



BAY CITIES PAVING & GRADING INC.

Bus: 1460 Civic Court, Bldg. B Suite #400, Concord, CA 94520
(925) 887-8886
Fax (925) 887-2122

Mall: Post Office Box 8227, Concord, CA 94524-8227

March 21, 2014

FAXED

Department of Transportation, MS 43
Attn: John McMillan, Deputy Division Chief
1727 30th Street
Sacramento, CA 95816

Project: 04-153304
Bid Opening: 02/04/2014
Re: Response to 2nd Protest Letter of O.C. Jones & Sons, Inc.

Dear Mr. McMillan,

On March 11, 2014, Ghilotti Construction Company ("GCC") submitted protests of the three lowest bidders and requests that Caltrans award the Contract to itself. Bay Cities is only responding to the issues raised by GCC's protest of Bay Cities' bid.

GCC's argues that inconsistencies in Bay Cities' listing of Adanta's work renders Bay Cities' bid as non-responsive. GCC's argument might have some merit if Adanta was performing any subcontractor work. In making its argument, GCC ignores the that the Subletting and Subcontracting Fair Practices Act (the "Subcontractor Act") was enacted to prohibit bid shopping and bid peddling of subcontractor work. As far as non-subcontractor-work, bidders are free to try to find the lowest and best price of material suppliers, truckers, consultants, and rental companies up to the time that they perform the work. Caltrans and other public entities have stated that bidders cannot revise the identity, description of work, or scope of subcontractor work by making changes to the Subcontractor List after the bid opening because to do this would violate the Subcontractor Act. But, of course, these restrictions only apply to revisions to the listing of subcontractor work because the Subcontractor Act only applies to subcontractors. If a bidder wants to use a material supplier for any amount of money at the time of bid and decides to use another material supplier after the bid opening, he is entitled to do so because the Act only applies to subcontractors. GCC's claim that Bay Cities' "illegally revised its bid" is ridiculous because there is no legal requirement for the listing of consultants.

GCC also argues that the identity of the DBE for Items 12-15, 25, 28 and 30 cannot be determined. When Bay Cities' submitted its DBE package, Bay Cities included a signed and dated cover letter (Exhibit A) which states that Bay Cities' is submitting its Caltrans Bidder-DBE Commitment Form along with quotes of DBE's Bay Cities intends to use. Bay Cities then attached Adanta's quote and DBE certification to the DBE Commitment Form (Exhibit B). Adanta's quote and DBE certification is the sole quote and certification which Bay Cities

John McMillan
March 21, 2014
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submitted for Items 12-15, 25, 28 and 30. Together, the DBE package (the signed and dated cover letter, the DBE Commitment Form and Adanta's attached quote and certification) leave no doubt of Bay Cities' commitment to use Adanta for Items 12-15, 25, 28 and 30.

The signed and dated cover letter to Caltrans acknowledges Bay Cities agreement to use DBE's on the project. Taken together, the DBE Form with the letter obligate Bay Cities to use the DBE's listed. As an additional step, Bay Cities mailed a signed DBE Commitment Form to Caltrans as Caltrans allowed Shasta Constructors to do on Contract 02-4E6304. Even if there was any basis to GCC's arguments regarding Bay Cities' DBE Commitment Form, Bay Cities' bid would still be responsive because of Bay Cities documented and extensive good-faith efforts. Therefore, GCC's protest is without merit. Bay Cities requests that Caltrans reject GCC's protest and award the Contract to Bay Cities as the lowest responsible bidder. If you have any questions about this, please contact me.

Sincerely,



Marlo Manqueros
Vice-President

cc: File

Exhibit A

BAY CITIES PAVING & GRADING INC.

Bus: 1450 Civic Court, Bldg. B Suite #400, Concord, CA 94620
(925) 687-0000
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Mall: Post Office Box 8227, Concord, CA 94624-8227

February 10, 2014

SENT VIA PERSONAL DELIVERY

MSC 43
Office Engineer
Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

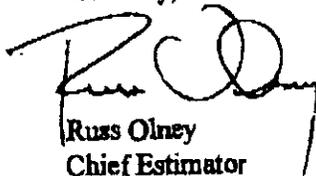
Project: CONTRACT 04-153304
Bid Opening Date: February 4, 2014

Re: Submission of DBE Information Pursuant to Section 2-1.02 of the Special Provisions.

To Whom It May Concern,

Enclosed please find Bay Cities' completed "Caltrans Bidder-DBE Commitment" Form. The DBE goal for the Project is 12%. Bay Cities exceeded the Project's DBE participation rate by achieving a 12.1% DBE participation rate. Bay Cities has also enclosed a completed "Good Faith Efforts Documentation" form and attached documents evidencing Bay Cities' good-faith efforts to obtain DBE participation. Bay Cities has included copies of the quotes of DBE's who will be performing work on the Project as confirmation that these DBE's will participate in the contract. If you should have any questions regarding this, please contact me.

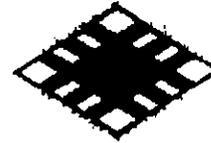
Sincerely,


Russ Olney
Chief Estimator

cc: File

Exhibit B

Page 1 of 2

*Adanta, Inc.*828 School Street
Napa, California 94559
Tel. (707) 709-8894
Fax (707) 736-8368

A d a n t a

Native American woman-owned
California DOT-Certified DBE/SMBE
DBE Certificate #37357

February 4, 2014

Subject: **CONTRACT NO: 04-153304 – INSTALL TOS, RAMP METERING AND
RAMP WIDENING**
Bid Date: 4 FEB 2014Adanta is pleased to provide the following contract pricing for the specified work scope items
detailed in the subject contract solicitation:

Item No.	Item code	Item Description	Unit of Measure	Est Qty	Bid	Amount
1	070003	LEAD COMPLIANCE PLAN (PAINT STRIPING) INCL. SAMPLING AND ANALYSIS PLAN	LS	LS	\$3,300.00	\$3,300.00
12	130200	PREPARE STORM WATER POLLUTION PREVENTION PROGRAM	LS	LS	\$1,800.00	\$1,800.00
13	130310	RAIN EVENT ACTION PLAN	EA	73	\$495.00	\$36,135.00
14	130320	STORM WATER SAMPLING AND ANALYSIS DAY	EA	46	295.00	\$13,570.00
15	130330	STORM WATER ANNUAL REPORT	EA	2	\$2,000.00	\$4,000.00
25	140003	ASBESTOS COMPLIANCE PLAN INCL. SAMPLING AND ANALYSIS PLAN	LS	LS	\$3,300.00	\$3,300.00
28	141107	NOA BURIAL LOCATION REPORT	LS	LS	\$2,950.00	\$2,950.00
29	141109	ADL BURIAL LOCATION REPORT	LS	LS	\$2,950.00	\$2,950.00
30	148005	NOISE MONITORING	LS	LS	\$9,800.00	9,800.00
31	149001	DUST CONTROL PLAN (NOA)	LS	LS	\$1,500.00	\$1,500.00
Total						\$79,305.00

Unified Certification Program

Exhibit B

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Search Returned 1 Records

Fri Feb 07:00:30:00 PST 2014

Query Criteria

Firm ID: 37357

Firm Type: DBE

Firm ID	37357
Firm/DBA Name	ADANTA, INC
Address Line1	628 SCHOOL STREET
Address Line2	
City	NAPA
State	CA
Zip Code1	94559
Zip Code2	
Mailing Address Line1	628 SCHOOL STREET
Mailing Address Line2	
Mailing City	NAPA
Mailing State	CA
Mailing Zip Code1	94559
Mailing Zip Code2	
Certification Type	DBE
EMail	kimberlypatz@adanta-inc.com
Contact Name	KIMBERLY PATZ
Area Code	(707)
Phone Number	709-8894
Fax Area Code	(707)
Fax Phone Number	738-8388
Agency Name	DEPARTMENT OF TRANSPORTATION
Counties	01; 02; 07; 05; 09; 10; 11; 15; 17; 19; 23; 24; 25; 27; 28; 29; 30; 31; 33; 34; 36; 37; 38; 39; 40; 41; 42; 43; 44; 48;
Districts	48; 60; 66; 57; 58;
DBE NAICS	01; 02; 03; 04; 05; 06; 07; 08; 10; 11; 12;
	541820; 562010;

ACDBE NAICS

Work Codes	C8700 CONSULTANT, NON ENGINEERING;
Licenses	
Trucks	
Gender	F
Ethnicity	NATIVE AMERICAN
Firm Type	DBE

[Back To Query Form](#)

facsimile TRANSMITTAL

to: John McMillan/ Deputy Division Chief, Caltrans
fax #: (916) 227-6282
re: CDOT Contract 04-153304, Response to GCC Bid Protest, Bid Date: 02/04/14
date: March 21, 2014
pages: 6, including cover sheet.

CONFIDENTIALITY NOTICE

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From the desk of...

Mario Manqueros
Vice-President
Bay Cities Paving & Grading, Inc.
P.O. Box 6227
Concord, CA 94524-6227

(925) 446-6001
Fax: (925) 687-2122