



June 14, 2013

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
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P.O. Box 168041
Sacramento, CA 95816-8041

Phone (916) 227 - 8300
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Attn: Mr. John C. McMillan, Deputy Division Chief

Re: 04-3E2904 FOR 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.

Subject: *Reply to MCK letter dated June 3, 2013*

Dear Mr. McMillan,

I have had an opportunity to review the letter written by Mr. Hazen of MCK Services and would like to comment to its content as follows.

I can agree with Mr. Hazen that trucking is not a subcontracted item unless you intend to utilize that scope of work towards your DBE goal. Mr. Hazen did not list Mercado Trucking on the bid day subcontractor form but did list Mercado Trucking on its DBE commitment form submitted four (4) days later.

By allowing MCK Services to utilize Mercado Trucking on its DBE Commitment form (4) days after the bid to make the 3% DBE goal you unfairly give MCK Services an unfair advantage that Pavex Construction did not have. Essentially, MCK Services or any other contractor that utilizes this method to bid has four additional days to select a trucker to perform work on a contract or meet the required impact goals.

Being the apparent low bidder would give MCK Services or any other contractor a great leverage to negotiate lower costs to complete the work. Mr. Hazen is correct in that we did not list a trucker on our subcontract turn in form that is to the fact that we are not



required, as we did not list a trucker on our (4) day DBE Commitment form to achieve the DBE goal set by this contract.

Based on the facts presented herein, Pavex hereby requests that the bid submitted by MCK be found nonresponsive and that the Department uphold and validate Pavex's bid protest and award the contract to Pavex which submitted the lowest responsive and responsible bid for Contract 04-3E2904.

Thank you for your attention to this matter and should you need to contact me please find my numbers and email address below.

Respectfully,
Graniterock Company dba Pavex Construction Division

Paul L. Cianciarulo
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PAVEX CONSTRUCTION

Division of Graniterock Company

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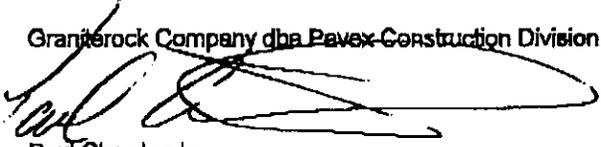
To: Mr. John C. McMillan**From:** Paul Cianciarulo**Fax:** 918-227-8282**Pages:** 3**Phone:** 918-227-8300**Date:** June 14, 2013**Re:** Bld Protest - 04-3E2904**CC:** **Urgent** **For Review** **Please Comment** **Please Reply** **Please Recycle****• Comments:**

Mr. McMillan,

Please see attached bld protest rebuttal to MCK Services letter dated June 3, 2013

Thank you,

Graniterock Company dba Pavex Construction Division


Paul Cianciarulo
Chief Estimator