

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>				1. CONTRACT ID CODE <b>J</b>	PAGE OF PAGES <b>1</b>   <b>3</b>
2. AMENDMENT/MODIFICATION NO. <b>0001</b>		3. EFFECTIVE DATE <b>19-Mar-2003</b>	4. REQUISITION/PURCHASE REQ. NO. <b>W81G67-2212-3587</b>		5. PROJECT NO.(If applicable)
6. ISSUED BY CONTRACTING DIVISION USAGE - ST PAUL 190 5TH STREET E ST PAUL MN 55101-1638		CODE <b>DACW37</b>	7. ADMINISTERED BY (If other than item 6) CONTRACTING DIVISION ATTN: BILL HURLEY PHONE: 651-290-5416 MN		CODE
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)				<input checked="" type="checkbox"/> 9A. AMENDMENT OF SOLICITATION NO. <b>DACW37-02-B-0016</b>	
				<input checked="" type="checkbox"/> 9B. DATED (SEE ITEM 11) <b>10-Mar-2003</b>	
				10A. MOD. OF CONTRACT/ORDER NO.	
				10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE			
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>					
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offer 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)					
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>					
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 <input type="checkbox"/> is not, <input type="checkbox"/> 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.) This amendment highlights a new GAO Decision on the submission of bid bonds. Specifications are amended.					
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)		
			TEL: _____ EMAIL: _____		
15B. CONTRACTOR/OFFEROR  _____ (Signature of person authorized to sign)		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA  BY _____ (Signature of Contracting Officer)		16C. DATE SIGNED

## SECTION SF 30 BLOCK 14 CONTINUATION PAGE

**SUMMARY OF CHANGES****1. NOTICE TO BIDDERS:**

The purpose of this amendment is to advise the bidders of a recent bid protest decision by the Comptroller General regarding the validity of bid bonds accompanied by powers-of-attorney that do not contain original certifications. A copy of that decision (Matter of: All Seasons Construction, Inc., B-291166.2, December 6, 2002) is available at <http://www.mvp.usace.army.mil/docs/doingbus/GAOB-2911662.pdf> in PDF format. That decision is significant because some powers-of-attorney that we considered valid prior to that case may now be invalid. Please note that an invalid power-of-attorney makes the bid bond invalid – an invalid bid bond makes the bid nonresponsive – a nonresponsive bid can not be corrected after bid opening and must be rejected.

Our Bid Schedule Note (13) on Bid Bonds has been updated accordingly and the revised paragraph c is printed below for your reference. Bidders may wish to make this information available to their sureties and bonding agents. Bidders are also advised to submit their bid bond with either: (a) an original power-of-attorney or (b) a power-of-attorney containing an original certification. Bidders doing otherwise bear the risk that their bid will be rejected.

**THE BID NOTE 13 CONTAINED IN THE SOLICITATION IS AGAIN PROVIDED:**

## 13. Bid Bonds

- a. It is the responsibility of the bidder to include an acceptable bid guarantee with their bid. This bid note does not provide bidders with an all-inclusive checklist for submitting an acceptable bid bond – rather, it provides some “lessons learned” information as to the unacceptability of photocopied bid bonds.
- b. This solicitation requires bidders to submit a bid guarantee along with their bids (see clause 52.228-1). One acceptable form of bid guarantee is a bid bond. For a bid to be responsive, the bid bond accompanying the bid must unequivocally bind the bonding company – if it does not, the bid must be rejected as non-responsive. Please note that a non-responsive bid may not be corrected after bid opening to make it responsive – it must be rejected. The Contracting Officer has the authority and responsibility to determine whether the bid bond and its accompanying documentation clearly show that the person(s) executing the bid bond on behalf of the surety have the authority to unequivocally bind the bonding company. In order for a bid bond to be acceptable, it must be accompanied by a valid power-of-attorney issued by the surety (the bonding company, not the insurance agency writing the bond).
- c. Photocopied or faxed powers-of-attorney are not acceptable. In order for a power-of-attorney accompanying a bid bond to be acceptable, it must be: (i) an original power-of-attorney (containing all original signatures) or (ii) a copy of a power-of-attorney accompanied by an original certification (original means original signature) by the secretary (or other authorized officer) of the surety stating that the copied power-of-attorney is still in full force and effect as of the date of the certification and has not been revoked. An original signature is one that (I) has been added at the time of the certification and (II) is manually affixed to the power of attorney (not computer generated). The presence of an original seal (a raised, crimped corporate seal or a paper or foil corporate seal that is manually attached) at

the certification block of a power-of-attorney is **not** a substitute for an original signature.

**2. The following specifications are amended to read:**

Specification Section 05502, paragraph 1.1. Add the following reference:

“ASTM A-36 (2003) Standard Specification for Carbon Structural Steel”:

Specification Section 05502, paragraph 2.1.1. Change the title of this paragraph from “Flap Gates” to “Flap Gates for Connection to Concrete Headwall”.

Specification Section 05502. After paragraph 2.1.4, add the following paragraphs:

“2.1.5 Flap Gates for Connection to Reinforced Concrete Pipe

The Contractor shall furnish and install circular flap gate culverts as shown. The frame shall be cast iron, ASTM A-126, Class B, with setting collar for concrete pipe. Seating surface shall be inclined from vertical at a minimum of 2-1/2 degrees to assure positive closure. The cast iron cover, ASTM A-126, Class B, with domed construction to withstand maximum seating head, shall have machined seats, and be attached to the frame in such a manner as to allow proper seating and full opening of cover. Built in stops shall be provided to prevent the cover from rotating sufficiently to become wedged in the open position. The linkage system shall be of the double pivoted type, attached to fixed, bronze bushed, pivot points on cover and frame. Hinge links shall be structural steel, ASTM A-36, which along with assembly hardware, ASTM A-307, shall be galvanized. Cast iron frame and cover shall be coated with manufacturer's standard shopcoat paint. The drainage gate shall be designed to allow free outflow and prevent backflow for maximum seating heads of 10 feet. Gate shall be Waterman Model F-10C, or equal.

2.1.5.1 Spare Parts for Flap Gate

The Contractor shall furnish the following spare parts:

- 1) Hinge arms (one arm for each size gate).
- 2) Hinge pins (complete replacement for each size gate).
- 3) Resilient seats (complete replacement for each size gate).
- 4) Hinge bushings (if used) (complete replacement for all gates).”

(End of Summary of Changes)