

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS 43
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!*

October 31, 2013

Facsimile: (510) 527-0500

Juan C. Arrequin, President
Bay Line Cutting & Coring, Inc.
1635 4th Street
Berkeley, CA 94710

04-1A6714
04-Ala-580-46.0/46.6
B.O. 09/25/2013

Dear Mr. Arrequin:

The Department of Transportation (Caltrans) received the attached letter dated September 30, 2013 from Bay Line Cutting & Coring, Inc. (Bay Line), protesting the bid submitted by Myers and Sons Construction, LP (Myers and Sons). The protest alleges that Myers and Sons submitted a cost plus time bid that is impossible to complete within 35 days considering the scope of work, the requirement for operations to be performed consecutively rather than concurrently, the limited work-times and the limited work areas concurrently available. Bay Line requests that Caltrans find the bid submitted by Myers and Sons nonresponsive.

Caltrans' Engineers conducted a review of the project plans as well as the protest and determined that both the plans and specifications are to be staged concurrently and not consecutively as mentioned in your protest.

Based on the above, Caltrans finds Bay Line's protest lacks merit and will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

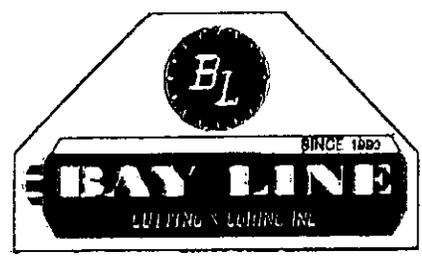
If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

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

Attachment



License # 809660

September 30, 2013

Via Facsimile & U.S. Postal Service

John C. McMillan
Deputy Division Chief
Office Engineer
Division of Engineering Services
State of California
Department of Transportation (Caltrans)
1727 30th Bidder Exchange, MS 43
Sacramento, CA 95816-8041

Telephone Number: 916-654-2157

Facsimile Number: 916-227-6282

Attn: Mark Leja, Division Chief

Re: Bid Protest
Contract Number: 04-1A6714
Location: 04-A1a-58046.0/46.6
Bid Opening Date: September 25, 2013

Dear Mr. McMillan,

This letter constitutes the bid protest of Bay Line Cutting & Coring, Inc. ("Bay Line") with regard to the above-referenced contract and project. As discussed more fully below, the low bidder, Meyers & Sons Construction, LP ("Meyers"), has submitted a cost plus time based bid that is impossible to complete within the bid number of working days. In accordance with §2-1.46 (captioned "Bid Rejection") of the Standard Specifications (2010 Edition) ("Standard Specifications") California Department of Transportation ("Caltrans") must deem the bid of Meyers non-responsive and award the contract to Bay Line Cutting & Coring, Inc. as the next lowest responsive and responsible bidder.

The above referenced contract considers "Cost Plus Time" for the total bid for comparison, which is the total bid for the bid items added to the total bid for time. In section 1 of the Bid to the Department of Transportation, bidders are agreeing to "perform the work within the number of working days bid".

A review of the Bid Summary published by Caltrans indicates that Myers bid to perform the work within thirty-five (35) working days. It is impossible to perform the work on this contract within thirty-five (35) working days considering: the scope of work, the requirement for operations to be performed consecutively rather than concurrently, the limited work-times and the limited work areas concurrently available.

Bid Protest

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Myers should reasonably know that the thirty-five (35) working days is not an adequate amount of time to perform the work of this contract and has increased other items to accommodate anticipated liquidated damages. This would be an anticipatory breach of the contract coupled with the detriment of an unbalanced bid. The submission of an unbalanced bid is detrimental to the concepts of competitive bidding. It also violates the precepts underlying the public bidding process as it gives rise to a significant potential for abuse by permitting 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 corruption or adverse effect upon the bidding process, and the deviations would save the entity money. Therefore, Bay Line respectfully requests that Caltrans uphold Bay Line's bid protest and find the bid of Meyers nonresponsive and award the contract to Bay Line as the next lowest responsive and responsible bidder.

Sincerely,
Bay Line Cutting & Coring, Inc.



Juan Arreguin,
President

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

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

Oct 31 2013 04:10pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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STATE OF CALIFORNIA—CALIFORNIA TRANSPORTATION AGENCY

EDMUND G. BROWN Jr. Governor

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Sincerely,

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