

BAY CITIES PAVING & GRADING INC.

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June 18, 2014

FAXED AND MAILED

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

Project: 04-4H4904
 Bid Opening: 04/22/2014
 Re: Protest of MCK Services, Inc.'s Bid

Dear Mr. McMillan,

On June 17, 2014, Caltrans responded to Bay Cities' protest in a letter which contradicts all Caltrans' prior decisions. Bidders are required to list the items of work which their subcontractors will perform. MCK listed Safety Striping for Items 14 through 21. Safety Striping's pricing for Traffic Control (as shown by the their bid which MCK provided to Caltrans) shows that Safety Striping separately quoted its price of performing Item No. 3, Traffic Control Work. So Safety Striping's costs of Traffic Control are not contained in its quote for Bid Items No. 14 - 21 but separately in Item No. 3. In rejecting Bay Cities' protest, Caltrans writes that:

"Caltrans reviewed the bid documents for MCK in totality and determined that MCK did list Safety Striping to perform work described as Striping and Markers; however the performance of this work includes a reasonable portion of traffic control."

Whether Safety Striping included a reasonable portion of Traffic Control for its work is not disputed. But Caltrans seems to ignore the fact that Safety Striping issued a bid price for this exact amount of Traffic Control (not in any individual items of striping) but as an individual bid price for Item 3, Traffic Control. Since MCK failed to list Safety Striping for any Item No. 3 work, MCK's addition of Traffic Control/Item No. 3 in its DVBE package was a violation of the Subcontracting and Subletting Act.

Caltrans has consistently held that a bidder cannot add additional items of work to a subcontractor list of work after the bid opening. Caltrans has done exactly that in awarding the contract to MCK. Caltrans has awarded the contract to MCK and cannot now un-ring the bell. But Bay Cities' requests that Caltrans reconsider its current position because Caltrans' decision will mean that no bidder will ever need to list Traffic Control for any subcontractor on any future bid. Every bidder could use Caltrans' current reasoning to argue that it is unnecessary to list Traffic Control for any subcontractor since almost all subcontract work requires some amount of traffic control even in the case when the subcontractor has separately quoted Traffic Control (Item No. 3) in its sub-quote.

Sincerely,



Mario Manqueros
 Vice-President

cc: File

facsimile TRANSMITTAL

to: John McMillan/ Deputy Division Chief, Caltrans
fax #: (916) 227-6282
re: CDOT Contract 04-4H4904, Protest of MCK Bid, Bid Date: 04/22/14
date: June 18, 2014
pages: 2, including cover sheet.

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From the desk of...

Marlo Manqueros
Vice-President
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