



West Coast

August 7, 2015

California Department of Transportation
Division of Engineering Services
Office Engineer MS 43
1727 30th St.
Sacramento, CA 95816
Fax: 916-227-6282

Attention: Mr. John McMillan
Contract: 06-0N9604
Re: Second Bid Protest of Low Bidder
Bid Opening: July 28, 2015

Dear Mr. McMillan,

Please consider this letter from American Civil Constructors West Coast (ACCWC) a second bid protest of the current low bidder, Techno Coatings. This protest is in addition to our original protest letter dated August 4, 2015.

The DBE Commitment form states in part, "...names of 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq.)".

On the day of bid, Techno Coatings listed Austin-Enterprise for the following:

BID ITEM	DESCRIPTION
2	Progress Schedule
39	Clean Expansion Joint
40	Joint Seal (MR1)
41	Joint Seal (MR2)

However on Techno Coatings' DBE Commitment form, the listed items of work for Austin-Enterprise have changed from the original subcontractor listing:

BID ITEM	DESCRIPTION
4	Construction Area Signs
39	Clean Expansion Joint
40	Joint Seal (MR1)
41	Joint Seal (MR2)



Such inconsistency between the subcontractor list and the DBE Commitment form (**Exhibit 'C'**) is a deviation of the scope of work to be performed by the subcontractor, constitutes a change, fails to adhere to explicit bidding instructions, and violates subcontractor listing laws.

Attached to this protest letter are similar instances of such inconsistencies between the subcontractor list and DBE Commitment forms resulting in non-responsive findings. (**Exhibit 'D'**).

Furthermore, Techno Coatings apparently listed bid item codes under the work category column on the DBE Commitment form (**Exhibit 'E'**). As noted on the DBE Commitment form, "Use Work Category Codes from the California United Certification Program database." Bid item codes are not the same as work category codes, further demonstrating Techno Coatings' failure to comply with bidding instructions.

The obvious failure to list subcontractors as outlined in the first protest letter, along with the inconsistencies between the subcontractor list and the DBE Commitment, should render Techno Coatings' bid non-responsive.

Thank you again for your time and consideration.

Signed,

A handwritten signature in black ink, appearing to read "Andrew Keough". The signature is written in a cursive style with some loops and flourishes.

Andrew Keough
Estimator

American Civil Constructors West Coast, Inc.
707-742-6422

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 06-0N9604 Project ID: 0612000026
 Bidder Name: Techno Coatings Inc. Bidder ID: VC0000021795
 DES-OE-0102.2B (REV 5/2014)

Bidding Firm: Techno Coatings Inc.

List this sub? Yes

- 1) Business Name Maneri Traffic Control
 Location City Temecula State CA
 California Contractor License Number 892008
 CA Department of Industrial Relations' Registration Number 1000011349
 Portion of Work Subcontracted:

Item %	Description
5 100	Traffic Control System

List this sub? Yes

- 2) Business Name Austin Enterprise
 Location City Bakersfield State CA
 California Contractor License Number 764893
 CA Department of Industrial Relations' Registration Number 1000001896
 Portion of Work Subcontracted:

Item %	Description
2 65	Progress Schedule
39 65	Clean Expansion Joint
40 65	Joint Seal (MR1)
41 65	Joint Seal (MR2)

List this sub? Yes

- 3) Business Name Safe Scaffolding
 Location City Trabuco Canyon State CA
 California Contractor License Number 956718
 CA Department of Industrial Relations' Registration Number 1000016177
 Portion of Work Subcontracted:

Item %	Description
46 30	Clean & Paint Structural Steel

EXHIBIT C' 1/2

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
P.O. BOX 168041, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov



*Serious drought.
Help save water!*

June 2, 2015

Facsimile: (925) 245-1007

Dominic Sposeto, CEO
FBD Vanguard Construction
651 Enterprise Court
Livermore, CA 94550

06-0S8204
06-Fre-41-R25.4
B.O. 5/20/15

Dear Mr. Sposeto:

The Department of Transportation (Caltrans) received a bid submitted by FBD Vanguard Construction (FBD) for Contract No. 06-0S8204 on May 20, 2015. By this letter, Caltrans notifies FBD that its bid is nonresponsive because of an inconsistency found in the Subcontractor List and the Disadvantaged Business Enterprise (DBE) Commitment form.

The DBE Commitment form states in part, "...names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work on the Subcontractor List form submitted with your bid."

On the Subcontractor List form, FBD has identified KRC Safety Co., Inc. as performing the following Bid Items:

- | | |
|---|--|
| 2 - Construction Area Signs | 23 - Roadside Sign – One Post |
| 3 - Channelizer (Surface Mounted) | 24 - Furnish Single Sheet Aluminum Sign for Retroreflective Sheeting |
| 5 - Temporary Railing (Type K) | 25 - Retroreflective Sheeting |
| 6 - Temporary Crash Cushion Module | 33 - Alternative Crash Cushion System |
| 14 - Remove Roadside Sign Panel | 37 - Traffic Control System |
| 22 - Furnish Single Sheet Aluminum Sign | |

However, on the DBE Commitment form, FBD only listed KRC to perform bid items 5, Temporary Railing (Type K), 33, Alternative Crash Cushion System, and 37, Traffic Control System. The difference of these items is a deviation of the scope of work to be performed by the subcontractor, and constitutes a change, and is in violation of the subcontractor listing laws, as well as the Subcontractor List and DBE Commitment form instructions.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder.

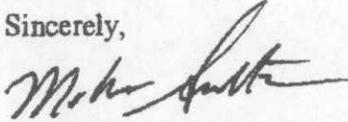
EXHIBIT 'D' 1/8

Mr. Sposeto
June 2, 2015
Page 2

Your attention is directed to Section 3-1.04 of the Amendments to the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulissa Smith, Contract Awards Manager, at (916) 227-6228.

Sincerely,



for JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

EXHIBIT 'D' 2/8

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov



Serious drought.
 Help save water!

February 17, 2015

Facsimile: (949) 252-0266

Dick W. Vogels, Vice President
Peterson-Chase General Engineering Construction, Inc
1792 Kaiser Avenue
Irvine, CA 92614

12-0L92U4
12-Ora-5-0.0/29.6
B.O. 10/30/14

Dear Mr. Vogels:

The Department of Transportation (Caltrans) received a bid from Peterson-Chase General Engineering Construction, Inc. (Peterson-Chase) for contract 12-0L92U4. By this letter, Caltrans notifies Peterson-Chase that its bid is nonresponsive because it submitted an inconsistent Subcontractor List and Disadvantaged Business Enterprise (DBE) Commitment Form.

Peterson-Chase identified Mallard Construction, Inc. (Mallard) on its Subcontractor's List form to perform work described in the following bid items:

Bid Items	Description of work	Percent of Work
3,11,29,38	Traffic Control System, Remove Thermoplastic Marking, Thermoplastic Pavement Marking, Mobilization	100 all items

However, on its DBE submittal form, Peterson-Chase identified Quality Traffic Control (Quality) as performing work described in the following bid items:

Bid Items	Description of work	Items of work	DBE	Amount
3, 5	Traffic Control System Portable changeable message sign	Rental CMS, impact attenuators, arrows	Quality Traffic Control	\$123,410

Peterson-Chase listed both Mallard and Quality Traffic Control to perform Bid Item 3. Since Peterson-Chase listed Mallard for 100 percent of Bid Item 3, it cannot also list Quality Traffic Control as performing work under Bid Item 3. This inconsistency renders Peterson-Chase's bid non-responsive.

EXHIBIT 'D' 3/8

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Mr. D. Vogels
February 17, 2015
Page 2

Furthermore, given that \$123,410 meets the listing requirement of $\frac{1}{2}$ of 1% of the amount of the bid or \$10,000, Peterson-Chase was required to list Quality Traffic Control on the Subcontractor List form. The failure to do so also renders the bid non-responsive.

The 2010 Standard Specification and California Public Contract Code Section require that any contractor submitting a bid or offer for construction of a public work or improvement list each subcontractor who will perform work in an amount in excess of $\frac{1}{2}$ of 1 percent of the total bid or \$10,000, whichever is greater.

California Business and Professions Code Section 7026 defines a contractor, including a subcontractor, as "any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions, or the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks, and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise."

Caltrans has determined that Quality is a C-32, Earthwork and Paving contractor and based on the quote, is providing services described as one impact attenuator vehicle, with driver per 8 hr shift, M-F. As such, is performing work on this contract as a subcontractor as defined under Business and Professions Code Section 7026 in an amount that is greater than $\frac{1}{2}$ of 1% and \$10,000. Therefore, Quality meets the requirements for listing under the Subcontractor Listing Laws found in Public Contract Code Section 4100 et seq. Failure to list Quality on the Subcontractor List Form is a violation of Caltrans bidding instructions and the Public Contract Code.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

EXHIBIT 'D' 4/8

Mr. D. Vogels
February 17, 2015
Page 3

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at
(916) 227-6228.

Sincerely,



John C. JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

EXHIBIT 'D' 5/8

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6280

FAX (916) 227-6282

TTY 711



*Flex your power!
Be energy efficient!*

July 12, 2013

Facsimile: (626) 455-0070

Earl Weiss, Secretary/Treasurer

Condor, Inc.

3000 Durfee Avenue

El Monte, CA 91732

06-0E6604

06-Ker-99-17.5/29.9

B.O. 06/26/2013

Dear Mr. Weiss:

The Department of Transportation (Caltrans) received a bid submitted by Condor, Inc. (Condor) for Contract No. 06-0E6604 on June 26, 2013. By this letter, Caltrans notifies Condor that its bid is nonresponsive because of an inconsistency found in both the Subcontractors List and the Disadvantaged Business Enterprise (DBE) Commitment form.

The DBE Commitment form states in part, "...Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid."

On the Subcontractor list form, Condor identified KRC Safety Co., Inc. (KRC) as only performing Bid Item 1, Construction Area Signs. However, on the DBE Commitment form, Condor identified KRC as performing bid item 1, bid item 2, Traffic Control System (partial), and bid item 3, Portable Changeable Message Sign. The addition of bid item 2 changes the description of work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractors List form and is in violation of the subcontractors listing laws, as well as the Subcontractors List and DBE Commitment forms instructions.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder.

Your attention is directed to Section 3-1.04 of the Amendments to the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

Rubene D. Harney
JOHN C. McMILLAN

Deputy Division Chief

Office Engineer

Division of Engineering Services

Attachment

EXHIBIT 'D' 6/8

"Caltrans improves mobility across California"

THIRD BIDDER

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DBE-0E-0102.10C (NEW 06/2012)

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 06-0E6804

BID AMOUNT: \$ 725,101.18

BID OPENING DATE: 6-26-2013

BIDDER'S NAME: CONDOR, INC.

DBE GOAL FROM CONTRACT, %: 9%

DBE PRIME CONTRACTOR CERTIFICATION:

BID ITEM NO.	ITEMS OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED*	FOR CALTRANS USE ONLY	NAME OF DBE (Must be certified on this date into an approved - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE*
5	Prepare WPCP		Appian UDBE SWPPP 5780 Olinda Rd., El Sobrante, CA 94803 P. (510) 375-1927 Cert. No. 38334	\$750.-
* 1	Construction Area Signs		KRC Safety Co., Inc. P.O. Box 6356, Visalia, CA 93290 P. (559) 732-0393 Cert. No. 000447	\$66,295.-
2	Traffic Control System (Partial)			
3	Portable Changeable Message Sign			

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective amounts of work items above must be consistent, where applicable, with the names and amounts of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

- DBE prime contractors must enter their certification number and indicate if work is to be performed by DBEs including work performed by its own forces.
- If 100% of item is not to be performed or finished by DBE, describe exact portion of item to be performed or finished.
- See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Total Claimed Participation

\$ 67,045.-
9.25 %

[Signature]
Signature of Bidder

6-24-2013 Date
626-455-0050 (Area Code) Tel. No.

ERIK WESS Person in Contact (Please Type or Print)

Submit to:
MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 30TH STREET
SACRAMENTO, CA 95815-7005

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10/1/13
06-27-13 P 12:30 Rcvd

Contract No. 06-0E6804

EXHIBIT 'D' 7/8

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

Bidder Name: CONDOR, INC.

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
* KRC Safety Co., Inc. 6084 W. Hurley Visalia, CA 93290	1	97.90%	Construction Area Signs
Murphy Industrial Coatings, Inc. 2704 Gundry Ave. Signal Hill, CA 90755-1811	15	100%	Paint Concrete Surfaces
Appian UDBE SWPPP 5780 Olinda Road El Sobrante, CA 94803	5	100%	WPCP
Fenocorp, Inc. 111 Main St. <i>SW</i> Riverside, CA 92501			Chain Link Fence <i>JW</i>
CROWN FENCE CO 230 RIVER RD CORONA, CA 92880	9 17	100% 100%	REMOVE CHAIN LINK FENCE CHAIN LINK FENCE

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Contract No. 06-0E6604

EXHIBIT 4 'D' 8/8



Low Bidder

07-31-15P02:49 RCVD

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE - COMMITMENT
DES-OE-0102.10D (REV 12/2014)

CONTRACT NO: 06-0N9604
 BID AMOUNT: \$ 6,737,362.11
 BID OPENING DATE: 7/28/15
 BIDDER'S NAME: Techno Coatings Inc.
 DBE GOAL FROM CONTRACT %: 9%
 DBE PRIME CONTRACTOR CERTIFICATION*: N/A TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE): 3 TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE): 1,577,066

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	WORK CATEGORY CODES ³	NAME OF DBEs (Must be certified on the date bids are opened. Include Caltrans' certification no., DBE address, and phone number. Show 2nd and lowest for subcontractors)	AMOUNT (\$)
5	Traffic Control System	120100	Manan Traffic Control	\$512,550
4	Construction Area Signs	120090	Austin Enterprise	\$15,300
39	Clean Expansion Joint	511118	Austin Enterprise	\$36,651
40	Joint Seal	514081	Austin Enterprise	\$55,840
41	Joint Seal	514088	Austin Enterprise	\$6,440

Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq).

¹Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

²If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished.

³Use Work Category Codes from the California Unified Certification Program database.

Total Claimed Participation: \$ 627,081
9.3 %

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (49 CFR 26.53).

Tom Puett
 Signature of Bidder
7/28/15 (714) 625-1130
 Date (Area Code) Tel No
Tom Puett
 Person to Contact (Please Type or Print)

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Contract No. 06-0N9604

EXHIBIT 'E' 1/1