

ADDENDUM NO. 3

TO THE PROGRESSIVE DESIGN-BUILD ENTITIES STATEMENT OF QUALIFICATIONS
PACKAGE
FOR THE DEPARTMENT OF PUBLIC WORKS HEADQUARTERS REPLACEMENT PROJECT
IN THE
CITY OF SAN BERNARDINO

The following changes and/or additions shall be made to the Design-Build Entities Request for Qualifications Package.

Request for Clarification Questions and Answers

1. Additional responses to the Request for Information are available in the attached document named "Addendum No.3 DPW - RFI-Responses"

Don Day

Don Day (Oct 21, 2025 12:36:37 PDT)

Don Day, Director
Project and Facilities Management Department,
Project Management

RG;la

San Bernardino County
Project and Facilities Management Department,
Project Management
620 South E Street
San Bernardino, CA 92415-0184
<http://www.pfm.sbcounty.gov/>
DATE: October 20, 2025

Addendum No.3
October 15, 2025

No.	Document; section number; and page number	Category	RFI Questions	RFI - Answer
1	1777-SAMPLE_PDB_Contracts_Exhibits; Section 10.1(c) Page 48, Section 24.2(a) Page 107, Exhibit 1 Page 2	3	We respectfully request clarification and confirmation that Contractor, consultants, and trade partners are entitled to additional cost (in addition to time) for changes in law that were unforeseeable at the time of contract execution.	The contract does not provide for additional compensation for change in law after the date of a Modification.
2	1777-SAMPLE_PDB_Contracts_Exhibits; Section 37 Page 157	3	Based on our understanding of the claim and dispute resolution process, it could take as long as 145 days from submission to resolve. We respectfully ask the County to consider an expedited process to facilitate faster resolution. We are open to exploring a time frame that is mutually agreeable should the County be open to this suggestion.	County desires to resolve all dispute in an expedited manner. All timeframes will remain as identified in SOQ documents.
3	1777-SAMPLE_PDB_Contracts_Exhibits; Section 24.7(b)(ii) Page 112	3	We respectfully request the County consider adjustments in price in cases of significant increases in the cost of materials, equipment, fuel, etc.	The County does not intend to provide for adjustments in prices of Goods due to cost increases. The risk of escalation in the price of Goods should be managed and mitigated through the preconstruction phase.
4	1777-SAMPLE_PDB_Contracts_Exhibits; Section 24.3(a)(ii)	3	Please clarify what "other entity" could include. Third party delay impacts can impose significant impact on a project that are outside Contractor's control, and we are attempting to understand a specific list of entities we may interact with such that we can appropriately plan and mitigate risk.	"Third Party" includes any entity that contracts with the County by means of a cooperative agreement, utility services agreement, or other similar agreement or that otherwise has approval rights, regarding the design, construction, reconstruction, rearrangement, or improvement of facilities owned or controlled by the Third Party, to facilitate the Project. Including but not limited to: County LUSD, City of San Bernardino for off-site improvements, County Fire District, and local utilities
5	1777-SAMPLE_PDB_Contracts_Exhibits; Section 24.6 Page 112	3	We respectfully request the County consider entitlement for additional time in the event of concurrent delay and additional cost when unrelated to delay (added scope)	The County amended Section 24.6 to allow for an extension of time during a concurrent delay. Section 24.6 covers delay costs only; there is nothing in the Section that would preclude additional costs for extra work unrelated to a delay. Please see Addendum No.2.
6	1777-SAMPLE_PDB_Contracts_Exhibits; Section 37.1 Page 157	3	We respectfully request the County consider mandatory mediation followed by binding arbitration in lieu of litigation.	The County does not intend to make the requested change. County Policy 11-05 does not permit binding arbitration.
7	1777-SAMPLE_PDB_Contracts_Exhibits; Section 37.1(g) Page 161	2	We respectfully ask the County to consider removing this term, or amending it, such that it provides reasonable relief to the Contractor, consultants, and trade partners to resolve matters that may not be reasonably identified or considered in the prosecution or resolution of the Work.	The County does not intend to make any changes to Section 37.1(g). The Section only applies to claims after Final Acceptance and not claims already notified to the County.
8	1777-SAMPLE_PDB_Contracts_Exhibits; Section 27.1, 27.1(a), 27.1(b) Pages 124-126	2	We respectfully ask the County to consider limiting the indemnification to third-party claims, bodily injury or property damage, and claims resulting from Contractor's negligence. The general indemnity requirement is overbroad and uninsurable.	Please refer to Addendum No.2.
9	1777-SAMPLE_PDB_Contracts_Exhibits; Section 40.17 Page 174	1	We respectfully request the County insert a mutual waiver of consequential damages clause. Pursuant to California Public Contracting Code Section 7203, a public entity may only pursue liquidated damages for Contractor's delay to the work.	The County amended language under Addendum No.2.
10	1777-SAMPLE_PDB_Contracts_Exhibits; Section 28(b)(1A, 1B) Page 128-129	1	Article 28.1(b)(i)(A) states that the Contractor must ensure that Subcontractors performing Phase 1 Work or Early Work are appropriately insured applicable to the scope of Work to be performed and in accordance with Good Industry Practice. However Article 28.1(b)(i)(B) imposes the same requirements of the Contractor on any Work by Subcontractors involving the commencement of physical Construction Work. Subcontractors and Consultants will not be able to comply with the \$20,000,000 CGL and \$20,000,000 Umbrella/Excess requirements. Any attempts to do so will add significant unnecessary cost to the project. Please revise the Subcontractor requirement in Article 28.1(b)(i)(B) to match Article 28.1(b)(i)(A) and allow Contractors to determine limits for subcontractors.	Subcontractor insurance for the Phase 2 Work under Exhibit 7 is to be negotiated by the Parties once the scope of such work is further defined under Phase 1. See, for example, Section 2.3(b) and Exhibit 11, Part B, Section 4(e).

Addendum No.3
October 15, 2025

No.	Document; section number; and page number	Category	RFI Questions	RFI - Answer
11	1777-SAMPLE_PDB_Contracts_Exhibits; Section 1.3 Pages 5-7, Section 4.3 Page 25, Section 4.5(f) Page 26	3	We respectfully request the County consider amending these sections to reprioritize the order of precedence to start with Contract Documents and Design-Build Documents as the design is reviewed and approved. We also respectfully request that approvals obtained by the Contractor from the County are to be considered formal direction and binding.	1) The County does not intend to make the requested change. 2) See the definition in Exhibit 1 of the contract for "Approve" or "Approval".
12	1777-SAMPLE_PDB_Contracts_Exhibits; Exhibit 1, Page 2	2	Regarding the definition of "Applicable Law", we respectfully request the phrase "whether taking effect before or after the date of this Contract".	The definition of "Applicable Law" already includes the requested phrase.
13	1777-SAMPLE_PDB_Contracts_Exhibits; Section 41.17 Pages 174-177	1	We respectfully request the County to remove the exclusion of indemnification amounts from the limit of liability.	The County does not intend to make the requested change. The exclusion of the indemnity from the limit of liability is limited to third party claims.
14	1777-SAMPLE_PDB_Contracts_Exhibits; Section 30 Pages 137-140	2	We respectfully request the County to reconsider the Contractor's ability to suspend services due to the County's failure to pay undisputed amounts, etc.	The County does not intend to make the requested change. Time is of the essence for the performance of Work under the contract and the Contractor's remedy for County's failure to pay is the claim and dispute resolution provisions under the Contract.
15	1777-SAMPLE_PDB_Contracts_Exhibits; Section 33 Page 147	2	We respectfully request the County consider amending the language to include transfer of ownership to be conditioned on payment and grant of license as long as County remains current in its payment obligations. We also request County indemnification of Contractor for any County-provided IP, and Contractor indemnification must be insurable.	Section 33.1(a) already provides that title to the work passes to the County at the time of payment. The County intends to make the requested change to condition the grant of license on the County being current on its payment obligations. County Policy 11-05 does not permit indemnification of a contractor.
16	1777-SAMPLE_PDB_Contracts_Exhibits; Section 23.3	2	We respectfully request the County not apply retention, deductions, withholding and offsets to professional services, which are performed in the month prior to billing.	Section 23.3 applies to Phase 2 work only.
17	1777-SAMPLE_PDB_Contracts_Exhibits; Exhibit 7 Pages 1-2	1	We respectfully request the removal of "agents" and request the identification of all additional insured in the Agreement. We also request that any insurance changes be compensable.	The County intends to make the requested change by clarifying the definition for "Indemnified Parties". Any changes to the insurance requirements would be through change order or negotiated and priced as part of the Phase 2 Work. Please refer to Addendum No. 2.
18	RFQ, Project Description and Project Scope - Environmental Approvals	4	Phase 2 commences with the environmental processes (by others); "completed prior to and/or concurrently with the completion of Phase 1." With the prospect of Liquidated Damages, is it possible to commence Early Work procurement with Phase 2 activities prior to CEQA approval?	See Section 2.1(b) of the Contract for a description of permitted Work during the pendency of the environmental review process. A delay in the environmental review process would fall within the definition for "Compensable Delay" under Section 24.3(b) of the Contract, entitling the contractor to additional costs and time to perform the Work.
19	Section 4.7 B.iii.A Phase 2 Margin PercentagePage 41	2	Please confirm that self-performed work can be marked up as the work would be if the work were procured in a competitive fashion taking into consideration market conditions for that trade. Contractor will still have to demonstrate self-perform work will be advantageous to the County.	The Phase 2 Margin Percentage is to be bid by the Contractor as part of its Price Proposal and must include the markup for the Contractor and any Subcontractors that are Affiliates of the Contractor, unless the Contractor demonstrates to the reasonable satisfaction of the County that the Affiliate operates as an independent entity with a separate profit center and separate home office overhead from the Contractor and the Subcontract with such Affiliate includes terms and conditions no less favorable than those that Contractor could reasonably obtain in an arms' length, competitively procured transaction with an unaffiliated Contractor. See RFQ-P Section 4.7(b)(iii)(A).
20	Section 4.7 B.iii.C Phase 2 Margin PercentagePage 41	3	The RFQ/P states that fee for the purpose of evaluation will be multiplied by the Construction Cost. Can you clarify how fee will be calculated in Phase 2? As an example - will fee be applied to design costs for the design-builder?	No, the Phase 2 Work only includes Construction Work (not Design Work), and therefore the Phase 2 Margin Percentage is only applied to Construction Costs.