

BUGLER CONSTRUCTION

4847 Hopyard Road, Suite 4 #395
Pleasanton, CA 94588-2713
(925) 416-0700 FAX (925) 416-7746
E-Mail: buglerconst@comcast.net

Sent Facsimile (916) 227-6282 and Federal Express

April 28, 2015

John C. McMillan,
Deputy Division Chief
DEPARTMENT OF TRANSPORTATION
Division of Engineering Services
Office of Engineer
1727 30th Street, MS-43
P.O. Box 168041
Sacramento, CA 95816-8041

Re: Contract 05-1F3604
Bid Opening April 14, 2015
Response to Gordon N. Ball, Inc. April 27, 2015 Bid Protest

Dear Mr. McMillan:

This letter is sent in response to Gordon N. Ball, Inc.'s (hereinafter "GNB") protest letter dated April 27, 2015 regarding award of Contract 05-1F3604 (hereinafter the "Contract") to Bugler Construction (hereinafter "Bugler") as the apparent low bidder. I understand that GNB has argued that Bugler's bid is nonresponsive on three grounds: 1) the amount of work listed to be performed by Titan DVBE is exaggerated and cannot be factual; 2) Bugler's DVBE participation percentage is below the required five (5) percent goal of the Contract; and 3) the \$8,000 price listed for bid item 3 is not supported by Bugler's bid. I will address each of these arguments below. No other grounds for protest have been timely raised by GNB or any other bidder regarding award of the Contract.

Factual Background

On March 23, 2015, Caltrans published a Notice to Bidders for Contract 05-1F3604 (hereinafter the "Notice") which is attached hereto as **Exhibit A** and incorporated by reference as through fully set forth herein. Pursuant to the terms of the Notice, the following pertinent requirements were set forth: 1) the Contractor must have either a Class A license or one of the following Class C licenses: C-8; 2) the DVBE Contract goal is 5 percent; 3) Bids must be on a unit price basis; 4) the work must be completed within 140 working days; 5) the Department

gave a preference for certified small businesses; and 6) the Department gave a preference for California companies. All other terms of the Notice were standard.

On April 14, 2015, Bugler, a certified small business and California Company, submitted its bid in the amount of \$694,531.00. Gordon N. Ball, the apparent second low bidder, submitted its bid in the amount of \$821,995. There were five other bidders for Contract 05-1F3604 (the "Contract"). After the bids were opened and evaluated by Caltrans, Bugler was deemed the apparent low bidder for the Contract by \$127,465. Bugler's bid of \$694,531 was below the Engineer's Estimate of \$830,000 for the Contract. On April 27, 2015, thirteen days after the bids were opened and evaluated; Gordon N. Ball filed its protest to the award of the Contract to Bugler. There were seven (7) bidders in total for the Contract, only Gordon N. Ball, the apparent second low bidder, has filed a protest.

A. Bugler is the Lowest Responsible Bidder

GNB argues that Bugler's bid is non-responsive for three reasons: 1) the amount of work listed to be performed by Titan DVBE is exaggerated and cannot be factual; 2) Bugler's DVBE participation percentage is below the required five (5) percent goal of the Contract; and 3) the \$8,000 price listed for bid item 3 is not supported by Bugler's bid. Each of these arguments is without merit.

1. Titan's was Lawfully Listed as Bugler's Subcontractor for Traffic Control Systems and the Amount of Work Listed to be Performed by Titan is Reasonable

Bugler, in compliance with the Subletting and Subcontracting Fair Practices Act and the terms of the Solicitation, listed Titan DVBE as its subcontractor to perform Traffic Control (flagging) in its bid documents. See Pages 5 and 11 of Bugler's Bid, Attached hereto as **Exhibit B**. The Subletting and Subcontracting Fair Practices Act (California Public Code § 4100 et. seq.) (the "Act") requires prime contractors to designate, in their bids, the names and addresses of each subcontractor who will perform work the value of which exceeds one-half of 1 percent of the prime contractor's total bid or, in the cases of construction of streets/highways and bridges, work the value of which exceeds one-half of 1 percent of the total bid or \$10,000, whichever is greater. The Act is designed to prevent bid shopping and peddling that take place after award of the prime contract. GNB has not accused Bugler of bid shopping or peddling. GNB has failed to raise a violation of the listing law or solicitation in its protest letter. Nothing in the solicitation itself requires Bugler to do anything more than list the name and address and scope of work to be performed by each subcontractor required to be listed. Bugler consistently listed Titan DVBE as its Traffic Control subcontractor throughout its bid.

The amount of work listed to be performed by Titan is reasonable. The amount of work listed for Traffic Control in Bugler's bid is a lump sum of \$85,000, of which, Titan will perform \$52,960 worth of work. Pursuant to Titan's bid estimate, attached hereto as **Exhibit C**, Titan quoted Bugler traffic control rates and Bugler included the rate for a two man flagging crew on a 10 hour shift, plus two additional flaggers at the rate of \$3,310 per shift. Bugler assumed sixteen 10 hour shifts were necessary at the rate of \$3,310 which totals \$52,960, the total amount of Titan's participation as a DVBE which appears on page 10 of Bugler's bid. Accordingly, the amount of work to be performed by Titan as Bugler's traffic control subcontractor is neither exaggerated nor fabricated. On the contrary, it is represented in Bugler's bid and supported by Titan's estimate which was provided to Caltrans by Bugler on April 16, 2015 and appears on pages 10 and 11 of Bugler's electronic bid.

GNB appears to base its entire argument that the amount of work listed for Titan is exaggerated on the fact that Bugler refers to Titan's traffic control scope of work as "bid item 3" when traffic control is set forth as "bid item 2" on the face of the bid item list. GNB's argument is based upon a misnomer caused by the fact that Titan's estimate refers to traffic control as "bid item 3" and "construction area signs" as "bid item 2". It is well established that a bid which substantially conforms to a solicitation, though it is not perfect, may be accepted if the variance cannot have affected the amount of the bid or given the bidder an advantage or benefit not allowed other bidders. See *Ghilotti Construction Co. v. City of Richmond*, 45 Cal. App. 4th 897 (1996); see also *Menefee v. County of Fresno*, 163 Cal. App. 3d 1175 (1985)(public agency can waive a immaterial defect in bid); *MCM Construction, Inc. v. City and Council of San Francisco*, 66 Cal. App. 4th 359, 374 (1998)(an agency has discretion to waive immaterial deviations from bid specifications and may accept the bid). GNB has not made a single argument in its protest as to how Bugler's mistake is material and/or how Bugler has gained an advantage over bidders. Instead, in a shotgun style approach, GNB has merely thrown its argument at the proverbial wall in hopes that it will stick. Absent any articulate argument made by GNB, any "mistake" made by Bugler listing Titan as its Traffic Control subcontractor for bid item no. 3 is immaterial and may be waived by Caltrans and therefore does not render Bugler's bid as nonresponsive to the solicitation.

2. Bugler's DVBE Participation Exceeds the 5% DVBE Goal for the Contract

Bugler's DVBE participation is 7.62% which exceeds the Contract's DVBE goal of 5%. On page 10 of its electronic bid, Bugler sets forth the total claimed participation of its DVBE, Titan, which is 7.62% based upon Titan's listed participation of \$52,960 which is 7.62% of Bugler's total bid price of \$694,531.00. There is no argument or arithmetic provided by GNB to the contrary. Accordingly, GNB's argument that Bugler's DVBE participation does not exceed 5% is without merit.

3. Bugler's Bid for Portable Changeable Message Sign is Supported by its Bid

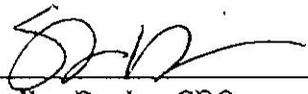
GNB argues that Bugler's bid for Portable Changeable Message Sign is not supported by its bid. GNB's argument is not supported by facts or case law. Bugler's listed price for the Portable Changeable Message Sign work is \$8,000 which is less than the \$10,000 threshold for street/highway or bridge work set forth in the Subletting and Subcontracting Fair Practices Act. Accordingly, Bugler is not required to list any subcontractor who will perform this scope of work. To the extent that GNB's unintelligible argument could be construed as arguing that Bugler made a material mistake in its bid, please refer to Bugler's rebuttal of this argument set forth above in Section 1.

Conclusion

Bugler has addressed all arguments made by Gordon N. Ball, Inc. in its protest letter dated April 27, 2015. For all of the reasons already set forth herein, Bugler respectfully requests that Gordon N. Ball's protest be denied and Bugler be awarded Contract 05-1F3604 as the lowest, responsive, responsible bidder.

Respectfully Submitted,

BUGLER CONSTRUCTION



Shelley Bugler, CEO

cc: Mulissa Smith, Contract Awards Branch Chief (w/ attachments)
Allen W. Estes, III, Esq. (w/o attachments)

Received

Apr 28 2015 01:38pm

04-28-'15 12:38 FROM-

T-013 P0005/0033 F-170

EXHIBIT A

05



Caltrans

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

**NOTICE TO BIDDERS
AND
SPECIAL PROVISIONS**

**FOR CONSTRUCTION ON STATE HIGHWAY IN SANTA CRUZ COUNTY NEAR
DAVENPORT AT SCOTT CREEK BRIDGE AND AT WADDELL CREEK BRIDGE**

In District 05 On Route 1

Under

Bid book dated March 23, 2015

Standard Specifications dated 2010

Project plans approved February 23, 2015

Standard Plans dated 2010

Identified by

Contract No. 05-1F3604

05-SCr-1-31.6, 36.3

Project ID 0513000134

Electronic Bidding Contract

**Bids open Tuesday, April 14, 2015
Dated March 23, 2015**

**AADD
OSD**

NOTICE TO BIDDERS

Bids open Tuesday, April 14, 2015

Dated March 23, 2015

General work description: Install cathodic anodes and scour monitor, and repair concrete spall

The Department will receive sealed bids for CONSTRUCTION ON STATE HIGHWAY IN SANTA CRUZ COUNTY NEAR DAVENPORT AT SCOTT CREEK BRIDGE AND AT WADDELL CREEK BRIDGE.

District-County-Route-Post Mile: 05-SCr-1-31.6, 36.3

Contract No. 05-1F3604

The Contractor must have either a Class A license or one of the following Class C licenses: C-8.

The DVBE Contract goal is 5 percent.

Bids must be on a unit price basis.

Complete the work within 140 working days.

The estimated cost of the project is \$830,000.

No prebid meeting is scheduled for this project.

The Department will receive bids until 2:00 p.m. on the bid open date via Bid Express web site. Bids received after this time will not be accepted. For more information refer to the Electronic Bidding Guide at the Bidders' Exchange web site.

The Department will open and publicly read the bids at 1727 30th Street, Bidders' Exchange, MS 26, Sacramento, CA 95816 immediately after the specified closing time.

District office addresses are provided in the *Standard Specifications*.

Present bidders' inquiries to the Department and view the Department's responses at:

http://www.dot.ca.gov/hq/esc/oe/inquiry/bid_inquiries.php

Questions about alleged patent ambiguity of the plans, specifications, or estimate must be asked before bid opening. After bid opening, the Department does not consider these questions as bid protests.

Submit your bid with bidder's security equal to at least 10 percent of the bid.

Under Govt Code § 14835 et seq. and 2 CA Code of Regs § 1896 et seq., the Department gives preference to certified small businesses and non-small businesses who commit to 25 percent certified small business participation.

Under Pub Cont Code § 6107, the Department gives preference to a "California company," as defined, for bid comparison purposes over a nonresident contractor from any state that gives or requires a preference to be given to contractors from that state on its public entity construction contracts.

Prevailing wages are required on this Contract. The Director of the California Department of Industrial Relations determines the general prevailing wage rates. Obtain the wage rates at the DIR Web site, <http://www.dir.ca.gov>, or from the Department's Labor Compliance Office of the district in which the work is located.

The Department has made available Notices of Suspension and Proposed Debarment from the Federal Highway Administration. For a copy of the notices, go to http://www.dot.ca.gov/hq/esc/oe/contractor_info. Additional information is provided in the Excluded Parties List System at <https://www.epls.gov>.

Caltrans and the Construction Industry are committed to making partnering the way we do business. For more information, go to <http://www.dot.ca.gov/hq/construc/partnering.html>.

Department of Transportation

D05RHW/MEK

04-28-'15 12:38 FROM-

Received

Apr 28 2015 01:39pm

T-013 P0009/0033 F-170

EXHIBIT B

-----BEGIN PGP SIGNED MESSAGE-----
Hash: SHA1

1:54

BID SUBMISSION RECEIPT

Vendor Name = Bugler Construction
Vendor Addr1 = 4847 Hopyard Rd.Suite 4 no.395
Vendor Addr2 =
Vendor City = Pleasanton
Vendor State = ca
Vendor Zip = 94588
Vendor Phone = (925) 416-0700
Vendor ID = VC0000019858

As Bid

Digital ID = Glenn Bugler VC0000019858
FingerPrint = aa 65 04 b8 e5 17 0e 47 40 20 f5 ea ed '66 d7 5b 0c 6f b8 65
Agency = CALTRANS
Letting ID = 05-1F3604
Letting Date = 04/14/2015
CallOrder = 1
Amendments = 0
Proposal ID = 05-1F3604
Bid Version = 5.11a
Protocol Ver = 2.00
Submission Time = 04/14/2015 04:53:49 PM EDT
Bid MD5 = 87 93 a1 86 7c 10 aa 79 06 dd 4c 87 04 a2 90 c2

Your encrypted submission relating to Call Order 1 dated 04/14/2015 was received at the Bid Submission time indicated above. Receipt of this submission does not imply that it complies with the substantive or procedural requirements of the state of CALTRANS. The form and sufficiency of your submission will be determined by the CALTRANS Department of Transportation upon the opening of bids.

This is your bid submission receipt. This bid submission replaces any prior submissions for this proposal.

Bid Receipt Ver. 4.0a

-----BEGIN PGP SIGNATURE-----

Version: GnuPG v2.0.14 (GNU/Linux)

iEYEAARECAAYFAlUtfl0ACgkQH9vdl60WBx+kgCdEhiDFLOI2V5qjdVX0VEGwxq0
7YgAniiK18mVTVG/Cis9xAEaHUP66JNO
=CkHn

-----END PGP SIGNATURE-----

CALTRANS
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
BID FOR

5

CONSTRUCTION ON STATE HIGHWAY IN
SANTA CRUZ COUNTY NEAR DAVENPORT AT SCOTT CREEK BRIDGE AND AT WADDELL
CREEK BRIDGE
In District 05 on Route 1

UNDER

Notice to Bidders and Special Provisions dated March 23, 2015
Project plans approved February 23, 2015
Standard Specifications dated 2010
Standard Plans dated 2010

Identified by
Contract No. 05-1F3604
05-SCr-1-31.6, 36.3
Project ID 0513000134

Bids open Tuesday, April 14, 2015

Dated March 23, 2015

AADD

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 05-1F3604 Project ID: 0513000134
 Bidder Name: Bugler Construction
 BID TO THE DEPARTMENT OF TRANSPORTATION
 DES-OE-0102.1

Bidder ID: VC0000019858

Name of Bidder Bugler Construction
 Bidder ID VC0000019858
 Business Street Address 4847 Hopyard Rd.Suite 4 no.395
 (Include even if P.O. Box is used)
 Business P.O. Box
 City, State, Zip Pleasanton, ca, 94588
 Telephone No. (925) 416-0700
 Fax No. (925) 416-7746
 Contractor License No.740863
 California Department of Industrial Relations Registration number** 1000000971
 Checksum 81960768

1. Bidder agrees, if this bid is accepted, to enter into a contract with the Department, in the form included in the Standard Specifications, to perform the work provided in the Contract under the terms of the Contract for the price or prices bid.

For a lump sum or unit price based bid, Bidder additionally agrees to perform the work within the number of working days shown on the Notice to Bidders.

For a cost plus time based bid on a contract without a plant establishment period, Bidder additionally agrees to perform the work within the number of working days bid.

For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the non-plant establishment work within the number of working days bid for non-plant establishment work.

2. Bidder has and acknowledges the following addenda:0
3. Bidder submits this bid with one of the following forms of bidder's security equal to at least 10 percent of the bid: Bidder's Bond
4. Bidder's signature is an affirmation of the included certifications. Bidder is cautioned that making a false certification may result in one or more of the following:
- 4.1 Criminal prosecution
 - 4.2 Rejection of the bid
 - 4.3 Rescission of the award
 - 4.4 Termination of the Contract

PRINTED NAME:Glenn Bugler AND
 TITLE OF PERSON SIGNING:President

BY (Authorized signature)

DATE SIGNED(Do not type)

Received

Apr 28 2015 01:39pm

04-28-'15 12:39 FROM-

T-013 P0013/0033 F-170

Contract No. 05-1F3604

Page 3

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 05-1F3604 Project ID: 0513000134
 Bidder Name: Bugler Construction

Bidder ID: VC0000019858

Item No.	Item Code	Item Description	Estimated Quantity Unit of Measure	Unit Price	Item Total
1	120090	CONSTRUCTION AREA SIGNS	LUMP SUM LS	LUMP SUM	3,000.00
2	120100	TRAFFIC CONTROL SYSTEM	LUMP SUM LS	LUMP SUM	85,000.00
3	128652	PORTABLE CHANGEABLE MESSAGE SIGN (LS)	LUMP SUM LS	LUMP SUM	8,000.00
4	130100	JOB SITE MANAGEMENT	LUMP SUM LS	LUMP SUM	9,000.00
5	130200	PREPARE WATER POLLUTION CONTROL PROGRAM	LUMP SUM LS	LUMP SUM	1,200.00
6	130900	TEMPORARY CONCRETE WASHOUT	LUMP SUM LS	LUMP SUM	3,000.00
7	150312	REPAIR SPALLED SURFACE AREA	3,097.0 SQFT	100.00	309,700.00
8	044861	INVESTIGATE UN SOUND CONCRETE DEPTH	108.0 EA	1,400.00	151,200.00
9	044862	GALVANIC ANODE	1,549.0 EA	19.00	29,431.00
10	044863	SCOUR MONITORING SYSTEM	LUMP SUM LS	LUMP SUM	30,000.00
11	999990	MOBILIZATION	LUMP SUM LS	LUMP SUM	65,000.00
Total Bid					669,531.00

04-28-'15 12:39 FROM-

T-013 P0015/0033 F-170

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 05-1F3604 Project ID: 0513000194
 Bidder Name: Bugler Construction
 DES-0E-0102.2B (REV 5/2014)

Bidder ID: VC0000019858

 Bidding Firm: Bugler Construction

List this sub? Yes

1) Business Name Titan DVBE
 Location City Redding State ca
 California Contractor License Number 913725
 CA Department of Industrial Relations' Registration Number 1000006513
 Portion of Work Subcontracted:

Item #	Description
3	62.3 Traffic Control (flagging)

List this sub? Yes

2) Business Name Peterson Scaffolding Inc
 Location City Martinez State ca
 California Contractor License Number 970819
 CA Department of Industrial Relations' Registration Number 1000003225
 Portion of Work Subcontracted:

Item #	Description
7	21.3 install scaffolding for work
8	26.3 install scaffolding for work

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 05-1F3604 Project ID: 0513000134

Bidder Name: Bugler Construction

Bidder ID: VC0000019858

REQUEST FOR SMALL BUSINESS PREFERENCE OR NON-SMALL BUSINESS PREFERENCE
DES-OE-0102.7 (REV 02/2010)

COMPLETE ONE OF THE FOLLOWING:

*Small Business Preference

The undersigned requests small business preference and certifies, under penalty of perjury, that the firm meets the requirements of 2 CA Code of Regs § 1896 et seq. and is certified as a small business at the time and day of bid opening or has submitted a complete application to the Department of General Services (DGS) and is subsequently certified. The complete application and any required substantiating documentation must be received by DGS by 5:00 p.m. on bid opening date.

Small Business Certification (Reference) Number: 017571

Date: 04/14/15 Signature: _____

*Non-Small Business Preference

The undersigned non-small business preference and notifies the Department on the Certified Small Business Listing for the Non-Small Business Preference form that it commits to subcontract at least 25 percent of its bid amount with one or more firms that meets the requirements of 2 CA Code of Regs § 1896 et seq. and the firms are certified as small businesses at the time and day of bid opening or have submitted a complete application and are subsequently certified by the Department of General Services (DGS). The complete application and any required substantiating documentation must be received by DGS by 5:00 p.m. on bid opening date. List these firms on the Certified Small Business Listing for the Non-Small Business Preference form.

Date: Signature: _____

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction
CALIFORNIA COMPANY PREFERENCE
DES-OE-102.9 (REV 11/2008)

Bidder ID: VC0000019858

This form must be completed by all bidders. Failure of a non-California company to fill out and sign this form may be cause for rejection of its bid. Eligibility for a reciprocal preference for a California company is waived if the California company fails to complete and sign this form under penalty of perjury.

The undersigned certifies that it is a "California company" as defined in Pub Cont Code § 6107 and meets one of the following (enter requested information):

- 1. I am a California company which has its principal place of business in California.
- or
- 2. I am a California company which has its principal place of business in a state in which there is no local contractor preference on construction contracts.
Name of State:
- or
- 3. I am a California company which has its principal place of business in a state in which there is a local contractor preference and my company has paid not less than \$5,000 in sales or use taxes to California for construction related activity for each of the 5 years immediately preceding the submission of the bid.
Name of State: AL
California Sales or Use Tax No.:

or

The undersigned certifies that it is not a "California company."

- 4. I a California company.
My principal place of business is in: (Enter state or country)
Describe any and all bid preferences provided to your company by the state or country in which your company has its principal place of business.
(Attach additional sheets if necessary.)
Describe:

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE _____ Signature of Bidder _____

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 05-1F3604 Project ID: 0513000134

Bidder Name: Bugler Construction

Bidder ID: VC0000019858

OPT OUT OF PAYMENT ADJUSTMENTS FOR PRICE INDEX FLUCTUATIONS

DES-OE-0102.12A (REV. 8/2012)

To opt out of payment adjustments for price index fluctuations as specified, complete this form.

I opt out of the payment adjustments for price index fluctuations.

Enter Date and Name to opt out of payment adjustments for price index fluctuations.

Date: Bidder's Name:

Signature: _____

04-28-'15 12:39 FROM-

T-013 P0019/0033 F-170

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction
CERTIFIED DVBE SUMMARY
DES-OE-102.5 (REV 3/2008)

Bidder ID: VC0000019858

DISTRICT-COUNTY-ROUTE: 05-SCr-1-31.6, 36.3
TOTAL BID: 694,531.00
BID OPENING DATE: 04-14-15
DVBE PRIME CONTRACTOR CERTIFICATION:na

Submit to:

MSC 43
Office Engineer
Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractors List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.

If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE.

Total Claimed Participation \$ 52,960.00
* 7.62

Contact Person: Glenn Bugler
(Type or Print)
(Area Code) Telephone Number: 925 416-0700

Signature of Bidder

Date

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction
CERTIFIED DVBE SUMMARY
DES-OE-102.5 (REV 3/2008)

Bidder ID: VC0000019858

Bid Item Number:

3

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

Traffic control (flagging)
FOR CALTRANS USE ONLY

DVBE Name: Titan

DVBE Telephone Number: 530 246-7836

DVBE Certification Number: 1249460

\$Amount: 52,960.00

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:

DVBE Telephone Number:

DVBE Certification Number:

\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:

DVBE Telephone Number:

DVBE Certification Number:

\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:

DVBE Telephone Number:

DVBE Certification Number:

\$Amount:

04-28-'15 12:40 FROM-

T-013 P0021/0033 F-170

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction
CERTIFIED DVBE SUMMARY
DES-OE-102.5 (REV 3/2008)

Bidder ID: VC0000019858

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:
DVBE Telephone Number:
DVBE Certification Number:
\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:
DVBE Telephone Number:
DVBE Certification Number:
\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:
DVBE Telephone Number:
DVBE Certification Number:
\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:
DVBE Telephone Number:
DVBE Certification Number:
\$Amount:

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T-013 P0022/0033 F-170

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction
CERTIFIED DVBE SUMMARY
DES-OE-102.5 (REV 3/2008)

Bidder ID: VC0000019858

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:
DVBE Telephone Number:
DVBE Certification Number:
\$Amount:

DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services (DVBE prime contractors are credited with 100 percent DVBE participation and need not complete the above table).

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction

Bidder ID: VC0000019858

UNDOCUMENTED ALIENS EMPLOYMENT

Under Pub Cont Code § 6101, the Bidder certifies compliance with state and federal law respecting the employment of undocumented aliens.

NONCOLLUSION

NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

Under PCC 7106 and 23 USC 112, the bidder declares as follows:
State of ca County of Alameda

Name: Glenn Bugler,
being first duly sworn, deposes and says that he or she is
President of
Bugler Construction

the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

CHILD SUPPORT COMPLIANCE ACT

Under Pub Cont Code § 7110, the contractor acknowledges that:

1. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
2. The contractor to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 05-1F3604 Project ID: 0513000134
 Bidder Name: Bugler Construction

Bidder ID: VC0000019858

NATIONAL LABOR RELATIONS BOARD

Under Pub Cont Code § 10232, the contractor, swears under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board.

VIOLATION OF LAW OR A SAFETY REGULATION

Under Pub Cont Code § 10162, the Bidder must complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation? No

If the answer is yes, explain the circumstances in the following space.

ANTITRUST LAW

Under Pub Con Code § 10285.1, the Bidder declares under penalty of perjury under the laws of the State of California that the Bidder Has Not been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Pub Cont Code § 1101, with any public entity, as defined in Pub Cont Code § 1100, including the Regents of the University of California or the Trustees of the California State University. The term "Bidder" includes any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

If the Bidder has been convicted of an offense within the past 3 years, provide the conviction details including the date and ultimate resolution of each conviction in the space below.

PERMITS, LICENSES, AGREEMENTS, CERTIFICATIONS, AND RAILROAD RELATIONS AND INSURANCE REQUIREMENTS

Bidder acknowledges that permits, licenses, agreements, certifications, and the requirements in the document titled "Railroad Relations and Insurance Requirements" are components of the Contract under section 5-1.02 of the Standard Specifications.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 05-1F3604 Project ID: 0513000134
Bidder Name: Bugler Construction

Bidder ID: VC0000019858

BIDDER RESPONSIBILITY QUESTIONNAIRE

Failure to truthfully answer the following questions will result in a finding that the bid is nonresponsive. The Bidder must complete, under penalty of perjury, the following questionnaire:

1. Within the past 10 years, has the Bidder been found to be a nonresponsive bidder by any public entity, including federal, State, local, or regional entities?

No

2. Within the past 10 years, have any of the Bidder's officers or employees with a proprietary interest in the Bidder been determined to be a nonresponsive bidder by a public entity, including federal, State, local or regional entities?

No

3. Is there any officer or employee of the Bidder who now has or has had any proprietary interest in another company that bid or bids on public works projects whose company has been determined to be a nonresponsive bidder by any public entity, including federal, State, local, or regional entities?

No

4. If the answer to any of the 3 preceding questions is yes, disclose all pertinent details of the determination of nonresponsibility, including:

4.1. Date of each nonresponsibility determination

4.2. Name of each public agency issuing the nonresponsibility determination and a contact person at that agency who would have information about the determination

4.3. Contract number for each nonresponsibility determination

END CERTIFICATIONS

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
BIDDER'S BOND
DES-OE 0102.3 (REV 3/2008)
Contract No. 05-1F3604

Bond No. _____

We _____

_____ as Principal, and

as Surety are bound unto the State of California, Department of Transportation, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a bid to the Obligee, for CONSTRUCTION ON STATE HIGHWAY IN SANTA CRUZ COUNTY NEAR DAVENPORT AT SCOTT CREEK BRIDGE AND AT WADDELL CREEK BRIDGE In District 05 on Route 1 for which bids are to be opened at 1727 30th Street, Sacramento CA 95816 on 04-14-15.

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance (if specified in the contract) of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

In the event a suit is brought upon this bond by the Obligee and judgement is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fees to be fixed by the court.

Dated: _____, 20 _____

Principal _____

Surety _____

By _____

Attorney-in-Fact

Correspondence or claims relating to this bond should be sent to the surety at the following address:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of _____

On this _____ before me, _____

Date

Here insert Name and Title of the Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE _____

Signature of Notary Public

(SEAL)

**BUGLER
CONSTRUCTION**
4847 Hopyard Road, Suite 4 #395
Pleasanton, CA 94588-2713
(925) 416-0700 FAX (925) 416-7746
E-Mail: buglerconst@comcast.net

April 16, 2015

MSC 43
Office Engineer
Department of Transportation
1727 30th Street
Sacramento CA 95816-7005

Via Federal Express

Reference: Bid for Contract No. 05-1F3604

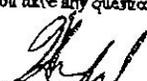
Subject: Certified DVBE Summary

To whom it may Concern:

Bugler Construction is the apparent low bidder for the above referenced project that bid on April 14, 2015. We are providing the attached Certified DVBE Summary (DES-0E-0102.5). This information may not be required as it is redundant to the information contained in pages 10 and 11 of the electronic bid submitted on bid day.

Also attached is a copy of quote from the listed Subcontractor. Note the quote has some handwritten notes, made on bid day, that show how the amount of \$52,960 in Total Claimed Participation was calculated.

If you have any questions or need further information I can be reached at the above numbers.


GLENN BUGLER
President

04-28-15 12:40 FROM-
Received

Apr 28 2015 01:41pm
T-013 P0028/0033 F-170



P.O. BOX 492316

SBE/DVBE REF# 1249460 Lic# 913725 DIR # 1000006513

LIST

#3

52,960

CDOT #06-1P3604

Bid Date 4/14/2015

Bid Item #3 CONSTRUCTION AREA SIGNS scratch, install, remove (add \$850.00 to have Titan USA project)
\$3030.00 (with traffic control)

Bid item #3 TRAFFIC CONTROL

2 Man Flagger Crew: Includes all cones and all advanced portable warning signs as needed for one mile one direction at a time (additional charges for additional cones and signs if needed)

Over time billed at \$95.00 per man hr

RATES DO NOT INCLUDE LUNCH REQUIRED IF NOT RELIEVED BY CONTRACTOR

2 man flagging crew 8hr shift= 1,150.00 + 2 additional flaggers \$1200.00= \$2350.00

2 man flagging crew 16hr shift= \$1730.00 + 2 additional flaggers \$1800.00= \$3530.00

2 man flagging crew 12 hr shift= \$2110.00 + 2 additional flaggers \$2900= \$5010.00

Rumble strips \$1200 month \$800.00 week \$100.00 day (per work day)

Additional Flaggers- 8 hr shift \$630.00 over time billed at \$95.00 per man hr
All Night Work is billed an additional \$3.50 per man hr

Pilot Car with Operator: Includes operator (no mileage charge)
8 hour shift - \$750.00 overtime billed at \$115.00 per hr.

Signatory to Northern California Laborers

Bid Item #4 PORTABLE CHANGEABLE MESSAGE BOARDS

\$1300.00 a month, \$750.00 week, \$300.00 a day, \$200 Delivery Charge Per Board.

There will be no retention held on Traffic Control. There MUST be a 2 week notice before start of work. If this project falls in a per diem area, contractor will be charged an additional \$24.00 per day per man. Traffic control bid item based on a maximum of 5 consecutive days. Anything less than 3 days will be charged an additional fee of \$500 per crew. Items not specifically included are considered to be excluded. All bid items are subject to a formal contract or PO available to both parties prior to any work starting. All bid items are subject to availability at the time of project start date. Titan DVBE Ref#1249460. Please call William Gebroyer/ Geo: Tucker with questions 500-245-7836.

3310 (16 hrs)
x 16 shift

\$52,960 + RUMBLE 2,400

04-28-15 12:40 FROM- Received

Apr 28 2015 01:41pm T-013 P0029/0033 F-170

04-28-'15 12:40 FROM-

Received

Apr 28 2015 01:41pm

T-013 P0030/0033 F-170

EXHIBIT C

BUGLER CONSTRUCTION
4847 Hopyard Road, Suite 4 #395
Pleasanton, CA 94588-2713
(925) 416-0700 FAX (925) 416-7746
E-Mail: buglerconst@comcast.net

April 16, 2015

MSC 43
Office Engineer
Department of Transportation
1727 30th Street
Sacramento CA 95816-7005

Via Federal Express

Reference: Bid for Contract No. 05-1F3604

Subject: Certified DVBE Summary

To whom it may Concern:

Bugler Construction is the apparent low bidder for the above referenced project that bid on April 14, 2015. We are providing the attached Certified DVBE Summary (DES-OE-0102.5). This information may not be required as it is redundant to the information contained in pages 10 and 11 of the electronic bid submitted on bid day.

Also attached is a copy of quote from the listed Subcontractor. Note the quote has some handwritten notes, made on bid day, that show how the amount of \$52,960 in Total Claimed Participation was calculated.

If you have any questions or need further information I can be reached at the above numbers.


GLENN BUGLER
President

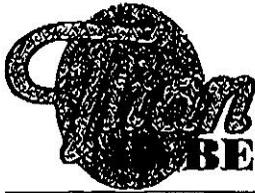
DISTRICT-COUNTY-ROUTE: 05 - SCF - 1
 CONTRACT NO.: 05-1F3604
 TOTAL BID: \$ 694,531-
 BID OPENING DATE: 4-14-15
 BIDDER'S NAME: BUBLER CONSTRUCTION
 DVBE PRIME CONTRACTOR CERTIFICATION ¹ NA

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE ²	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	\$ Amount
#3	TRAFFIC CONTROL (FLABBING)		TITAN (530) 246-7836 #1249460	\$ 52,960-
Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.			Total Claimed Participation	\$ <u>52,960</u> 7.62 %

1. DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services (DVBE prime contractors are credited with 100 percent DVBE participation and need not complete the above table).
 2. If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE.

Submit to:
 MSC 43
 OFFICE ENGINEER
 DEPARTMENT OF TRANSPORTATION
 1727 30TH STREET
 SACRAMENTO, CA 95816-7005

[Signature] 4-15-15
 Signature of Bidder Date
(925) 416-0700
 (Area Code) Telephone Number
GLENN BUBLER
 Contact Person (Type or Print)



P.O. BOX 492336

SBE/DVBE REF# 1249460 Lic# 913725 DIR # 1000006513

LIST

#3

52,960

CDOT #05-1F3604

Bid Date 4/14/2015

Bid item # 2 CONSTRUCTION AREA SIGNS furnish, install, remove (add \$850.00 to have Titan USA project)

\$3800.00 (with traffic control)

Bid item # 3 TRAFFIC CONTROL

2 Man Flagging Crew: Includes all cones and all advanced portable warning signs as needed for one mile one direction at a time (additional charges for additional cones and signs if needed)

Over time billed at \$95.00 per man hr

RATES DO NOT INCLUDE .5 LUNCH REQUIRED IF NOT RELIEVED BY CONTRACTOR

2 man flagging crew 8hr shift= 1350.00 = 2 additional flaggers \$1200.00= \$2550.00

2 man flagging crew 10hr shift= \$1730.00 + 2 additional flaggers \$1580.00= \$3310.00

2 man flagging crew 12 hr shift= \$2110.00 + 2 additional flaggers \$1960= \$4010.00

Rumble strips \$1200 month \$800.00 week \$200.00 day (per each set)

Additional Flaggers- 8 hr shift \$650.00 over time billed at \$95.00 per man h

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*3310 (10th days)
x 16 shift

\$ 52,960 + RUMBLE 2,400*