

MCK Services
INC

June 3, 2013

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th street
PO Box 168041
Sacramento, CA 95816-8041

ATTN: Mr. John C McMillan, Deputy Division Chief

SUBJ: Contract 04-3E2904 Construction of State Highway in Santa Clara County
In and Near Santa Clara, Sunnyvale and Mountain View from Lawrence Expressway
To 0.4 Mile West of Route 82/85 Separation

Mr McMillan:

Please consider this to be a response to the protest letter(s) submitted by Graniterock (dba Pavex Construction Division) for the subject project.

The protest letter submitted by Graniterock suggesting that MCK Services' bid was non-responsive as a result of not listing Mercado Trucking on the Subcontractor's List. Mercado Trucking is not a subcontractor, nor do they require a subcontractor's license. They are a trucking company that is providing the service of trucking.

Graniterock contents that a trucking company was not listed on MCK Services' Subcontractor's List upon submittal of their bid and not on MCK Services' Subcontractor's List that is required within 24 hours after bid submittal for Contract Line Item Nos 9, 10, and 11. Pavex also did not list a trucking company on their Subcontractor's List (attached).

A subcontractor, according to the Caltrans Standard Specifications, is a contractor that requires a state contractor's license. A trucking company is not a subcontractor and does not require a contractor's license; hence the reason Mercado Trucking was not listed on the Subcontractor's List. (See California Department of Transportation Construction Manual September 2008, Section 8, Prosecution and Progress, 3-801A) attached.

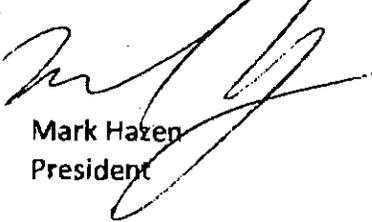
Mr John McMillan
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MCK Services did indicate on the DBE commitment form of our intent to use Mercado Trucking in an effort to meet the non-mandatory goal of DBE participation. MCK Services has been awarded contracts in the past using the same method of DBE commitment

MCK Services remains lowest responsive bidder and the contract should be awarded to MCK Services Inc.

Respectfully submitted,



Mark Hazen
President

Chapter 3

General Provisions

Section 8 Prosecution and Progress

Section 8 Prosecution and Progress

3-801 Subcontracting

3-801 Subcontracting

Contractors can use subcontractors on their projects provided the subcontractor and the prime contractor comply with the applicable contract specifications and with state and federal laws and regulations. When projects use subcontractors, the resident engineer must focus primarily on the following:

- Always know which subcontractors are working on the project.
- Of the contract amount, ensure that prime contractor performs at least 30 percent or the percentage allowed by the special provisions.
- Ensure that listed subcontractors are not improperly removed or replaced.
- Ensure the prime contractor achieves the subcontracting level pledged to meet requirements of the disadvantaged business enterprise (DBE), the disabled veteran business enterprise (DVBE) and small business when the contract was awarded. For more information on the DBE and DVBE subcontracting requirements, see Section 8-3, "Disadvantaged Business," of the *Construction Manual*.
- Ensure adherence to the provisions of the Public Contract Code.

In the same manner as for other contractual obligations, construction personnel must review the contract and administer the subcontracting provisions.

3-801A Amount of Work Subcontracted

Section 8-1.01, "Subcontracting," of the *Standard Specifications*, requires that the prime contractor perform no less than the percentage of work specified in the contract using the contractor's own organization.

The percentage of work subcontracted is calculated for first-tier subcontractors only. A contractor's organization must include only workers employed and paid directly by the prime contractor and only equipment owned or rented by the prime contractor, with or without operators.

The following examples portray common situations encountered when attempting to determine if work should be considered as subcontracted:

- The contractor pays a unit price or lump sum for work performed at the jobsite. The contractor purchases cement for cement-treated base, and the price per ton includes spreading on the project. Consider the work as subcontracted.
- Materials are purchased "FOB" to the jobsite from a commercial source. (FOB is the abbreviation for "free on board" and means the price includes delivery to the jobsite.) Do not consider the delivery as subcontracted work.
- Materials are purchased FOB at a location off the project and delivered by a commercial freight line. Do not consider the hauling as subcontracted work.
- Materials are obtained at a location off the project and hauled to the project by a truck broker or independent trucker. Do not consider the hauling as subcontracted work.



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

Bidder Name: Granite Rock Company dba 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) 227-8282 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
Spirit Road Oils Morgan Hill			Work as described in bid item #: 13
			Work as described in bid item #:
Statewide Traffic Safety & Signs Fairfield			Work as described in bid item #: 2
			Work as described in bid item #:
Loop Installation & Repair Granite Bay			Work as described in bid item #: 21, 22
			Work as described in bid item #:
Chrisp Co. Fremont			Work as described in bid item #: 14, 15, 16, 17, 18, 19, 20

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

Bidder Name: Granite Rock Company dba
Paver 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
ABSL Construction Hayward			Work as described in bid item #: 9
			Work as described in bid item #:
			Work as described in bid item #:
			Work as described in bid item #:
			Work as described in bid item #:
			Work as described in bid item #:
			Work as described in bid item #:

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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

Bidder Name: Granite Rock Company DBA

DES-OR-0102.2 (REV 2/2010)

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 fax to (916) 227-6282 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
Spirit Road Oils 26490 Vineyard Blvd. Morgan Hill, Ca. 95037 (408)465-2270	13	100%	Work as described in bid item # 13
Screenable Traffic Safety & Sign 130 Grobick Court Fairfield, Ca. 94533 (707)864-8952	2	100%	Work as described in bid item # 2
Loop Installation & Repair 6830 Country Ct. Granite Bay, Ca. 95746 (916)781-8070	21 22	100% 100%	Work as described in bid item # 21,22
Chirap Company 43650 Daywood Rd. Fremont, Ca. 94539 (510)656-2840	14,15,16 17,18,19,20	100% 100%	Work as described in bid item # 14,15,16,17 18,19,20
ABSL Construction 29334 Pacific Street Hayward, Ca. 94544 (510)727-0900	9	100%	Work as described in bid item # 9