



Granite Construction Company
 1900 Glendale Avenue
 Box 2087
 Sparks, NV 89431
 T 775 358 8792
 F 775 358 0372
 graniteconstruction.com

December 16, 2014

Mr. John McMillan
 Deputy Division Chief
 State of California
 Department of Transportation
 Division of Engineering Services
 Office Engineer, MS 43
 1727 30th Street
 Sacramento, California 95816-8041
 Phone: (916) 227-6280; Fax: (916) 227-6282

Via Fax (916) 227-6282 & Overnight Carrier

RE: Caltrans Contract #03-4F3404

Subject: **Bid Protest**

Dear Mr. McMillan,

Granite Construction Company (Granite) hereby protests the potential award of the above referenced Contract to Gordon N. Ball, Inc., the apparent low monetary bidder. In contravention of Caltrans' mandatory bid requirements, Gordon N Ball's Subcontractor List and DBE Commitment forms are inconsistent and thereby adversely affected Caltrans' ability to make bid comparisons. Gordon N Ball's bid contains material deviations, warranting rejection of its bid.

On October 15, 2014, Teichert Construction (Teichert) submitted the apparent low monetary bid on the Contract, Hansen Bros. Enterprises (Hansen) submitted the apparent 2nd low monetary bid on the Contract, Gordon N Ball submitted the apparent 3rd low monetary bid on the Contract, and Granite timely submitted the apparent 4th low bid. On November 21st and 24th respectively, Caltrans deemed Teichert and Hansen non-responsive (see attached) on this Contract, therefore making Gordon N Ball the apparent low bidder and Granite the apparent 2nd low bidder (thus having standing for this protest). Caltrans found Teichert's bid nonresponsive because "the Disadvantaged Business Enterprise (DBE) form submitted is inconsistent with the Subcontractor List form in violation of the bidding instructions." (see attached). This is the exact scenario surrounding Gordon N Ball. Gordon N Ball failed to submit consistent DBE Commitment and Subcontractor List forms. Consequently, as Caltrans rejected Teichert's bid, Caltrans must also reject Gordon N Ball's bid.

Caltrans rejection of Teichert's bid is consistent with past practice. In response to a recent bid protest regarding Contract No. 03-4M8404 (see attached), Caltrans found Diversified Concrete Cutting, Inc.'s bid non-responsive for failure to comply with the DBE submittal requirements set forth in the DBE Commitment form and bidding instructions:

"A basic rule in competitive bidding is that *bids must conform* to the listing requirements and the Department's own bidding instructions and *if it does not conform, it may not be accepted.*"

(Emphasis added.)¹ Accordingly, a bid that does not strictly conform to the call for bids cannot be accepted if the variance could have affected the amount of the bid or given the bidder an advantage or benefit not allowed other

¹ Caltrans went on to summarize the law governing of competitive bidding: "The purpose of requiring governmental entities to open the contracts process to public bidding is to eliminate favoritism, fraud and corruption; avoid misuse of public funds; and stimulate advantageous market place competition. (See legis. intent declared in Pub. Cont. Code, § 10300; [citations omitted].) Because of the potential for abuse arising from deviations from strict adherence to standards which promote these public benefits, the letting of public contracts universally receives close judicial scrutiny and contracts awarded without strict compliance with bidding requirements will be set aside. This preventative approach is applied even where it is certain there was in fact no

bidders. In other words, a public agency can only waive a deviation from bid specifications that is inconsequential and not material. A bid containing a material deviation must be rejected as non-responsive.²

Gordon N Ball's Bid is Materially Defective and Should Be Rejected As Non-Responsive

In violation of Caltrans' mandatory bid requirements, Gordon N Ball's Subcontractor List and DBE Commitment forms are inconsistent. Work not included on the Subcontract List form was added to the DBE Commitment form. On its Subcontractor List form, Gordon N Ball listed KRC Safety for only the following bid items; 2 and 3(P) (See Attached). Also listed is Austin Enterprise for bid item number 24 (P) (See Attached). On its DBE Commitment form, Gordon N Ball then listed KRC Safety for the following bid items: 2, 3, 4, 5, 31 and 32 (see attached). Bid items 4, 5, 31, and 32 were not listed on the Subcontractor List and are therefore in direct violation of the specifications. Moreover, on its DBE Commitment form Gordon N Ball then listed Austin Enterprise for bid items: 24 (P) and 28 (see attached). Bid item 28 was not listed on the Subcontractor List form and is therefore in direct violation of the specifications.

This defect is the very type which California's anti-bid shopping regulations set out to prevent. Whether or not Gordon N Ball engaged in bid shopping is immaterial. The mere appearance of impropriety can undermine the competitive bidding process. Moreover, the defect in Gordon N Ball's bid impacted the amount of DBE dollars claimed, thus offering Gordon N Ball an unfair advantage. Since Gordon N Ball's bid contains a material defect, it is non-responsive and must be rejected.

A. Gordon N Ball Did Not Comply with Caltrans' Mandatory Subcontractor Listing Requirements

The Subcontractor Listing Law requires bidders for public contracts to set forth the following minimum subcontractor information in their bid proposal: (a) the names and locations of all subcontractors who will perform work in an amount in excess of one-half of 1 percent of the prime contractor's bid or \$10,000, whichever is greater [Cal. Pub. Contract Code, § 4104(a)]; and (b) the portion of the work which will be done by each such subcontractor [Cal. Pub. Contract Code § 4104(b)]. The purpose of the Subcontractor Listing Law is to prevent the practices of bid shopping and bid peddling that take place after award of the contract. Pub. Cont. Code §4101. Accordingly, Caltrans Revised Standard Specification Section 2-1.10 *SUBCONTRACTOR LIST*, requires bidders to list of the Subcontractor List, "each subcontractor to perform work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). The Subcontractor List form must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and *percentage of each bid item subcontracted.*" (Emphasis added). (See also Revised Standard Specification Section 2-1.33 – table above). Likewise, Caltrans Electronic Bidding Guide instructs bidders to complete the Subcontractor List folder as follows:

Enter firm name, city, state, description of work, bid item numbers, and percentage of each bid item numbers for each of your subcontractors performing work in excess of 1/2 of 1 percent of the total bid, or \$10,000, whichever is greater.

...

corruption or adverse effect upon the bidding process, and the deviations would save the entity money. [Citations omitted.] The importance of maintaining integrity in government and the ease with which policy goals underlying the requirement for open competitive bidding may be surreptitiously undercut, mandate strict compliance with bidding requirements. [Citation omitted.]" *Konica Business Machines USA, Inc. v. Regents of University of California* (1988) 206 Cal. App. 3d 449, 456-457; see also *MCM Constr. v. City* (1998) 66 Cal. App. 4th 359, 369. The acceptability of "substantial" rather than strict compliance is suspect when some bids meet the specifications fully and others do not (as is the case here). *Konica, supra*, 206 Cal. App. 3d at 454.² See 47 Ops. Cal. Atty. Gen. 129, 130 (1966); *Konica, supra*, 206 Cal. App. 3d at 454; see also *Valley Crest Landscape, Inc. v. City Council* (1996) 41 Cal. App. 4th 1432 (court reversed the city's waiver of a bid requirement, where the requirement was held material and hence not waivable). Factors considered in determining whether a deviation is a minor irregularity or material departure include whether the deviation could be a vehicle for favoritism, affect the amount of the bid, influence potential bidders to refrain from bidding, or affect the awarding entity's ability to make bid comparisons. *Konica, supra*, 206 Cal. App. 3d at 455.

Multiple bid item numbers and percentages can be entered on each line of the Subcontractor List. *Separate each bid item number, or percentage by a space or a comma, when entering multiple bid item list numbers or percentages.* Do not enter words in the Bid Item Number field. If you would like to list a series of numbers, enter them individually or separated by a dash. (Ex. 2,3,4,5,6,7,8,9,10 or 2-10) Do not enter '2 through 10.'"

...

Bid Item(s) entered must be separated by a comma.

For each Bid Item entered, you *must enter a corresponding percentage separated by a comma.*

DO NOT USE SEMICOLONS (;) IN YOU INPUT.

Sample Data Entry:

Bid Item Number.: 2, 5, 13, 28 Percentage: 10, 100, 25, 35

(Emphasis added).

Gordon N Ball was required to list KRC Safety and Austin Enterprise on the Subcontractor List because each of their contract values were greater than 1/2 of one percent of the Contract which in this case was also greater than \$10,000.00 and thus controlling. Gordon N Ball failed to comply with Caltrans' subcontractor listing requirements when listing KRC Safety and Austin Enterprise by clearly altering the work they would perform by claiming additional scope (bid items) not previously submitted on the required Subcontractor submittal. Caltrans has consistently ruled bids non-responsive for adding or changing the scope of subcontractors after the bid day. Gordon N Ball's bid should be rejected as nonresponsive.

B. Gordon N Ball Did Not Comply With Caltrans' Mandatory DBE Requirements

The Contract is a Federal Aid Project with a DBE goal of 9 percent. Per Section 2-1.12B(2), *DBE COMMITMENT SUBMITTAL*, and 2-1.33, *BID DOCUMENT COMPLETION AND SUBMITTAL*, of the revised Standard Specifications, the low bidder, 2nd low bidder and 3rd low bidder were required to complete and submit the completed Caltrans Bidder DBE Commitment form. As mandated in Caltrans' specifications on the DBE Commitment Form, a bidder's DBE Commitment Form and Subcontractor List Form must be consistent. In violation of Caltrans' mandatory bid requirements, Gordon N Ball's Subcontractor List and DBE Commitment forms are inconsistent. Notably, such defect impacted the amount of DBE dollars claimed and offered Gordon N Ball an unfair advantage, by allowing them to show more of a commitment and therefore more of a good faith effort in attempting to reach the specified DBE goal.

C. Gordon N Ball Did Not Meet the DBE Contract Goal

In the alternative, Gordon N Ball's bid should be rejected due to Gordon N Ball's failure to meet the DBE Contract Goal. Since it failed to meet the goal, Gordon N Ball is required to perform and submit a DBE Good Faith Effort. Even though Gordon N Ball modified its listed Subcontractors after bid to increase its DBE value, Gordon N Ball was unable to reach the goal. Granite is not aware of a Good Faith Effort submitted by Gordon N Ball and even if submitted, Granite, the apparent 2nd Low Monetary Bidder, met the Contract DBE Goal for this project. Granite's Good Faith Efforts and ability to meet the goal should be considered if evaluating Gordon N Ball's failure to meet the goal.

In sum, Gordon N Ball failed to satisfy the mandates contained in Caltrans' specifications. The bid tendered by Gordon N Ball must be rejected as non-responsive because it contains material defects that violate Caltrans' bid requirements. Gordon N Ball's bid must be rejected because it held a competitive advantage and benefit not afforded other bidders (i.e. the benefit of claiming additional DBE value beyond what was considered at the time of bid and the opportunity to adjust subcontract work after the time allotted under the Subcontractor listing laws). Caltrans also provided precedence by previously rejecting Teichert's bid for the same issue.

Because Granite provided the low, responsive and responsible bid, it should be awarded the Contract. Granite is fully prepared to perform this job in its customary dependable and high quality manner. Thank you for your time and consideration of this matter. If you have any questions or require additional information please contact me at your convenience.

Sincerely,



Chris Burke
Chief Estimator
Granite Construction Company - Nevada Region
Direct 775.352.1938 | Cell 775.813.0907 | Fax 775.358.0372

Enclosed: Caltrans Correspondence from Contract #03-4M8404 (5 pgs.)
Caltrans Correspondence from this Contract #03-4F3404 (11 pgs.)

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 03-4F3404 Project ID: 0314000147

Bidder Name: Gordon N. Ball, Inc.

Bidder ID: VC0000101123

List this sub? Yes

2) Business Name KRC SAFETY

Location City VISALIA State CA

California Contractor License Number (a) 507950

Description of Portion of Work

TRAFFIC CONTROL (PARTIAL)

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

3) Business Name CAMBLIN

Location City ROCKLIN State CA

California Contractor License Number (a) 218839

Description of Portion of Work

REBAR

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 03-4F3404 Project ID: 0314000147

Bidder Name:Gordon N. Ball, Inc.

Bidder ID:VC0000101123

List this sub? Yes

4) Business NameSELBY'S

Location CityNEWCASTLE StateCA

California Contractor License Number (a) 797658

Description of Portion of Work

EROSION CONTROL

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 03-4F3404 Project ID: 0314000147

Bidder Name:Gordon N. Ball, Inc.

Bidder ID:VC0000101123

List this sub? Yes

6) Business NameAUSTIN ENTERPRISE

Location CityBAKERSFIELD StateCA

California Contractor License Number (a) 764893

Description of Portion of Work

JOINT SEAL (PARTIAL)

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 03-4F3404 Project ID: 0314000147

Bidder Name: Gordon N. Ball, Inc.

Bidder ID: VC0000101123

SUBCONTRACTOR LIST

DES-OE-0102.2B(REV 5/2014)

Bidding Firm: Gordon N. Ball, Inc.

Under Public Contract Code 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening the bid item numbers with percentages of the portion of work subcontracted.

a Not required on contracts with Federal-Aid.

List this sub? Yes

- 1) Business Name KRC SAFETY
- Location City VISALIA State CA
- California Contractor License Number (a) 507950
- Description of Portion of Work

CAS

Bid Item Numbers

Percentage of Bid Item Subcontracted

CONTRACT NO. 03-4F3404

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-OE-0102.2 (REV 3/2011)

Bidder Name: GORDON N. BALL, INC.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
KRC SAFETY VISALIA, CA LIC NO. 507950	2	100%	CAS
KRC SAFETY VISALIA, CA LIC NO. 507950	3(P)	32%	TRAFFIC CONTROL (PARTIAL)
CAMBLIN ROCKLIN, CA LIC NO. 218839	28(P)	14%	REBAR
SELBY'S NEWCASTLE, CA LIC NO. 797658	18 & 20	100% & 100%	EROSION CONTROL
AUSTIN ENTERPRISE BAKERSFIELD, CA LIC NO. 764893	24(P)	90%	JOINT SEAL (PARTIAL)

ADA Notice

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STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
 DES-OE-0102.10C (NEW 06/2012)

Third Bidder

10-21-14A11:45 RCVD

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 03-4F3404

BID AMOUNT: \$3,338,460.00

\$

BID OPENING DATE: 10/15/2014

BIDDER'S NAME: GORDON N. BALL, INC.

DBE GOAL FROM CONTRACT, %: 9.0%

DBE PRIME CONTRACTOR CERTIFICATION¹:

NONE

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE ³
2	CAS		KRC SAFETY CO. - DBE #447 PO BOX 6356, VISALIA, CA 93290 559.732.0393	\$4,100.00
3	TRAFFIC CONTROL		KRC SAFETY CO. - DBE #447 PO BOX 6356, VISALIA, CA 93290 559.732.0393	\$77,000.00
4	TRAFFIC PLASTIC DRUM		KRC SAFETY CO. - DBE #447 PO BOX 6356, VISALIA, CA 93290 559.732.0393	\$8,450.00
5	PORTABLE CMS		KRC SAFETY CO. - DBE #447 PO BOX 6356, VISALIA, CA 93290 559.732.0393	\$5,000.00
31	DELINEATORS		KRC SAFETY CO. - DBE #447 PO BOX 6356, VISALIA, CA 93290 559.732.0393	\$7,200.00
32	UNDERDRAIN MARKER		KRC SAFETY CO. - DBE #447 PO BOX 6356, VISALIA, CA 93290 559.732.0393	\$2,580.00

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective items(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

Total Claimed Participation

\$ SEE NEXT PAGE

SEE NEXT PAGE

%

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to:

MSC 43
 OFFICE ENGINEER
 DEPARTMENT OF TRANSPORTATION
 1727 30TH STREET
 SACRAMENTO, CA 95816-7005

SEE NEXT PAGE

Signature of Bidder

Date

(Area Code) Tel. No.

Person to Contact

(Please Type or Print)

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
 DES-OE-0102.10C (NEW 08/2012)

10-21-14A11:46 RCVD

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 03-4F3404

BID AMOUNT: \$3,338,460.00

BID OPENING DATE: 10/15/2014

BIDDER'S NAME: GORDON N. BALL, INC.

DBE GOAL FROM CONTRACT, %: 9.0%

DBE PRIME CONTRACTOR CERTIFICATION¹:
 NONE

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE ³
16 (P)	AC GRINDING		ABSL CONSTRUCTION - DBE #005270 29393 PAFICIC ST, HAYWARD, CA 94544 510.727.0900	\$14,086.00
24 (P)	JOINT SEAL		AUSTIN ENTERPRISE - DBE #013602 PO BOX 81926, BAKERSFIELD, CA 93380 661.589.1001	\$55,341.00
28	MINOR CONCRETE		AUSTIN ENTERPRISE - DBE #013602 PO BOX 81926, BAKERSFIELD, CA 93380 661.589.1001	\$12,500.00
8	TEMPORARY COVER		WCBS - DBE #27363 44 SIMMS ST, SAN RAFAEL, CA 94901 415.524.8290	60% OF BID \$1,740.00
10	TEMPORARY GRAVEL BAG BERM		WCBS - DBE #27363 44 SIMMS ST, SAN RAFAEL, CA 94901 415.524.8290	60% OF BID \$2,040.00
25	PLASTIC PIPE SUPPLY		WCBS - DBE #27363 44 SIMMS ST, SAN RAFAEL, CA 94901 415.524.8290	60% OF BID \$960.00

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to:

MSC 43
 OFFICE ENGINEER
 DEPARTMENT OF TRANSPORTATION
 1727 30TH STREET
 SACRAMENTO, CA 95816-7005

Total Claimed Participation	\$ SEE NEXT PAGE
	SEE NEXT PAGE
%	
SEE NEXT PAGE	
Signature of Bidder	
Date	(Area Code) Tel. No.
Person to Contact (Please Type or Print)	

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 08/2012)

10-21-14A11:46 RCVD

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 03-4F3404

BID AMOUNT: \$3,338,460.00

\$

BID OPENING DATE: 10/15/2014

BIDDER'S NAME: GORDON N. BALL, INC.

DBE GOAL FROM CONTRACT, %: 9.0%

DBE PRIME CONTRACTOR CERTIFICATION¹:

NONE

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE ³
26	PLASTIC PIPE UNDEDRAIN		MCBS - DBE #27363 44 SIMMS ST, SAN RAFAEL, CA 94901 415.524.8290	60% OF BID \$41,160.00
1	LCP		ADANTA - DBE #37357 828 SCHOOL ST, NAPA, CA 94559 707.709.8894	\$1,250.00
7	WPCP		TULLY CONSULTING - DBE #38300 180 S. FIRST ST, DIXON, CA 95620 707.693.1926	\$625.00

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to:

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 30TH STREET
SACRAMENTO, CA 95818-7005

Total Claimed Participation

\$ \$234,032.00

7.0 %

Signature of Bidder

10/20/14 Date

925.838.5675 (Area Code) Tel. No.

TRISTEN DAVIS

Person to Contact (Please Type or Print)

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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov



*Serious drought.
Help save water!*

November 21, 2014

Facsimile: (530) 273-4396

Eric Stannard, Director of Public Relations
A. Teichert & Sons, Inc. dba Teichert Construction
4401 Duluth Avenue
Rocklin, CA 95765

03-4F3404
03-Pla,Nev-80-69.3/69.8, 0.0/R2.3
B.O. 10/15/14

Dear Mr. Stannard:

The Department of Transportation (Caltrans) received a bid from A. Teichert & Sons, Inc. dba Teichert Construction (Teichert) for contract 03-4F3404 on October 15, 2014. By this letter, Caltrans notifies Teichert that its bid is nonresponsive because the Disadvantaged Business Enterprise (DBE) form submitted is inconsistent with the Subcontractor List form in violation of the bidding instructions.

The DBE Commitment Form expressly states that "Names of the First Tier DBE Subcontractors and their respective item(s) of work listed must be consistent, where applicable, with the names and items of work in the Subcontractor List." Teichert listed the subcontractor ABSL on its DBE Commitment form to perform Bid Item 16 (Roadway Excavation), but failed to list ABSL on the Subcontractor List form. ABSL is listed for performing work in the amount of \$16,300 which, on a bid of \$3,161,385, meets the listing threshold of 1/2 of 1 percent or \$10,000.

Caltrans reviewed all of the documents submitted by Teichert, and based on the description of work provided in the quote submitted by ABSL, determined that ABSL provides the equipment, as well as the operator to perform the scope of work. In addition, the work being performed by ABSL requires a contractor's license. It is therefore, Caltrans' determination that ABSL is a subcontractor performing more than 1/2 of 1 percent of the work and not merely an equipment supplier and must be listed on the subcontractor list form.

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

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

Sincerely,

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

**** Transmit Conf. Report ****

P.1
CALTRANS CONTR AWARDS Fax 916-227-6282

Nov 21 2014 04:13pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915302734396	Normal	21:04:13pm	0'16"	1	# 0 K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov



Serious drought.
Help save water!

November 21, 2014

Facsimile: (530) 273-4396

Eric Stannard, Director of Public Relations
A. Teichert & Sons, Inc. dba Teichert Construction
4401 Duluth Avenue
Rocklin, CA 95765

03-4F3404
03-Pla, Nev-80-69.3/69.8, 0.0/R2.3
B.O. 10/15/14

Dear Mr. Stannard:

The Department of Transportation (Caltrans) received a bid from A. Teichert & Sons, Inc. dba Teichert Construction (Teichert) for contract 03-4F3404 on October 15, 2014. By this letter, Caltrans notifies Teichert that its bid is nonresponsive because the Disadvantaged Business Enterprise (DBE) form submitted is inconsistent with the Subcontractor List form in violation of the bidding instructions.

The DBE Commitment Form expressly states that "Names of the First Tier DBE Subcontractors and their respective item(s) of work listed must be consistent, where applicable, with the names and items of work in the Subcontractor List." Teichert listed the subcontractor ABSL on its DBE Commitment form to perform Bid Item 16 (Roadway Excavation), but failed to list ABSL on the Subcontractor List form. ABSL is listed for performing work in the amount of \$16,300 which, on a bid of \$3,161,385, meets the listing threshold of 1/2 of 1 percent or \$10,000.

Caltrans reviewed all of the documents submitted by Teichert, and based on the description of work provided in the quote submitted by ABSL, determined that ABSL provides the equipment, as well as the operator to perform the scope of work. In addition, the work being performed by ABSL requires a contractor's license. It is therefore, Caltrans' determination that ABSL is a subcontractor performing more than 1/2 of 1 percent of the work and not merely an equipment supplier and must be listed on the subcontractor list form.

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

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

Sincerely,

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

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov



*Serious drought.
Help save water!*

November 24, 2014

Facsimile: (530) 273-4396

Jeff Hansen
Hansen Bros. Enterprises
Post Office Box 1599
Grass Valley, CA 95945

03-4F3404
03-Pla, Nev-80-69.3/69.8, 0.0/R2.3
B.O. 10/15/14

Dear Mr. Hansen:

The Department of Transportation (Caltrans) received a bid submitted by Hansen Bros. Enterprises (Hansen) for Contract No. 03-4F3404 on October 15, 2014. By this letter, Caltrans notifies Hansen that its bid is nonresponsive since Hansen did not comply with Contract Revised Standard Specifications, Section 2-1.33 BID DOCUMENT COMPLETION AND SUBMITTAL, which states in part:

"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 a written confirmation that the DBE will be participating in the contract. If you do not submit the DBE commitment form by the specified time, your bid is nonresponsive."

Hansen failed to submit the DBE written confirmation from each participating subcontractor by 4:00 p.m. on the 4th business day after bid opening.

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

Your attention is directed to Section 3-1.04 of the 2010 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,


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

**** Transmit Conf. Report ****

P.1

CALTRANS CONTR AWARDS Fax 916-227-6282

Nov 24 2014 01:37pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915302734396	Normal	24:01:36pm	0'17"	1	# O K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
 DIVISION OF ENGINEERING SERVICES
 OFFICE ENGINEER
 P.O. BOX 168041, MS-43
 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6299
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Jeff Hansen
 Hansen Bros. Enterprises
 Post Office Box 1599
 Grass Valley, CA 95945

03-4F3404
 03-Pla, Nev-80-69.3/69.8, 0.0/R2.3
 B.O. 10/15/14

Dear Mr. Hansen:

The Department of Transportation (Caltrans) received a bid submitted by Hansen Bros. Enterprises (Hansen) for Contract No. 03-4F3404 on October 15, 2014. By this letter, Caltrans notifies Hansen that its bid is nonresponsive since Hansen did not comply with Contract Revised Standard Specifications, Section 2-1.33 BID DOCUMENT COMPLETION AND SUBMITTAL, which states in part:

"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 a written confirmation that the DBE will be participating in the contract. If you do not submit the DBE commitment form by the specified time, your bid is nonresponsive."

Hansen failed to submit the DBE written confirmation from each participating subcontractor by 4:00 p.m. on the 4th business day after bid opening.

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

Your attention is directed to Section 3-1.04 of the 2010 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,


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

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

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PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

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June 9, 2014

Facsimile: (775) 331-1572

Thomas Massaro, Manager
Diversified Concrete Cutting, Inc.
59 Coney Island Drive
Sparks, NV 89431

03-4M8404
03-Nev-80-21.2/28.1
B.O. 05/07/2014

Dear Mr. Massaro:

The Department of Transportation (Caltrans) received a bid from Diversified Concrete Cutting, Inc. (Diversified) for contract 03-4M8404 on May 7, 2014. By way of this letter, Caltrans notifies Diversified that its bid is nonresponsive.

The Subcontractor List form states in part, "...Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid." Caltrans confirms that Diversified submitted its Subcontractors List form on May 8, 2014, indicating "None".

Furthermore, on May 13, 2014, Diversified submitted a Disadvantaged Business Enterprise (DBE) commitment form that the identified Northern Industrial Electric to perform work described as Weight Station, Weather and Traffic Systems (Bid Items 22, 23, 24) and Lindy's Cold Planing to perform work described as Cold Plane Rental, but did not list these subcontractors on the Subcontractors List Form. The Caltrans Bidder-DBE-Commitment form states in part..."DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractors List" submitted with your bid."

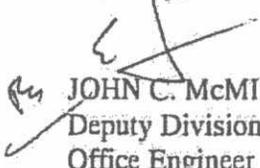
For these reasons, Caltrans finds the bid submitted by Diversified nonresponsive and will proceed to award this contract to the lowest responsible bidder provided all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 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 pm, two business days prior to the expiration of your bid.

Mr. T. Massaro
June 9, 2014
Page 2

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

Sincerely,


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

Attachment

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
 DES-OE-0102.10C (NEW 06/2012)

Low Bidder

05-13-14 11:01 PM

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 03-4W8404

BID AMOUNT: \$ 6,160,477.30

BID OPENING DATE: 5/7/14

BIDDER'S NAME: DIVERSIFIED CONCRETE CUTTING, INC.

DBE GOAL FROM CONTRACT, %: 5%

DBE PRIME CONTRACTOR CERTIFICATION¹:

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE ³
15	RUDE SUPPLIER		SIMPLEX CONST. SUPPLIES 9020 W 35W SERVICE DR BLAINE, MN 55449 #39225	\$1,800
22, 23, 24	WEIGH STATION SYSTEM WEATHER INFO SYSTEM TRAFFIC SYSTEM		N. INDUSTRIAL ELECTRIC 2435 KADIC LANE REDDING, CA 96001 #34396	246,820 -
2	CONST. AREA SIGNS		K.R. SAFETY P.O. Box 6356 VISALIA, CA 93290 #000447	\$1,600 -
4	PLUS BOARDS FLASH TAPE		FLASH TRAFFIC INC #39950 PO BOX 80136 SANTA CLARITA, CA 91380	\$17,200 -
1	PREPARE LEAD COMPLIANCE		ARPIAN DBE 5780 BLINDA RD #38334 EL SOBRANTE, CA 94503	\$1,400 -
8	COLD PLANE RENTAL		LINDY'S COLD PLACING 625 W. Mtn View LA HABRA, CA 90631 #40089	\$134,400

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective items(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

Total Claimed Participation: \$ 405,120 -
6.58 %

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

[Signature]
 Signature of Bidder

5/12/14 (775) 331-1411
 Date (Area Code) Tel. No

Ken Mercurio
 Person to Contact (Please Type or Print)

Submit to
 MSC 43
 OFFICE ENGINEER
 DEPARTMENT OF TRANSPORTATION
 1727 30TH STREET
 SACRAMENTO, CA 95815-7005

Received

Dec 16 2014 02:44pm

775-358-0372

Sparks Main Fax

Granite Constructin 775-358-03

02:49:53 p.m.

12-16-2014

20/21

Received

May 8 2014 11:55am

05/08/2014 11:57

(FAX)

P.001/001

STATE OF CALIFORNIA · DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-OE-0102.2 (REV 3/2011)

Bidder Name: DIVERSIFIED CONCRETE CUTTING INC

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location

Column 2: Bid Item Nos.

Column 3: Percentage of Bid Item Subcontracted

Column 4: Description of Subcontracted Work

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
NAME			

**** Transmit Conf. Report ****

P. 1
 CALTRANS CONTR AWARDS Fax 916-227-6282

Jun 9 2014 04:40pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917753311572	Normal	09:04:39pm	1'12"	4	# O K	

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 OFFICE ENGINEER
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 PHONE (916) 227-6282
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 TTY 711
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June 9, 2014

Facsimile: (775) 331-1572

Thomas Massaro, Manager
 Diversified Concrete Cutting, Inc.
 59 Coney Island Drive
 Sparks, NV 89431

03-4M8404
 03-Nev-80-21.2/28.1
 B.O. 05/07/2014

Dear Mr. Massaro:

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For these reasons, Caltrans finds the bid submitted by Diversified nonresponsive and will proceed to award this contract to the lowest responsible bidder provided all requirements are met.

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P.O. BOX 2087
1900 GLENDALE AVE.
SPARKS, NV 89431
(775) 358-8792
FAX #: (775) 329-2803

FAX TRANSMITTAL

TO: Office Engineer

DATE: 12/16/2014

COMPANY: Caltrans

GCCO JOB #: N/A

FAX #: (916) 227-6282

CONTRACT #: 03-4F3404

OF PAGES (WITH COVER): 21

FROM: Chris Burke
Chief Estimator
(775) 352-1938

RE: Contract #03-4F3404 - Bid Protest

MESSAGE:

Thank You,

