



May 6, 2014

Department of Transportation  
Division of Engineering Services  
Office Engineer, MS 43  
1727 30<sup>th</sup> Street  
P.O. Box 168041  
Sacramento, CA 95816-8041

Phone (916) 227 - 8300  
Fax (916) 227 - 6282

Attn: Mr. John C. McMillan, Deputy Division Chief

Re: 04-2A2504, CONSTRUCTION ON STATE HIGHWAY IN SANTA CLARA COUNTY NEAR GILROY AT VARIOUS LOCATIONS FROM 0.2 MILE NORTH OF BELLA VISTA LANE TO 0.2 MILE EAST OF WATSONVILLE ROAD

Subject: *Protest of Bay Cities Paving & Grading Inc. Bid*

Dear Mr. McMillan,

Granite Rock Company ("Graniterock") submitted the second-lowest bid on the Project. Bay Cities Paving & Grading Inc. ("Bay Cities") submitted the apparent low bid on the Project. Granite Rock hereby protests Bay Cities' bid as nonresponsive for violating the Subletting and Subcontracting Fair Practices Act. The bid of Bay Cities must be deemed nonresponsive and the contract should be awarded to Graniterock as the lowest-responsible bidder.

**Bay Cities Bid Impermissibly Expanded the Scope of Work of Four Different Subcontractors: ABSL Construction, Flatiron Electric Group, Central Striping, and Drill Tech Drilling**

On bid day, Bay Cities submitted the Subcontractor List attached as Exhibit 1, which included completed information only for Columns 1 and 4. Within 24 hours of bid time, Bay Cities submitted the 24-Hour List attached as Exhibit 2, which added information for Columns 2 and 3.

120 Granite Rock Way, San Jose PH(408)574-1400 / FAX(408)365-8349  
License #22



## Graniterock.

**Impermissible Expansion of ABSL Construction's Scope.** On the Subcontractor List, Bay Cities listed ABSL Construction ("ABSL") for *one* item, AC Grinding. The Project Bid Item List listed "Cold Plane Asphalt Concrete Pavement" as Item 46. Then, on its 24-Hour List, Bay Cities listed ABSL for *two* items:

Item No. 46 Cold Plane Asphalt Concrete Pavement, and  
*Item No. 51 Roadway Excavation*

Bay Cities' inclusion of a second item of work for ABSL on the 24-Hour List (Roadway Excavation, Item 51) impermissibly expanded ABSL's scope of work beyond the scope identified on the Subcontractor Listing (only AC Grinding).

**Impermissible Expansion of Flatiron Electric Group's Scope.** On the Subcontractor List, Bay Cities listed Flatiron Electric Group ("Flatiron") for *three* items, Temp Traffic Signals, Maintain Exist Traffic Mgmt. System and Modify Variable Message Sign. The Project Bid Item List listed "Temporary Signal Systems" as Items 10-13, "Maintain Existing Traffic Management" as Item 123, and "Modify Variable Message Sign" as Item 124. Then, on its 24-Hour List, Bay Cities listed Flatiron for the following *four* items:

Item No. 10-13 Temporary Signal System,  
 Item No. 123 Maintain Existing Traffic Management,  
 Item No. 124 Modify Variable Message Sign, and  
*Item No. 145 Mobilization*

Bay Cities' inclusion of a fourth item of work for Flatiron on the 24-Hour List (Mobilization, Item 145) impermissibly expanded Flatiron's scope of work beyond the scope identified on the Subcontractor Listing (only Temporary Signal System, Maintain Existing Traffic Management and Modify Variable Message Sign).

**Impermissible Expansion of Central Striping's Scope.** On the Subcontractor List, Bay Cities listed Central Striping ("Central") for Striping & Markers & Related. The Project Bid Item List listed "Temporary Pavement Marking" as Item 6, "Remove Yellow Thermoplastic Traffic Stripe" as Item 34, "Remove Thermoplastic Traffic Stripe" as Item #37, "Remove Pavement Marker as Item 38, "Thermoplastic Stripes and Markings as Items #117 - 120 and 122, "Temporary Traffic Stripe" as Item 126, "Remove Painted Stripes and Markings" as Item 129 and 130. Then, on its 24-Hour List, Bay Cities listed Central for all of the following items:

Item No. 6 Temporary Pavement Marking,  
 Item No. 34 Remove Yellow Thermoplastic Stripe,  
 Item No. 37 Remove Thermoplastic Traffic Stripe,  
 Item No. 38 Remove Pavement Marker,



## Graniterock.

Item No. 117 – 120, 122	Thermoplastic Stripes and Markings,
Item No. 126	Temporary Traffic Stripe,
Item No. 129 and 130	Remove painted Stripes and Markings, and
<b>Item No. 145</b>	<b>Mobilization</b>

Bay Cities' inclusion of an entirely new item of work for Central on the 24-Hour List (Mobilization, Item 145) impermissibly expanded Central's scope of work beyond the scope identified on the Subcontractor Listing (only Striping and Markers and Related).

**Impermissible Expansion of Drill Tech Drilling's Scope.** On the Subcontractor List, Bay Cities listed Drill Tech Drilling ("Drilltech") for Soil Nail, Structural & Sculpted Shot Crete, and Prepare & Stain Shot Crete. The Projects Bid Item List listed "Soil Nail" as Item 73, "Structural Shot Crete" as Item 77, "Sculpted Shot Crete" as Item 78, "Prepare and Stain Sculpted Shot Crete" as Item 85. Then, on its 24-Hour List, Bay Cities listed Drilltech for all of the following items:

Item No. 73	Soil Nail
Item No. 77	Structural Shot Crete
Item No. 78	Sculpted Shot Crete
Item No. 85	Prepare and Stain Sculpted Shot Crete
<b>Item No. 145</b>	<b>Mobilization</b>

Bay Cities' inclusion of an entirely new item of work for Drilltech on the 24-Hour List (Mobilization, Item 145) impermissibly expanded Central's scope of work beyond the scope identified on the Subcontractor Listing (only Soil Nail, Structural & Sculpted Shot Crete, Prepare & Stain Shot Crete).

The Department requires that bidders accurately describe the work which their subcontractors are to perform in Colum 4 on bid day. The Department has consistently held that a bidder will not be allowed to expand a subcontractor's listed scope of work after the bid opening.

For instance, the Department found that Graniterock/Pavex Construction's bid as nonresponsive for Contract 04-4G1004 because Pavex described a subcontractor's work as Construction Area Signs yet included Roadside Signs listed for the subcontractor. See the Department's letter to Graniterock/Pavex Construction dated November 2, 2012, including the attached subcontractor list and 24-hour list, attached as Exhibit 3. The Department determined that Construction Area Signs and Roadside Signs are two different categories of work. Caltrans stated in its decision "Since Farwest was originally subcontracted to perform Construction Area Signs, but roadway signs were added to the revised bid list received on October 1, 2012, Caltrans finds your bid is nonresponsive."

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It is also worth noting that, over the past two years, Bay Cities has protested multiple apparently low bids with the Department for deficiencies substantially identical to the deficiencies in Bay Cities' bid on this Project. (See, for example, Bay Cities' protest of Contract 04-153204.)

In conclusion, for the reasons outlined above, the bid submitted by Bay Cities on this Project is nonresponsive and must, in accordance with applicable law and the Department's consistent practice, be rejected. Accordingly, the contract should be awarded to Granite Rock Company as the lowest responsive and responsible bidder.

Respectfully,  
Graniterock

Paul L. Cianciarulo  
Chief Estimator  
Phone 408-574-1423  
Fax 408-365-9548  
Email [pcianciarulo@graniterock.com](mailto:pcianciarulo@graniterock.com)

# EXHIBIT #1 Bid Day Listing

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-OE-0102.2 (REV 3/2011)

Bidder Name: Bay Cities Paving Grading

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
<p>Green with landscape  <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">P</span> ...</p>			<p>TEMP FENCE CONTROL FENCE  Erosion Control, Temp  Silt Fence, Temp Fiber rol  Hydraulic Mulch Temp</p>
<p>Statewide  Traffic Safety  Signs  Fairfield</p>			<p>Const Area Signs,  Channelizers, Temp  Crash Cushion Module  (Item # 16)  Roadside Signs  Object Marker, Delineator  and Furnish Single Sheet  Aluminum Sign</p>
<p>Alameda Road  Berkeley, CA</p>			<p>Furnish and Install  Rebar (Partial)</p>
<p>...  ...  ... CA</p>			<p>Soil Nail Structural  Sculpted Shotcrete  Prepare: Stain shotcrete</p>

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# Exhibit #1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-OE-0102.2 (REV 3/2011)

Bidder Name: Bay Cities Paving & Grading

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) 227-8282 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
<p>Drill Hole Drilling (2) Slabbing Natick, CA</p>			<p>Soldier Pile, 30" Drilled Hole, Timber lagging; Clean; Paint Soldier Pile</p>
<p>Platiron electric group Chico, CA</p>			<p>Temp Traffic Signals Maintain Exist Traffic Mgmt System - Modify Variable Message Sign</p>
<p>Concrete striping Natick, CA</p>			<p>Striping &amp; Markers &amp; related</p>
<p>All Steel Fence Lathrop</p>			<p>Cable Railing Modified Temp Chain link Fence</p>
<p>Midstate Barrier Stockton, CA</p>			<p>Concrete Barrier - Type 60C:D Modified (type 736) Items 84, 112, 113</p>
<p>Concrete barrier Stockton, CA</p>			<p>Traffic Control (Partial)</p>

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# Exhibit # 1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DEB-DE-0102.2 (REV 3/2011)

Bidder Name: Bay Cities Paving Grading

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) 227-6262 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
ABS L Const Hayward			AC Grinding

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TM

04/30/2014 00:49

RECEIVED

MAY 30 2014 12:01PM

(FAX)

P.002/004

# EXHIBIT #2 24 Hour listing

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-05-0102.2 (REV 3/2011)

Bidder Name: Bay Cities Paving & Grading

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
DRILLTECH DRILLING & SHORING ANTIOCH	137, 138, 140, 141	100	Soldier Pile, 50" Drilled Hole, Timber lagging, Clean & Paint Soldier Pile
FLATIRON ELECTRIC GROUP CHINO	10-13, 127, 123, 124, 145	98, 100, 4	Temp Traffic Signals, Maintain Exist Traffic Mgmt System - Modify Variable Message Sign
Central Striping Rancho Cordova	6, 34, 37, 38, 117-120, 122, 126, 127, 130, 145	100, 3	Striping & Markers related
All Steel Fence Lathrop	111, 10-13, 127	100, 2	Cable Railing Modified temp chain link Fence
Midstate Barrier STOCKTON	84, 112, 113, 142, 114, 115	100	Concrete Barrier - Type 60C: D Modified & Type 736, ITEM #84, 112-113
CMC Traffic Control Specialists San Francisco	5	95	Traffic Control (Partial)

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04/30/2014 00:49

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PDF JU 2014 12:31PM  
(FAX)

P.003/004

# Exhibit #2

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-OR-0102 2 (REV 12011)

Bidder Name: Bay Cities Paving & Grading

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 Cost 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) 227-8282 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
Green Vista Landscape Rocklin	128, 51 - 64, 30, 28, 24	} 100	Temp Fence (Type Fmg) Erosion Control, Temp Silt Fence, Temp Fiber roll Hydraulic Mulch Temp
Statewide Traffic Safety Signs Fairfield	4, 8, 16 82, 83, 79 - 81 109, 110	} 100	Const Area Signs, Channelizers, Temp Crash Cushion Module (Item # 16) Roadside Signs Object Marker, Delineat and Furnish Single Sheet Aluminum Sign
Alamillo REBAR BENECIA	78 - 104 - 144 +	5 20 30	Furnish and Install Rebar (Partial)
DRILL TECH DRAWING & SHORING ANTIOCH	73, 77, 85 145 - 78 -	} 100 19 95	Soil Nail Structural & Sculpted Shotcrete Prepare: Stain Shotcrete

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Received

Apr 30 (U) 12:57pm (FAX)

P.004/004

04/30/2014 00:49

# Exhibit # 2

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-OE-0102.2 (REV 3/2011)

Bidder Name: Bay Cities Paving & Grading

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 Conl 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
ABSL Const Hayward	46	32	AC Grinding
	51	2	

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**EXHIBIT #3**~~STATE OF CALIFORNIA — DIVISION OF TRANSPORTATION AND HOUSING AGENCY~~

HONORABLE G. BROWN, Jr., Governor

**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF ENGINEERING SERVICES**  
**OFFICE ENGINEER, MS 43**  
 1727 30<sup>th</sup> STREET  
 P. O. BOX 168041  
 SACRAMENTO, CA 95816-8041  
 PHONE (916) 227-6280  
 FAX (916) 227-6282  
 TTY 711



*Flex your power!  
 Be energy efficient!*

November 2, 2012

Facsimile: (831) 768-4021

Rodney Jenny, Vice President  
 Pavex Construction Division  
 120 Granite Rock Way  
 San Jose, CA 95136

04-4G1004  
 04-A1a-680-M3.6/R6.5  
 B.O. 9/28/12

Dear Mr. Jenny:

Pavex Construction Division (Pavex Construction) submitted a bid for contract 04-4G1004 on September 28, 2012. By this letter, the Department of Transportation (Caltrans) notifies Pavex Construction that its bid is nonresponsive because it failed to properly submit the Subcontractor List.

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." No other revisions to the form are permitted.

Since Farwest was originally subcontracted to perform Construction Area Signs, but roadway signs were added to the revised bid list received on October 1, 2012, Caltrans finds your bid is nonresponsive. Caltrans will proceed to award the contract to the lowest responsible bidder provided all requirements are met.

Your attention is directed to Section 3-1.02 of the Amendments to the 2006 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to offer 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.

If you have any questions, please contact David Neumann, Contract Awards Senior, at (916) 227-6285.

Sincerely,

*John C. McMILLAN*  
 JOHN C. McMILLAN

Deputy Division Chief  
 Office Engineer  
 Division of Engineering Services

Attachment

**EXHIBIT #3**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-08-0102.2 (REV 3/2011)

AS

Granite Rock Company dba  
 Bidder Name: Pavex Construction Division

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
Farwest Lodi			CAJ
CHRISP Co. Fremont			striping
<del>Flat Iron Electric</del> Group Brown & Fesler Livermore			electrical
<del>Golden Bay Fence</del> Pisor Fence Citrus Heights			fence
PC&N Byron, CA			MBGR
Avar Fremont			ground anchor wall
KCI Environmental San Luis Obispo			erosion control

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AD

# EXHIBIT #3

Received  
10/01/2012 08:05 FAX 4083658348

PAYEX SANJOSE

Oct 1 2012 08:05am

002

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-01-01072.2 (REV 2/2010)

Bidder Name: Graniterock Company/2012  
 Pavex Construction Division

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 Cost 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 file to (SPE) 227-6782 within 24 hours after the bid opening. Failure to complete information in columns 1 through 4 within the time specified will result in a non-responsive bid.

Column 1: Business Name and Location	Column 2: Bid Item No.(s)	Column 3: Percent of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Pavex Signage, Inc. 226 N. Main Street Livermore, CA 94550 925-838-8085	17, 21, 34, 36	100%	Construction Area Signs
	71-74, 84	100%	
Chisp Company 4885D Degeod Road Fremont, CA 94538 510-856-2840	19, 20, 22, 26	100%	Striping
	31-33, 44, 95-99	100%	
Hansen & Foster 2070 Research Dr. Livermore, CA 94550 925-960-9150	114	1.5%	Electrical
	100-114	100%	
Pilar Fence P.O. Box 7213 Citrus Heights, CA 95621 916-726-1173	83	100%	Fence
PCAN 5301 Byron Hot Springs Road Byron, CA 94514 925-634-4367	30, 85-87, 89	100%	M&G
	80, 91	100%	
AVAN 47375 Fremont Blvd. Fremont, CA 94538 510-754-2000	82	67%	Ground Anchor Wall
	70	89%	
	114	1.4%	
KCI Environmental P.O. Box 3307 San Luis Obispo, CA 93403 805-542-3311	10, 51-54	100%	Erosion Control

CT-04-4C1004

**Graniterock**

Phone (408) 574 1400

Fax (408) 365-9548

# Fax

**To:** Mr. John C. McMillan, Deputy Div. Chief **From:** Paul Cianciarulo

---

**Fax:** 916-227-8282

**Pages:** 14 Including Cover

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**Phone:** 916-227-8300

**Date:** May 8, 2014

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**Re:** Protest 04-2A2504

**CC:**

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

---

◆ **Comments:**

Mr. McMillan,

Please see attached our Bid Protest for Caltrans project 04-2A2504.

Thank you,  
Graniterock Company

  
Paul L. Cianciarulo  
Chief Estimator