GRANITE

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March 14, 2014

VIA FACSIMILE AND FED-EX

State of California
Department of Transportation
Civil Rights Program
1727 30th Street
Sacramento, CA 95816
Attn: Steve Lu, Contract Analyst
Telephone: (916) 324-0888
Facsimile: (916) 324-8760

Mr. John McMillan, Deputy Division Chief
State of California
Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, California 95816-6041
Telephone: (916) 227-6300
Facsimile: (916) 227-6282

RE: Highway 17 Shoulder Widening & Soil Nail Wall
Contract: 05-1C1804
Bid Date 2/12/2014
DBE Good Faith Effort

Dear Mr. McMillan and Mr. Lu:

Granite Construction Company (**"Granite"**) timely submitted a fully responsive bid for the above-referenced Contract and is the apparent low bidder. Granite's bid is $92,961 less than the next lowest bid. Granite understands that the California Department of Transportation (**"Department"**), Civil Rights Evaluation Unit, is currently analyzing Granite's bid and has raised questions regarding Granite's good faith efforts to meet the DBE goal for this Contract. As further discussed below, Granite has satisfied its good faith efforts obligations.

Each bidder must either meet the 5% Contract DBE goal or demonstrate that it made adequate good faith efforts to meet that goal. As you know, when an awarding agency, like the Department, sets a contract goal, the basic obligation of bidders is to make good faith efforts to meet it. Bidders can demonstrate these efforts in either of two ways, which are equally valid. First, the bidder can meet the goal, by documenting that it has obtained commitments for enough DBE participation to meet the goal. Second, even though the bidder has not met the goal, it can document that it has made good faith efforts to do so. The U.S. DOT emphasizes strongly that the good faith requirement is an important and serious one. A refusal by an

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awarding agency to accept valid showings of good faith is not acceptable under the DBE rules and regulations.

Granite fulfilled its good faith efforts obligations by actively and diligently endeavoring to obtain DBE participation sufficient to meet the DBE contract goal. The Department appears to take issue with the fact that a particular DBE, R.E. Serrano, Inc. (**"Serrano"**), was not listed on Granite's commitment form. (The DBE information sheet on Serrano is attached. Serrano is a subcontractor that performs concrete work). However, Granite made every effort to obtain Serrano's participation. Serrano did not respond to any of Granite's solicitations. Granite sought a quote from Serrano through several methods:

a. Granite emailed Serrano a solicitation on 1/13/2014.
b. Granite also faxed Serrano a solicitation on 1/30/2014.
c. In addition, Granite followed up such fax and email solicitations with a telephone call to Serrano on 2/4/2014, leaving a message at approximately 11:30 am. (Please see attached).
d. Granite followed up on the above with another email on 2/11/2014.[1]

Unfortunately, Serrano did not respond to any of Granite's several solicitation efforts or provide Granite with the requested quote for this job. Granite fulfilled its good faith efforts to seek Serrano's (and other DBE) participation. Serrano failed to quote Granite. Inexplicably, Serrano supplied a quote to Granite Rock Company (**"Graniterock"**), but did not quote Granite. The fact that one DBE refused to quote Granite should not undermine Granite's ample good faith efforts.

In addition to repeatedly seeking Serrano's participation, Granite actively and aggressively tried to obtain other DBE participation sufficient to meet the DBE contract goal in accordance with the Department's requirements. Granite takes DBE requirements very seriously and is proud of its comprehensive DBE program. Granite diligently strives to make work available to DBEs and to reach out to, solicit and utilize qualified DBEs in compliance with DBE rules and regulations. Here, Granite's good faith efforts included, without limitation, the following: Granite made as many items of work available for DBE participation as possible to meet the goal (over **80%** of the work, including, but not limited to, items normally performed by Granite with its own forces); broke down the project work into economically feasible units; Granite advertised for DBE participation in multiple publications, including Compliance News Monthly Trade Journal and Compliance News Daily Focus Journal (which are disseminated to a broad population of DBEs in multiple mediums); Granite contacted the UCP for a list of potential DBE participants; Granite directly solicited and followed up with over 230 DBE firms; Granite sent potential DBE participants three (3) separate bid invitations via email and facsimile; Granite provided DBEs with a copy of the bid items list and a link to the plans and specifications, as well as Granite company contact information (including, estimator names) and suggested items of work for bidding; Granite offered DBEs assistance in obtaining bonding, insurance and supplies and

[1] Documentation for the email and fax contacts was submitted with Granite's good faith effort documentation. Proof of telephone contact with Serrano is attached in the form of a photograph of the "placed calls" log from the telephone on which the call was made. The phone call evidence was not initially submitted because three (3) contacts had already been made with all DBE's solicited on this project, which is more than the two (2) contacts specified by the Department.

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gave DBEs a link to the US SBA bonding assistance website; Granite gave priority consideration to DBE quotes; and Granite listed DBE subcontractors *on bid day* who were higher than other non-DBE quotes received.

Significantly, Granite did its best to meet the goal with the DBE quotes it did receive. In an effort to meet the DBE goal, Granite consistently selected DBE contractors even when the DBE's prices were higher than comparable non-DBE contractors. For example, Granite listed three (3) DBE subcontractors for work on which Granite received lower quotes from non-DBE subs. These include:

- KRC Safety (for Construction Area Signs): $1,311 higher than D&M Traffic
- ABSL (for Cold Plane AC Pavement): $1,000 higher than Anrak
- Super Seal & Stripe (for Striping & Marking): $541 higher than Central Striping Service

Furthermore, Granite is renting equipment from BL Equipment Rental, despite the fact that there are less expensive sources for this equipment. (Please see Granite's good faith effort documentation).

Granite does not know why Serrano chose not to quote us on this project; however, Serrano (based on the numerous solicitations Granite sent Serrano) knew Granite was bidding this project as a general contractor and was seeking a quote from Serrano (as well as many other DBEs). It is concerning to think that Department bid results could be influenced by one DBE company which chooses not to bid to certain contractors. The Department should not penalize Granite for Serrano's independent decision not to quote Granite.

Granite has also viewed and would like to briefly respond to the letter submitted to the Department by Graniterock, which asks the Department to award this Contract to Graniterock (at a higher cost to the Department and its taxpayers) solely based on the fact that it exceeded the DBE goal. Graniterock claims that it is committed to meeting the contract DBE goal, even when it "has the impact of increasing the amount of its own bid." However, the vast majority of Graniterock's DBE commitment (its only DBE listed on bid day and over 71% of the DBE participation claimed on its 4-day DBE submittal) came from Serrano, which provided a highly competitive price for its scope of work. Attached, please find the quote Serrano submitted to Graniterock and the quote analysis from Granite's bid system, comparing the quotes of ACL, Vanguard, and Midstate Barrier (which were the only three (3) quotes Granite received for the work Serrano quoted Graniterock). As reflected therein, the quote Serrano provide to Graniterock was the lowest for the subject work. Serrano's quote is complete (in contrast to ACL's, which does not include concrete or rebar) and is over $32,000 lower than that of ACL. Moreover, Serrano's quote is even lower than the other two (2) subcontractors who bid the concrete barrier work to Granite. Accordingly, listing Serrano did not increase the amount of Graniterock's bid and most likely helped Graniterock's bid ranking.

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In their letter, Graniterock also acknowledges that "there are project's (sic) on which contractors must rely on their good faith effort to secure DBE work, due to a lack of DBE bids." That is essentially what happened to Granite here. Because Serrano did not provide Granite a quote on this job, Granite, despite its extensive good faith efforts, was unable to meet the goal.

Recent Department determinations further support the award of this Contract to Granite. On Caltrans Contract No. 04-1A2904, the Department awarded the project to the low monetary bidder (Ghilotti Construction Company, Inc.) even though it did not meet the contract DBE goal.

In addition, on Contract No. 05-0G0704, the Department found that a bidder who fell short of the DBE Contract goal (claimed 3.4% when the goal was 8%) satisfied its good faith efforts obligations despite the fact that the second low bidder exceeded the DBE goal. The low monetary bidder (Flatiron) solicited 201 DBE subcontractors/suppliers to second low bidder's 265. Furthermore, Flatiron received quotes from subcontractors and vendors sufficient to meet the goal, but without exception selected subcontractors and vendors on price alone (see Flatiron GFE Attachment C-1). Nevertheless, the Department determined that Flatiron met its good faith efforts obligations and awarded the contract to Flatiron.

On Contract No. 06-0L3904, the Department determined that a bidder who made a considerable mistake (i.e. claiming substantial DBE participation for a non-DBE on its DBE commitment form) was entitled to a reduction in the DBE Contract goal percentage (the DBE Contract participation was reduced form 7% to 4.62%) and met its good faith efforts, again, despite the fact that the second low bidder exceeded the DBE goal. The low monetary bidder, Griffith Company (Griffith), claimed to have met the Contract DBE goal, in significant part (almost 40%), through use of Our Valley Fence Company. However, Our Valley Fence Company is not a certified DBE, and thus, Griffith's DBE commitment was overstated. Without Our Valley Fence's participation, Griffith's actual total claimed DBE participation was reduced to 4.62%. Despite this error and the fact that other bidders met or exceeded the DBE contract goal, the Department awarded the job to Griffith, finding that it had made good faith efforts to meet the DBE contract goal.

Similarly, in an older determination, on Contract No. 08-448404, the low bidder, Sema Construction (Sema), failed to meet the Contract DBE goal of 6%. The second and third low bidders exceeded the DBE goal (7.72% and 7.56% respectively). Nevertheless, the Department awarded the job to Sema, finding that Sema made adequate good faith efforts to meet the DBE goal despite not meeting the establish goal.

Likewise here, although Granite was unable to achieve the established Contract DBE goal, Granite made substantial good faith efforts to meet that goal. Indeed, Granite's good faith efforts appear to meet or exceed the efforts utilized by the successful bidders discussed in the above examples to which the Department awarded the referenced contract(s).

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In sum, Granite fully complied with the bid requirements and has demonstrated its good faith efforts to meet the Contract DBE goal. Accordingly, the Contract should be awarded to Granite as the lowest responsible and responsive bidder.

Your time and consideration of this matter are greatly appreciated. Please feel free to contact me at (408) 327-7032 if you require additional information.

Respectfully Submitted,

Jim Radich
V.P. Coastal Region

Attachments:

- R.E. Serrano DBE Information Sheet
- Proof of Phone Contact
- R.E. Serrano Quote to Graniterock
- Quote analysis

cc: R. Halverson, Assistant Director of the Office of Business & Economic Opportunity

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Query Criteria
Firm/DBA Name: SERRANO
Firm Type: DBE

Firm ID	29324
Firm/DBA Name	R. E. SERRANO INC.
Address Line1	3430 PACHECO BLVD.
Address Line2	
City	MARTINEZ
State	CA
Zip Code1	94553
Zip Code2	
Mailing Address Line1	
Mailing Address Line2	
Mailing City	
Mailing State	
Mailing Zip Code1	
Mailing Zip Code2	
Certification Type	DBE
EMail	ricky@reserrano.com
Contact Name	RICKY SERRANO
Area Code	(925)
Phone Number	957-8184
Fax Area Code	(925)
Fax Phone Number	957-8121
Agency Name	DEPARTMENT OF TRANSPORTATION
Counties	00;
Districts	00;
DBE NAICS	237310;
ACDBE NAICS	
Work Codes	C0651 CONCRETE & CEMENT SUPPLIER; C1201 TRAFFIC CONTROL SYSTEM; C4010 PORTLAND CEMENT & CONCRETE PAVEMENT; C4201 GROOVE & GRIND PAVEMENT; C5135 CONCRETE BLOCK & MASONRY RETAINING WALL; C8331 CONCRETE BARRIER; C8391 METAL BEAM BARRIER; D3270 CONCRETE, GYPSUM, & PLASTER PRODUCTS;
Licenses	A General Engineering Contractor; C29 Masonry Contractor; C31 Construction Zone Traffic Control Contractor;
Trucks	
Gender	M
Ethnicity	HISPANIC
Firm Type	DBE

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MBB Received Fax:8317636121 Mar 14 2014 01:37pm Mar 14 2014 13:02 P.06

R.E. SERRANO INC.

R.E. SERRANO, INC. IS A CALTRANS CERTIFIED DBE - CERTIFICATION #CT-029324

Quote

02-19-14P01:10 RCVD

TO
Estimator

FROM:
Matt Sorrow

PROJECT DESCRIPTION:
Route 17 Scotts Valley Glenwood Cutoff/Drive

DATE:
February 12, 2014

BID FOR CONTRACT NO :
05-1C1804

TOTAL NO. OF PAGES:
2

R.E. Serrano, Inc. is pleased to submit our quotation for the bid items listed below.

Bid Item	Description	Unit	Quantity	Unit Price	Total
54	Concrete Barrier Type 60	LF	85	$ 210.00	$ 17,850.00
55	Concrete Barrier Type 60D Mod	LF	405	$ 86.00	$ 34,830.00
56	Concrete Barrier Type 60 Mod	LF	55	$ 205.00	$ 11,275.00
57	Concrete Barrier Type 60S	LF	1,350	$ 88.00	$ 118,800.00
TOTAL	736				$ 182,755.00

Exclusions:

1. Storm Water Pollution Control, Water Pollution Control Plans and implementation or cost thereof.
2. Survey, layout and/or staking.
3. Dust control and haul road maintenance
4. Sweeping and/or vacuum broom
5. Bonds, permits, fees and cost thereof.
6. Pavement markings (Temporary or Permanent)
7. Furnish construction message signs, and/or changeable message signs and any related work or the movement thereof.
8. Furnishing or moving any of the following will be others and will be scheduled by prime not to interfere with our work: traffic control, k-rail, crash cushions, QCMB, k-rail end protection devices, terminal sections, crash arrays.
9. Dewatering and control of surface water.
10. Removal or disposal of hazardous or contaminated materials and any related costs.
11. Utility Relocations.
12. Architectural finishes, stains, or color.
13. Notification of property owners and/or tenants.
14. Maintaining existing traffic management system elements during construction and all related work.
15. Clearing and Grubbing
16. "Standard" Subcontract Agreements, our subcontract terms to be negotiated, any and all terms listed in any advertisement by prime contractor are specifically excluded, and the terms of our quote shall prevail in all cases.
17. Retention.
18. Traffic control.
19. Post mile markers.
20. Remedies for concrete stains on asphalt.
21. Protection of railroad facilities, railroad insurance, and flaggers.
22. Fencing or electrical imbeds, block outs, accessories or installation thereof, and any related reinforcing details.
23. Excavation, grading, compaction, backfill and/or shoring.
24. Installation or protection of weep pipes, electrical pull boxes, drainage inlets, deck dowels, fencing, barrier mounted signs, imbeds, and/or any related items or reinforcing details.
25. Protecting and closing the gap between removed barriers and barriers being constructed.
26. All Electrolier and pull box hardware.
27. Coring barrier for fence posts, any fence hardware.
28. Labor and hardware for tie-ins to existing or new metal beam guard rail or bridge barrier.
29. Furnishing or placing any materials under concrete barrier or any related work.
30. Anti-graffiti coating.
31. Furnishing or installing any rebar that ties into structures.

Special Conditions:

1. RES will not perform extra work at force account until a CCO for said extra work is fully executed or another method for paying for extra work is established so that extra work will be paid on the next progress estimate following the start of the extra work.

2. All work not paid at a quoted item rate will be charged to the prime at a rate no less than the Caltrans extra work rate for subcontractors with standard markups, without regard to the payment or reimbursement to prime from owner.
3. No amounts shall be withheld from our extra work payments. Only the prime's markup on RES, should the owner pay the markup, may be withheld.
4. Release of retention within thirty (30) days of the completion of our work without regard to other ongoing work on the project.
5. Release of progress and final payments within five (5) calendar days of warrant date or EFT date whichever is sooner.
6. Price based on mutually agreed upon schedule, in writing, with 60 days written notice for all move-ins.
7. Prices subject to change if not accepted in writing within thirty (30) days.
8. Attendance of any prime contractor safety meeting shall be at force account plus standard subcontractor markups.
9. RES will require prime contractor to coordinate construction activities at each location.
10. Our insurance for this project will not include coverage beyond the standard limits carried by RES, or any insurance coverage in favor of others, or an excess umbrella liability policy.
11. RES shall receive copy of all CPM's and schedules and their revisions with time to comment and dispute prior to submittal to owner failure to comply shall relieve RES of any obligations related to the contents of the schedule or impacts to the schedule and any related penalties. In the event that durations or information is forwarded to Caltrans without the consent of RES and the unapproved information becomes part of a claim or contract change order any monetary consequences will become the Contractor's responsibility. Referring RES to review the project schedule at the contractor's office is not acceptable.
12. This quotation shall be made an integral part of our subcontract agreement as a scanned copy of this exact document, in its entirety, and as such shall supersede any conflicting language in the subcontract agreement. Rewording or paraphrasing of our terms for inclusion in subcontract is unacceptable.
13. RES rejects all of the terms in every prime contractor advertisement and solicitation, and encourages primes to assist with DBE participation.
14. Prices bid as a package, please call before splitting.
15. Traffic control and k-rail movement to be provided as deemed necessary by RES at no cost to RES.
16. Jobsite water at work areas and sanitary facilities with wash stations to be provided by others at no cost to RES.
17. RES will require any temporary k-rail movement and specific location of k-rail openings to be coordinated with its operations and will be staging paving equipment and related equipment at worksite unless other arrangements satisfactory to RES are made in advance at no cost to RES.
18. **Prices are based on working standard shifts without overtime, and working in an uninterrupted sequence 6 days a week.**
19. Prime Contractor to provide **BARRIER** survey staking for line and grade. Survey points need to be 4 feet offset from left/right of center line of barrier with a fill to top of barrier marked on stakes. The left/right of centerline is to be determined with RES superintendent on site. Staking to be 50 foot centers in tangents and 25 foot centers in radius. Should survey not be provided exactly as stated above, RES reserves the right to have it provided by a third party and shall charge the prime contractor for these costs plus 5% markup for administrative fees.
20. Prime to provide and maintain all weather track grade, clear of obstacles.
21. Prime to provide clear and safe concrete mixer or truck or concrete pump access to the work
22. All barrier paving to be done by machine, from the high side of the barrier, machine to run on final lift of pavement
23. Prices listed above include mobilization as follows; 2 mobs for barrier. Additional mobilizations add $5500 each, no credit for fewer.
24. **Escalator of $12 per linear foot for items 54-57 beginning 7/1/15; and an additional $20 per linear foot every 6 months thereafter until the completion of this project.**

02-19-14P01:10 RCVD

If you have any questions please call me at **925.957.8184, ext. 213**

Granite Construction, Inc.
2892 Hwy 17 Shoulder Widen & Soil Nail Wall
*** Nicholas Jouras

Analyze Quotes

Folder: BARRIER Concrete Barrier
Adjustment #2315 taken at 02/12/2014 12:19 pm by User: 328, Cost Change: 101,009, Sel Vendor: Midstate Barrier, Inc (MBI)
Adjustment #2375 taken at 02/12/2014 1:51 pm by User: 328, Cost Change: -92,353, Sel Vendor: ACL

Vendor Code:							ACL	VANGUARD	MIDSTATE
Vendor Name:							ACL	VANGUARD	Midstate Barri
Vendor Phone:									xt -210
Bid	**Activit**	**Resour**	**Description**	**Quantity**	**Unit**	**Plug Pric**	**UP**	**UP**	**UP**
30	231020	4BARR	TRAFFIC CONTROL SYS	1.00	LS	0.010		0.010 P	80,000.000
540		2CN01	CONCRETE BARRIER (T	15.00	CY	122.000	**122.000 P**		
540	839701	4BARR	CONCRETE BARRIER (T	85.00	LF	65.000	**47.270**	224.000	234.000
550		2CN01	CONCRETE BARRIER (T	26.00	CY	122.000	**122.000 P**		
550	839701	4BARR	CONCRETE BARRIER (T	405.00	LF	80.000	**47.270**	102.000	128.000
560		2CN01	CONCRETE BARRIER (T	13.00	CY	122.000	**122.000 P**		
560	839701	4BARR	CONCRETE BARRIER (T	55.00	LF	100.000	**47.270**	256.000	330.000
570		2CN01	CONCRETE BARRIER (T	249.90	CY	125.000	**125.000 P**		
570	839701	4BARR	CONCRETE BARRIER (T	1,350.00	LF	65.000	**47.270**	101.000	76.700
580	839695	2CN01	(F) CONCRETE BARRIER	66.15	CY	122.000	**122.000 P**	122.000 P	122.000 P
580	839701	2CN01	(F) CONCRETE BARRIER	60.00	CY	122.000	**122.000 P**	122.000 P	122.000 P
580	839701	4BARR	(F) CONCRETE BARRIER	340.00	LF	65.000	**97.270**	85.000	56.000
650	1250	4BARR	MOBILIZATION	1.00	LS	0.010	**0.010 P**	0.010 P	
Bond:							**3,238.62**	2,421.01	2,954.19
A1:			rebar from Harris				**36,044.00**		
Total Adjustments:							**39,282.62**	2,421.01	2,954.19
Totals:						206,490.82	**215,146.88**	257,491.33	310,809.49
Difference From Plug:							**8,656.06**	51,000.51	104,318.67

Total Minority:

Note:
A "P" beside a price indicates a plug price.
Bold indicates that the vendor is selected.