language to the contrary contained herein, the City may exercise its discretion to allow bidders to correct or supplement submissions after bid opening, if the minor discrepancy, bid irregularity or omission is insignificant and not one related to price, quality, quantity, time of completion, performance of the contract, or percentage of TBE utilization.

- 2.4.2.1 If the Bidder meets or exceeds the goal established for TBE utilization, the Targeted Business Enterprise Compliance Report shall consist of the following:
 - 2.4.2.1.1 **Cover Page**, Page C-6; and
 - 2.4.2.1.2 **Summary Sheet**, C-7.
- 2.4.2.2 If the bidder does not meet the goal established for TBE utilization, the Targeted Business Enterprise Compliance Report shall consist of the following:
 - 2.4.2.2.1 **Cover Page**, Page C-6;
 - 2.4.2.2.2 **Summary Sheet**, C-7; and
 - 2.4.2.2.3 **TBE Contact Report**, C-8 and C-9. (A separate Contact Report must be completed for each applicable TBE which is not utilized.)

2.5 Appeal Procedure

A bidder which does not achieve the established goal and is found non-responsible for failure to demonstrate a good faith effort to achieve such goal and subsequently denied eligibility for award of contract may appeal that decision to the Small Targeted Business Enterprises Appeals Committee. All appeals shall be made in writing, and shall be delivered to and received by the City Engineer no later than 4:30 PM on the third business day following the bidder's receipt of the written notification of ineligibility by the Affirmative Action Division Manager. Postmark not acceptable. The notice of appeal shall state the basis for the appeal of the decision of the Affirmative Action Division Manager. The Appeal shall take place in accordance with Madison General Ordinance 33.54.

2.6 TBE Requirements After Award of the Contract

The successful bidder shall identify TBE subcontractors, suppliers and vendors on the subcontractor list in accordance with the specifications. The Contractor shall submit a detailed explanation of any variances between the listing of TBE subcontractors, vendors and/or suppliers on the subcontractor list and the Contractor's TBE Compliance Report for TBE participation.

No change in TBE subcontractors, vendors and/or suppliers from those TBEs indicated in the TBE Compliance Report will be allowed without prior approval from the Engineer and the Affirmative

Action Division. The contractor shall submit in writing to the City of Madison Affirmative Action Division a request to change any TBE citing specific reasons which necessitate such a change. The Affirmative Action Division will use a general test of reasonableness in approving or rejecting the contractor's request for change. If the request is approved, the Contractor will make every effort to utilize another TBE if available.

The City will monitor the project to ensure that the actual percentage commitment to TBE firms is carried out.

2.7 TBE Definition and Eligibility Guidelines

A Targeted Business Enterprise is a business concern awarded certification by the City of Madison. For the purposes of this program a Targeted Business Enterprise is defined as:

- A. An independent business operated under a single management. The business may not be a subsidiary of any other business and the stock or ownership may not be held by any individual or any business operating in the same or a similar field. In determining whether an entity qualifies as a TBE, the City shall consider all factors relevant to being an independent business including, but not limited to, the date the business was established, adequacy of its resources for the work in which it proposes to involve itself, the degree to which financial, equipment leasing and other relationships exist with other ineligible firms in the same or similar lines of work. TBE owner(s) shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their enjoyment interests, as demonstrated by an examination of the substance rather than form or arrangements that may be reflected in its ownership documents.
- B. A business that has averaged no more than \$4.0 million in annual gross receipts over the prior three year period and the principal owner(s) do not have a personal net worth in excess of \$1.32 million.

Firm and/or individuals that submit fraudulent documents/testimony may be barred from doing business with the City and/or forfeit existing contracts.

TBE certification is valid for one (1) year unless revoked.

CONTRACT NO. 9517

Targeted Business Enterprise Compliance Report

**This information may be submitted electronically through
Bid Express or submitted with bid in sealed envelope.**

Cover Sheet

Prime Bidder Information

Company: _____

Address: _____

Telephone Number: _____ Fax Number: _____

Contact Person/Title: _____

Prime Bidder Certification

I, _____, _____ of
Name Title

_____ certify that the information
Company

contained in this TBE Compliance Report is true and correct to the best of my knowledge and belief.

Witness' Signature

Bidder's Signature

Date

CONTRACT NO. 9517

Targeted Business Enterprise Compliance Report

TBE Contact Report

Submit separate copy of this form for each TBE which you are not able to utilize towards meeting the TBE goal for this project. Attach separate sheets if necessary.

TBE Information

Company: _____

Address: _____

Telephone Number: _____

Contact Person/Title: _____

1. Outline below all efforts to solicit a bid from the above TBE. Include date, means of contact, who from your company made this contact and the result.

2. Describe the information provided to the aforementioned TBE regarding the scope of work for which he/she was to provide a bid.

Is this the same scope of work on which the subcontractor you intend to utilize based his/her bid?

Yes No

3. Did this TBE submit a bid? Yes No

4. Is the General Contractor pre-qualified to self-perform this category of work?

Yes No

5. If you responded "Yes" to Question 3, please check the items below which apply and provide the requested detail. If you responded "No" to Question 3, please skip ahead to item 6 below.

The TBE listed above is unavailable for work on this project for the following reasons. Provide specific detail for this conclusion.

The TBE listed above is unqualified for work on this project. Provide specific details for this conclusion.

The TBE listed above provided a price that was unreasonable (i.e. more than 5% above the lowest bidder). Provide specific detail for this conclusion including the TBE's price and the price of the subcontractor you intend to utilize.

A contract with the TBE listed above may constitute a breach of the bidder's collective bargaining agreements. Provide specific detail for this conclusion including, but not limited to, correspondence from the TBE indicating it will not sign a project labor agreement and/or correspondence from the applicable trade union indicating a project labor agreement will not be allowed at the time of project bidding.

Other; please specify reason(s) other than listed above which made it impossible for you to utilize this TBE on this project.

6. Describe any other good faith efforts:
