



05-02-16P12:29 RCVD

May 2, 2016

Jeff Defevere, Office Chief

Department of Transportation Division of Engineering Services

Office Engineer

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02-4E6404

02-Plu-147-8.9/9.3

B.O. 3/30/16

Dear Mr. Defevere:

This correspondence is submitted as a follow-up to telephone conversations with your office with respect to Steelhead's DBE commitment submittal for the above referenced project.

Steelhead entered Dirt & Aggregate Interchange for the entire scope of work shown on their proposal prior to bid, on Subcontractor Page 7 & 8 in BidX. The first step for entering subcontractor information is to check "yes" in the BidX "List this Sub" box. The Dirt & Aggregate Interchange proposal included more bid items than could be entered on one page. When Page 7 was full, remaining items were listed on Page 8.

Steelhead also listed all Dirt & Aggregate Interchange's work on the DBE Commitment form submitted after the bid.

Not until your letter of April 19, 2016, was Steelhead aware that Subcontractor Page 7 had not been included in the BidX submittal. Page 7 was not listed in the bid because the above referenced box did not register "yes" or "no" but was blank. This was purely an unintentional input error akin to a typographical error. Since we entered "yes" and then proceeded to enter all of the subcontractor information and all of the bid items that would fit on that page, we do not know how that box became blank.

Steelhead achieved the 6% DBE goal without needing to list Dirt & Aggregate Interchange for any participation at all. Without the Page 7 bid items, the DBE percentage of the Steelhead Bid was 7.42%. With the Page 7 bid items the DBE percentage is 8.29%. Had we been aware that Page 7 was not included in our bid submittal, we would not have listed them for any of the items on Page 7 in our DBE Commitment Form. We had no intention of trying to add DBE participation or change Dirt & Aggregate



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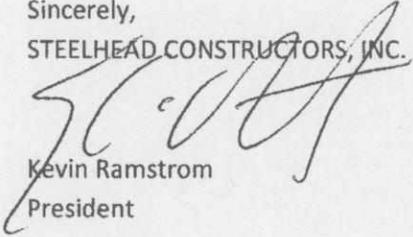
Interchange's scope of work after the bid. Since the next two bidders also listed them for all of the same items Steelhead tried to list them, there is no bid advantage to anyone.

Steelhead requests that you review its bid noting Page 7 is missing and the attached printout from our bid showing that Page 7 was properly completed with exception of the selection box being blank. This is evidence of an inconsequential mistake that the department has full authority and discretion to deem trivial. Valley Crest Landscape, Inc. v. City Council of the City of Davis (1996) 66 Cal.App.4th 1432, 1442. Moreover, under the present set of facts, ignoring the low bid of Steelhead would be adverse to the best interests of the public and contrary to public policy. MCM v. City of County of San Francisco (1998) 66 Cal.App.4th 359, 370.

After evaluating this information, Steelhead respectfully requests that the Department reverse its erroneous initial finding and deem the bid of Steelhead Constructors, Inc. responsive with the DBE goal achieved and in compliance with subcontractor listing law requirements. If the Department stands by its initial determination and awards the contract to the second low bidder, the Steelhead will have no choice but to seek a writ of mandate from the courts. Hopefully, this will not be necessary.

Thank you in advance for your careful consideration of the points raised in the letter.

Sincerely,
STEELHEAD CONSTRUCTORS, INC.



Kevin Ramstrom
President

Pc: Bid Correspondence