



General Engineering Contractors – Paving, Chip Seal, Oil Spreading

4522 Parker Ave. Bldg 700 Ste. 350 • McClellan, CA 95652 • TELEPHONE (916) 383-1756 FAX

(916) 383-4084 STATE CONTRACTORS LICENSE # 1005314

February 4, 2016

Via U.S. Mail and Facsimile (916) 227-6282

Mr. Cory Binns
MSC 43
Office Engineer Deputy Division Chief
California Department of Transportation
1727 30th Street
Sacramento, Ca 95816-7005

Attn: Cory Binns, Deputy Division Chief

Re: 03-ED-50-58.0/67.6 Cold Plane & Surface HMA Surfacing (Bonded Wear Course)
Caltrans Contract No. 03-0G3704
TPT Bid No. P16015

Subject: Formal Bid Response

Dear Mr. Binns,

We have reviewed TPT's bid submitted on January 27, 2016, and believe it is fully compliant with the requirements imposed by Caltrans' 2010 Revised Standard Specification ("RSS") 2-1.10; further, TPT believes the Subcontractor List form has been properly completed as outlined in the RSS. Further, even if there were a minor irregularity here, it is an irregularity that Caltrans has the discretion to waive because it does not confer TPT with a competitive advantage.

Telfer listed two subcontractors: Central Striping Service Inc. ("CSSI") of Rancho Cordova, CA and St. Francis Electric of Hayward, CA ("SFE"). The RSS require the following information to be submitted with the bid: Subcontractor Name, Address, and work portions to be performed by each subcontractor listed, "show work portions by bid item number, description (only if the bid item listed is less than 100 percent) and *the percentage of each bid item subcontracted.*" (emphasis added.) Please see our electronically submitted bid, attached, which provides each such item of information.

For CSSI, TPT included the subcontractor's name, address, license number, contractor registration number, and work portions to be performed by the subcontractor listed. TPT showed the work portions by bid item number, description of work for Items 18, 19, 20, 21, 22, 23 and 24; TPT showed the percentages in decimal format, a method that the RSS do not preclude, at 100 percent of



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the work and Item 14 at 49 percent (.49) of the Item. We have also attached a copy of CSSI's quote on bid day to confirm the percentage stated.

Similarly, for SFE, TPT included all of the required information. The work portions are shown by bid item number, description of work for Items 25 and 26, and in decimals, percent of the work, Item 25 at 50 percent of Item 25, and 95 percent of Item 26. We have also attached a copy of SFE's quote on Bid day to confirm the percentage stated.

In relationship of the definition of percentage, it is a fraction or ratio with 100 understood as the denominator; for example, 0.98 equals a percentage 98. Again, nothing in the RSS precludes this method for listing percentages. Meriam Webster's dictionary defines percentage as "the number or rate that is expressed as a certain number of parts of something divided into 100 parts; we see no material difference in the listing of this value in fractions.

Even if the listing of the portion of work by decimal versus percentage were deemed an irregularity, it is a minor irregularity at best that Caltrans has the discretion to waive bid that substantially conforms to the call for bids is acceptable when the variance is inconsequential. *Ghilotti Construction Co. v. City of Richmond*, 53 Cal.Rptr.2d 389, 390 (1996). Under established California law, a deviation or irregularity is material only if it does any one of the following: (1) affects the amount of the bid; (2) confers the bidder a competitive advantage; or (3) provides a basis for the bidder to assert a mistake without forfeiture of its bid bond under Public Contract Code section 5103. *Konica Business Machines USA, Inc. v. Regents of the Univ. of Calif.*, 206 Cal. App. 3d 449, 454-455 (1988); *Valley Crest Landscape v. Davis*, 41 Cal. App. 4th 1432, 1442 (1996) (the only irregularity that cannot be waived is one that is so material that it confers a competitive advantage). None of these circumstances exist. *M. F. Kemper Constr. Co. v. Los Angeles*, 37 Cal. 2d 696, 703 (1951) ("Generally, relief is refused for error in judgment and allowed only for clerical or mathematical mistakes").

In *Ghilotti Construction Co. v. City of Richmond*, 45 Cal. App. 4th 897 (1996), the California Court of Appeal ruled that it would "amount to a disservice to the public" to "cancel the low bid on minor technicalities ... Such a construction would be adverse to the best interests of the public and contrary to public policy." This at best minor irregularity is not a basis for bid relief and should not be a basis for awarding the contract to anyone other than TPT.

We are requesting that Caltrans extend award of the project while we work to resolve this issue. TPT extends our bid until this matter is resolved.

We are confident that Caltrans' further examination of the facts will assuage its concerns and support a determination that TPT in fact submitted the lowest responsive bid for the contract.



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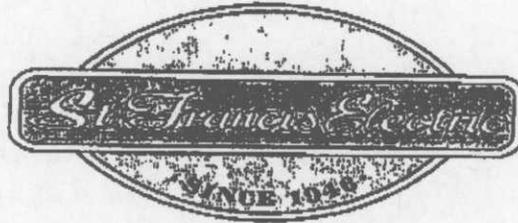
(916) 383-4084 STATE CONTRACTORS LICENSE # 1005314

Mike Fain
Vice President of Construction
CC: Mike Fain, Karl Meyers, Steve Olsen Job File

01/27/2016 13:11

(FAX)

P.001/001



(Handwritten mark)

Lt# 1003811

CA DIR # 1000022208 Exp. 5-31-17

Bond Rate 1%

DATE
1/27/2016

Caltrans 03-0G3704 Rt 50 El Dorado Co

Item	Description	Unit	Qty.	Price	Total
25	Maintaining Traffic Management System	LS	LS	\$ 750.00	\$ 750.00
26	Roadside Weather Information System	LS	LS	\$ 23,350.00	\$ 23,350.00
Total					\$ 24,100.00

SCOPE OF WORK

YES	NO	
x		Addendum 1
x		layout Loop Detectors With Inspector
	x	SFE Layout lane lines, Stop Bar, Cat Tracking
x		lane lines, Stop Bar, Cat Tracking Must be Laid Out By Others Prior to Scheduled Start Date
	x	Survey, Post No Parking Signs
	x	Attenuator Truck, Portable Changeable Message Signs
	x	Testing and Inspection Fees / Railroad Permits and Bond Fees / Railroad Flaggers
	x	Permit and bond Fees
x		Day Work
x		General to Provide SFE 1 Day of Traffic Control
	x	SFE Traffic Control (Our Work)
x		Off Haul Spoils
x		Saw Cut Pavement Sensor & Subsurface Temperature Probe Sensor
x		Type 1 or 2 Wire Only / Hot Rubber Or Asphaltic Emulsion Only
x		Installation of Pavement Sensors System
	x	Concrete or Asphalt Replacement
	x	ID Existing DLC Cables For Splicing in Loops
	x	New Pull box Installation
	x	New Conduit
	x	New DLC Cable Installed & Termination
	x	New Detector Hand Hole (DH)

javila@sfe-inc.com

If you have any questions call Jesus Avila @ 510-750-8283

975 Carden St San Leandro Ca. 94577

Fax 510-639-4653

From: ~~Central Striping~~

Fax: (916) 969-1272

To:

Fax: +1 (916) 383-4084

Page 2 of 3 01/27/2016 12:13 PM



California LIC #403896 CLASS C32
 Hawaii LIC #C-11288
 Nevada LIC #0039313
 Idaho LIC #018034-AA-4
 Small Business Enterprise #0020572
 DIR # 1000006499

Bid Proposal

TO: Contractor
 LOCATION: Rte 50 in and near Strawberry
 PROJECT: Caltrans 03-0G3704

QUOTED BY: Kenneth Ickes
 BID DATE: Wednesday, January 27, 2016
 BID TIME: 2:00 PM

ITEM NO.	ITEM DESCRIPTION	UNITS	UOM	UNIT PRICE	TOTAL AMOUNT
14	CENTER LINE RUMBLE STRIP (HMA, GROUND-IN INDENTATION)	530	STA	12.00	6,360.00
27	MOBILIZATION	1	LS	1,500.00	1,500.00
				TOTAL	\$ 7,860.00

ACCEPTED BY: _____
 TITLE: _____
 P.O# OR CCO#: _____

STATIONARY

T/C DAYS (2)

From: Central Striping

Fax: (916) 999-1272

To:

Fax: +1 (916) 383-4084

Page 2 of 3 01/27/2016 12:47 PM



California LIC #403896 CLASS C32
 Hawaii LIC #C-11288
 Nevada LIC #0039313
 Idaho LIC #018034-AA-4
 Small Business Enterprise #0020572
 DIR # 1000006499

Bid Proposal

TO: Contractor

QUOTED BY: Kenneth Ickes

LOCATION: Rte 50 in and near Strawberry

BID DATE: Wednesday, January 27, 2016

PROJECT: Caltrans 03-0G3704

BID TIME: 2:00 PM

ITEM NO.	ITEM DESCRIPTION	UNITS	UOM	UNIT PRICE	TOTAL AMOUNT
18	8" THERMOPLASTIC TRAFFIC STRIPE (RECESSED)	1,490	LF	5.00	7,450.00
19	4" TWO COMPONENT PAINT TRAFFIC STRIPE (BRKN 12-3)	1,680	LF	0.27	453.60
20	4" TWO COMPONENT PAINT TRAFFIC STRIPE (BRKN 36-12)	5,300	LF	0.27	1,431.00
21	4" THERMOPLASTIC TRAFFIC STRIPE (RECESSED, BRKN 36-12)	22,500	LF	1.50	33,750.00
22	4" THERMOPLASTIC TRAFFIC STRIPE (RECESSED)	9,100	LF	2.20	20,020.00
23	4" TWO COMPONENT PAINT TRAFFIC STRIPE	214,000	LF	0.27	57,780.00
24	TWO-COMPONENT PAINT PAVEMENT MARKINGS	1,690	SF	10.00	16,900.00
27	MOBILIZATION	1	LS	8,000.00	8,000.00
				TOTAL	\$ 145,784.60

ACCEPTED BY: _____

TITLE: _____

P.O.# OR CCO #: _____

STATIONARILY

T/C Days (S)

4522 Parker Avenue, Bldg 700 Suite 350
McClellan, CA 95652
Phone: (916) 383-1756 Fax: (916) 383-4084
Contractor's License #1005314-A
DIR # 1000027901

**Telfer Pavement
Technologies, LLC**

TPT

To: Caltrans

From: Marc Armstrong

Attention: Cory Binns

Fax: 916-227-6282

Pages: 8

Phone: 916-227-6299

Date: 2/4/2016

Re: 03-0G3704 Hwy 50 Response Letter

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

● **Comments:**

Please see our attached response to the Letter sent on February 3, 2016. Please let me know if you need any further information to complete the following. Please confirm receipt. Your immediate attention is greatly appreciated

Thanks,

Marc

02/03/2016 17:04 9162276320

OE AWARDS

PAGE 01/01

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS-43

P.O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

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TTY 711

www.dot.ca.gov



Serious Drought.
Serious drought.
Help save water!

February 3, 2016

Facsimile: (916) 383-4084

Mike Fain, Vice President of Construction Operations
Telfer Pavement Technologies, LLC
4522 Parker Ave, Bldg. 700 Ste. 300
McClellan, CA 95652

03-0G3704
03-ED-50-58.0/67.6
B.O. 1/27/2016

Dear Mr. Fain:

The Department of Transportation (Caltrans) received a bid submitted by Telfer Pavement Technologies, LLC (Telfer) for Contract 03-0G3704 on January 27, 2016. By this letter, Caltrans notifies Telfer that its bid is nonresponsive since Telfer failed to properly complete the Subcontractor List form.

The 2010 Revised Standard Specifications, Section 2-1.10 states in part...*The Subcontractor List must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description (only if the percentage of the bid item listed is less than 100 percent), and percentage of each bid item subcontracted.*

On the Subcontractors List form, under the Percentage of Bid Items Subcontracted, Telfer listed percentages that are representative of the total contract bid, rather than the percent of work to be performed. Therefore, Caltrans was unable to determine the actual amount of work to be performed by the subcontractors.

Based on the above, Caltrans will proceed to award the contract to the lowest responsive and responsible bidder, provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Revised Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

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

Sincerely,

Handwritten signature of Cory Binns in black ink.

CORY BINNS
Deputy Division Chief (I)
Office Engineer
Division of Engineering Services