DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe

Flex your power!
Be energy efficient!

February 20, 2014

Facsimile: (530) 365-5465

Robert B. Moseman, Vice President
Shasta Constructors, Inc.
P.O. Box 491539
Redding, CA 96049

02-4E6304
02-Sis-96-56.0
B.O. 01/29/2014

Dear Mr. Moseman:

The Department of Transportation (Caltrans) received the attached letter dated February 12, 2014, from Shasta Constructors, Inc. (Shasta) protesting the DBE Commitment form submitted by Hayes & Sons, Inc. (Hayes). The protest alleges that Hayes did not submit written confirmation from each proposed DBE listed two subcontractors for piling construction, and did not submit good faith effort. Shasta requests Caltrans find Hayes nonresponsive.

Caltrans did not complete an evaluation of this protest since the bid submitted by Hayes was found nonresponsive. It should be noted that there was an error when Caltrans uploaded the Preliminary Bid Summary. It read that Hayes listed Ava K. Early and Northern Industrial Electrical, as piling subcontractors. Hayes actually listed Ava K. Early to perform cast in place piling and Northern Industrial Electric to perform temporary flashing beacon.

Based on the above action, Caltrans will proceed to award the contract to the lowest responsible bidder provided that all requirements have been met.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment

SHASTA CONSTRUCTORS, INC.

GENERAL ENGINEERING CONTRACTORS

P.O. BOX 491539 REDDING, CA 96049
530/365-3930 FAX 530/365-5465
Level Construction Supply

(510) 568-3998

02-4E6304

February 12, 2014

Office of the Engineer
State of California Department of Transportation
1727 30th Street
Sacramento, California 95816-7005

Attention: Earl Seaberg, Chief, Office of Contract Awards & Services
Chris Cummings, Area Construction Manager, North Region Construction
Fax: (530) 225-5329 & (916) 227-6282

Dear Gentlemen:

Shasta Constructors, Inc. ("Shasta") hereby gives notice of its protest of the bid submitted by Hayes And Sons Inc ("Hayes") in the State of California, Department of Transportation ("Caltrans") project referenced above. Caltrans has now posted original subcontractor listings and bid results, 24 hour subcontractor listings, and fourth day DBE Commitment and Good Faith Effort forms. The basis of this protest is as follows:

1. HAYES LISTED TWO SUBONTRACTORS FOR PILING CONSTRUCTION

Public Contract Code Section 4106 states in pertinent part:

"If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractors bid, the prime contractor agrees that he or she is fully qualified to perform that portion of the work himself or herself, and that the prime contractor shall perform that portion himself or herself."

As shown in the Caltrans Bid Summary, Hayes listed in his bid both Ava K Early and Northern Industrial Electric for "Piling" and cannot therefore subcontract that particular work to either listed subcontractor.

2. HAYES USED ONE OF TWO LISTED PILING SUBCONTRACTORS AS A DBE

Hayes utilized Ava K Early to help fulfill contract DBE requirements; however, since this contractor cannot be employed for "Piling," then that portion of work cannot be counted toward DBE participation.

3. HAYES DID NOT SUBMIT A GOOD FAITH EFFORT

Section 2-1.12B(3) for this contract requires that the Good Faith Efforts documentation must be submitted within the required time frame to protect the eligibility for award in the event the Department finds that the DBE goal has not been met. Hayes submitted no good faith effort documentation.

4. HAYES DID NOT SUBMIT CONFIRMATION FROM EACH PROPOSED DBE

Special Provisions Section 2-1.12B(2) for this contract requires that the DBE Commitment Submittal must include written confirmation from each DBE shown stating that it will be participating in the contract. A copy of a DBE's quote satisfies this requirement. Hayes did not submit either.

5. MISSING DOCUMENTATION IS TOO LATE

Section 2-1.33 for this contract provides a table requiring submittal of all the above referenced DBE information prior to 4 PM on the 4th business day after bid opening. The bidding documents for the issues discussed in this letter are not conditional; they are absolute. Hayes field to meet bidding requirements and Hayes' must be held nonresponsive.

Respectfully Submitted,

SHASTA CONSTRUCTORS, INC.

Robert B. Moseman, V.P.

Credit for materials or supplies you purchase from DBEs counts toward the goal in the following manner:

1. 100 percent if the materials or supplies are obtained from a DBE manufacturer.
2. 60 percent if the materials or supplies are obtained from a DBE regular dealer.
3. Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies, if they are obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit toward the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(1)–(4), (6).

2-1.12B(2) DBE Commitment Submittal

Submit DBE information under section 2-1.33.

Bidders other than the apparent low bidder, the 2nd low bidder, and the 3rd low bidder are not required to submit the DBE commitment form unless the Department requests it. If the Department requests a DBE commitment form from you, submit the completed form within 4 business days of the request.

Submit written confirmation from each DBE shown on the form stating that it will be participating in the Contract. Include confirmation with the DBE commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE will be participating in the Contract.

2-1.12B(3) Good Faith Efforts Submittal

If you have not met the DBE goal, complete and submit the Good Faith Efforts Documentation under section 2-1.33 showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed toward obtaining participation by DBEs are considered.

If your DBE commitment form shows that you have met the DBE goal or if you are required to submit the DBE commitment form, you must submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Department finds that the DBE goal has not been met.

The Department may consider DBE commitments of the 2nd and 3rd bidders in determining whether the low bidder made good faith efforts to meet the DBE goal.

2-1.13–2-1.14 NOT USED

2-1.15 DISABLED VETERAN BUSINESS ENTERPRISES

2-1.15A General

Section 2-1.15 applies to a non-federal-aid contract.

Take necessary and reasonable steps to ensure that DVBEs have opportunity to participate in the Contract.

Comply with Mil & Vet Code § 999 et seq.

2-1.15B Projects $5 Million or Less

Section 2-1.15B applies to a project with an estimated cost of $5 million or less.

Make work available to DVBEs and select work parts consistent with available DVBE subcontractors and suppliers.

Meet the goal shown on the *Notice to Bidders*.

Complete and submit the Certified DVBE Summary form under section 2-1.33. List all DVBE participation on this form.

If a DVBE joint venture is used, submit the joint venture agreement with the Certified DVBE Summary form.

List each 1st-tier DVBE subcontractor on the Subcontractor List form regardless of percentage of the total bid.

Under Pub Cont Code § 6107, the Department gives preference to a "California company," as defined, for bid comparison purposes over a nonresident contractor from any state that gives or requires a preference to be given to contractors from that state on its public entity construction contracts.

Complete a California Company Preference form.

The California company reciprocal preference amount is equal to the preference amount applied by the state of the nonresident contractor with the lowest responsive bid unless the California company is eligible for a small business preference or a non-small business subcontractor preference, in which case the preference amount is the greater of the two, but not both.

If the low bidder is not a California company and a California company's bid with reciprocal preference is equal to or less than the lowest bid, the Department awards the contract to the California company on the basis of its total bid.

2-1.28 NOT USED

2-1.29 OPT OUT OF PAYMENT ADJUSTMENTS FOR PRICE INDEX FLUCTUATIONS

You may opt out of the payment adjustments for price index fluctuations specified in section 9-1.07. To opt out, submit a completed Opt Out of Payment Adjustments for Price Index Fluctuations form under section 2-1.33.

2-1.30–2-1.32 NOT USED

2-1.33 BID DOCUMENT COMPLETION AND SUBMITTAL

Complete forms in the *Bid* book.

Complete and submit the *Bid* book under the *Electronic Bidding Guide* at the Bidders' Exchange website.

Submit the forms and form information at the times shown in the following table:

Bid Form Submittal Schedule				
Contract type	Forms to be submitted at the time of bid	Forms to be submitted no later than 24 hours after bid opening[a]	Forms to be submitted no later than 4 p.m. on the 2nd business day after bid opening[a]	Forms to be submitted no later than 4 p.m. on the 4th business day after bid opening[a]
All contracts	• Bid to the Department of Transportation • Business name and location; description of subcontracted work on the Subcontractor List • Opt Out of Payment Adjustments for Price Index Fluctuations[c]	• Bid item nos. and percentage of bid item subcontracted on the SubcontractorList[b]	--	--
Non-federal-aid contracts only	• California Company Preference • Request for Small Business Preference or Non-Small Business Preference[c]	--	• Certified Small Business Listing for the Non-Small Business Preference[c]	• Certified DVBE Summary[d]
Federal-aid contracts only	• Small Business Status	--	--	• Caltrans Bidder - DBE - Commitment[e] • Good Faith Efforts Documentation - DBE[f]

STATE OF CALIFORNIA — B I D S U M M A R Y — DEPARTMENT OF TRANSPORTATION

BID211
PAGE 1
01/30/14
CONTRACT CODE 'B '
80 CONTRACT ITEMS

BID OPENING DATE 01/29/14
CONTRACT NUMBER 02-4E6304
LOCATION 02-SIS-96-56.0

IN SISKIYOU COUNTY NEAR SEIAD VALLEY AT 3.5 MILES EAST OF THOMPSON CREEK BRIDGE

REPLACE CULVERT WITH BRIDGE.

FEDERAL AID SHRP-P096-(053)

DB GOALS: DISADVANTAGED BUSINESS ENTERPRISE - 11.0%
PROPOSALS ISSUED 11 FUND TOTAL 0 TOTAL NUMBER OF WORKING DAYS 105

NUMBER OF BIDDERS 7 ENGINEERS EST 1,730,998.25 AMOUNT OVER 224,235.25 PERCENT OVER EST 12.89

BID RANK	BID TOTAL	BIDDER ID	BIDDER INFORMATION (NAME/ADDRESS/LOCATION)	
1	1,963,233.50	4	WAYES AND SONS INC. PO BOX 258 HAPPY CAMP CA 96039	530 493-2679 00515569 FAX 530 493-2922
2	2,312,605.00	2	SHASTA CONSTRUCTORS, INC. P.O. BOX 491539 REDDING CA 96049	530 365-3930 00494255 FAX 530 365-5465
3	2,389,390.00	5	STEWART ENGINEERING INC PO BOX 990010 REDDING CA 96099-0010	530 244-8464 00796880 FAX 530 244-8462
4	2,404,943.99	7	SHASTA SERVICES, INC. DBA TIMBERWORKS 509 S. MT. SHASTA BLVD MOUNT SHASTA CA 96067	530 926-4093 00449510 FAX 530 926-2118
5	2,614,121.00	3	R. BROWN CONSTRUCTION COMPANY, INC. P.O. BOX 406 WILLOW CREEK CA 95573-0406	530 629-3700 00634826 FAX 530 629-2800
6	2,778,790.00	6	J. F. SHEA CONSTRUCTION, INC. P.O. BOX 494519 REDDING CA 96049	530 246-4200 00769989 FAX 530 246-9900

02-4E6304
02-SIS-96-5
01/29/14

BID211
PAGE 3
01/30/14

LIST OF SUBCONTRACTORS

BIDDER ID	NAME AND ADDRESS	DESCRIPTION OF PORTION OF WORK SUBCONTRACTED
03	APEX FENCING CO. INC. ANDERSON CA	BRIDGE RAIL, AND MISC ITEMS
	APEX FENCING CO. INC. ANDERSON CA	ITEMS 65, 78, 79, 80, , 81, 82 & 83
	APPLY-A-LINE INC ANDERSON CA	ITEMS 4, 5, 6, 21 & 05
	APPLY-A-LINE INC ANDERSON CA	STRIPPING
	AVA K EARLY REDDING CA	CAST IN DRILLED HOLE PILE
	AVA K EARLY REDDING CA	ITEMS 47, 40, 49 & 86
	CAMBLIN STEEL SERVICES INC. ROCKLIN CA	ITEMS 62 & 63
	CAMBLIN STEEL SERVICES INC. ROCKLIN CA	REBAR, STEEL
	J. F. SHEA CONSTRUCTION, INC. REDDING CA	ITEMS 26, 27 & 28
	J. F. SHEA CONSTRUCTION, INC. REDDING CA	POLYESTER CONCRETE
	KIE- CON INC. ANTIOCH CA	ERECT PRE-CAST STRUCTURE

CONTINUED ON NEXT PAGE

02-4E6304
02-SIS-96-5
01/29/14

DID211
PAGE 1
01/30/14

LIST OF SUBCONTRACTORS

BIDDER ID	NAME AND ADDRESS	DESCRIPTION OF PORTION OF WORK SUBCONTRACTED
04	KIE- CON INC. ANTIOCH CA	ITEMS 58, 59 & 60
	NITTA EROSION CONTROL LOOMIS CA	EROSION CONTROL
	NITTA EROSION CONTROL LOOMIS CA	ITEM 40
	NORTHERN INDUSTRIAL ELECTRIC REDDING CA	ITEMS 5, 06 & 07
	NORTHERN INDUSTRIAL ELECTRIC REDDING CA	PILING
	SCHNAGER DAVES, INC SAN JOSE CA	ITEM 50
	SCHNAGER DAVES, INC SAN JOSE CA	POST-TENSIONING

** Transmit Conf.Report **

P.1 Feb 21 2014 11:14am

CALTRANS CONTR AWARDS Fax 916-227-6282

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915303655465	Normal	21:11:13am	1'24"	8	# O K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

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