

WABO**Landscape & Construction, Inc.**

726 ALFRED NOBEL DR. HERCULES, CA 94547 LIC. 962263 A, B, & C27

(510) 741-9226 FAX (510) 724-2391 bids@wabo.com

October 29, 2013

John McMillan
Deputy Division Chief
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816
Phone: (916) 227-6280
Fax: (916) 227-6282

Re: Contract 06-0Q5504; Bid Opening Date: 10/15/2013

Dear Mr. McMillan:

WABO Landscape & Construction, Inc. (WABO) hereby protests the bid submitted by Taber Construction, Inc. (Taber), the apparent low bidder for Contract 06-0Q5504. WABO submitted a bid for the project and therefore has standing to file this protest. We protest Taber's bid on the grounds that there is an apparent inconsistency between the information provided with Taber's DBE Commitment form and the information on their Subcontractor List which calls into question the accuracy of the Subcontractor List information.

Taber's Subcontractor List shows A-C Electric of Fresno (ACE) performing 100% of items 35 and 36 (Electrical Systems (Route 168) and Electrical Systems (Route 180) respectively). Taber's DBE Commitment Form lists Catco Services (Catco), of Oakland as providing "Electrical Equipment" for bid items 12, 35, and 36.

If the Electrical Materials for items 35 and 36 are being purchased by Taber, as the currently available evidence suggests, then Taber's bid should be found non-responsive for failure to properly complete the Subcontractor's List form. Specifically, if Taber is responsible for purchasing and providing the Electrical Equipment for bid items 35 and 36, Taber's listing of ACE to perform 100% of bid items 35 and 36 is inaccurate.

There is no indication on the DBE Commitment form that the supplier Catco is a second tier supplier. The written confirmation of Catco's participation is a letter from its owner, Carolyn Taylor, saying that Catco will furnish \$582,000 worth of Electrical Equipment and Materials for this contract. As the letter is addressed to Brett Taber and no other company is mentioned, the implication is that Taber is the purchasing agent. As no portion described, Catco is assumed to be providing 100% of the Electrical Equipment for these bid items.

WABO received a quote from ACE for this project (attached). The prices we received in our quote from ACE closely match Taber's bid prices for items 35 and 36. The quote we received from ACE gave no indication that ACE would be purchasing electrical equipment for the project from a DBE. As the use of a DBE supplier would have made ACE's bid more competitive, we find it unusual that they would not have included this information with their bid, and apparently only informed Taber of this.

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The available evidence all points towards a serious error in Taber's bid. But there is ambiguity where there should be transparency. It is not clear whether Catco is a first or second tier vendor, and what materials they are providing. We believe there is sufficient cause for the Department to request additional information in order to clarify the facts. WABO requests that the Department get clarification in the form of statements from Taber, Catco and ACE, clearly stating whether Taber or ACE is purchasing and providing the electrical equipment for bid items 35 and 36; who Catco is selling equipment to; and what electrical equipment Catco is selling.

If, upon clarification, our protest above is found to have no merit, we request that the Department pass the following information and concerns to the Contract Evaluation Unit (CEU). We question whether Catco meets the criteria of §26.55(e)(2)(ii) for being treated as a regular dealer in its participation on this contract.

We are concerned because Catco has work codes that are consistent with being a supplier of some forms of electrical equipment, and therefore might appear to have the correct work codes.

Furthermore, Catco's DBE certification page on the CalTrans website gives two addresses for Catco Services. One, 22 Moss Avenue, is an apartment building. The second, 360 Grand Avenue (#246) is a UPS store that provides a mail-box service. While running a business out of an apartment is certainly feasible, it is not likely that an apartment run business could be a regular dealer as defined by §26.55(e)(2)(ii):

a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

While an Catco could have a warehouse, they would not need one to meet the qualifications for their work codes, D3690 Miscellaneous Electrical Equipment and F5060 Electrical Goods.

While no quote was provided by Catco, the "Electrical Materials" for bid items 12, 35 and 36 includes some 550 pull boxes (item 12); and approximately 2,278 more pull boxes for items 35 and 36. The work code for a supplier of these types of items would be most likely be C0686, which Calco does not list.

Please feel free to contact us with any questions regarding this matter.

Sincerely,



Steve Gladden

President

WABO Landscape & Construction, Inc.

10/15/2013 10:58 FAX 0256628122

Received 0256628122

Taber Construction Oct 15 2013 04:21am

0002/0082

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-06-0102.2 (REV 3/2011)

Bidder Name: **Taber Construction 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; Visalia | 3 | 100% | Const. Area Signs |
| All Commercial Fence; Waterford | 15,32,33 | 100% | Fence and Gates |
| A C Electric; Fresno | 35,36 | 100% | Electrical |

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-9910 or TDD (916) 654-3880 or with Procure and Forms Management, 1130 N Street, MS-09, Sacramento, CA 95834.

Contract No. 06-0Q5504

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DCE-OC-0102 10C (NEW 06/2012)

Low Bidder

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder on the award of this low contract, it must be submitted and reviewed 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. 06-005504

CID AMOUNT \$ 5,430,650

RFP OPENED DATE 10/15/13

BIDDER NAME TABER CONSTRUCTION INC

DUE DATE FROM CONTRACT, % 7

DBE PRIME CONTRACTOR CERTIFICATION:

| DBE ITEM NO. | TYPE OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ¹ | FOR CALTRANS USE ONLY | NAME OF DBE <small>(Must be a DBE on the date the bid was opened - include Caltrans' certification #, DCE bid no. and phone number) (Indicate DBE and level for subcontractors)</small> | DOLLAR AMOUNT DBE ² |
|--------------|-------------------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <u>3</u> | <u>CONST. AREA SIGNS</u> | | <u>KRC SAFETY ①</u> | <u>36,080-</u> |
| <u>7</u> | <u>PREPARE WPPAC ELECTRICAL EQUIPT.</u> | | <u>TRUY CONSULTING ②</u> <u>TLG</u> <u>CATCO SERVICES ③</u> | <u>650-</u> <u>582,000</u> |
| | | | | |
| | | | | |

¹ REPORTABLE: Identify all DBE firms being utilized for trade, regardless of the amount of the work. For DBE Subcontractors and their respective amount of work that is to be performed, enter a percentage, with the name and name of work in the "Subcontractor List" submitted with your bid. Copies of the DBE orders are required.

- ² DBE prime contractors must enter their certification number and indicate all work to be performed by DBE or directly performed by its own forces.
- ³ If 100% of work is to be performed or furnished by DBE, describe exact portion of work to be performed or furnished.
- ⁴ See section 2-1.12 of the specifications to determine the credit allowed for DBE work.

Total Claimed Participation

\$ 305,930

7.1%

Signature of Bidder

Date 10/14/13

915-682-6133
(Area Code) Ext. No.

Person to Contact
BART TUBER

(Bidder Type or Firm)

Comments

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1227 SOUTH STREET
SACRAMENTO, CA 95818-1104

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 227-0410 or TDD (916) 954-3689 or write Access and Permit Management, 1520 JJ Street, SACRAMENTO, CA 95833



368 Grand Ave., Suite 246
Oakland, CA 94610

October 15, 2013

TO: Taber Construction Inc.
Attn: Bret Taber

PROJECT: Caltrans 06-0Q5504

Catco Services Lighting and Electrical Company is please to submit this confirmation to/will furnish Electrical Equipment and Materials for above project -

TOTAL PRICE _____ \$582,000.00

Questions I can be reach at 510-435-8453.

Reference available upon request.

Thank you kindly for your consideration.

Carolyn Taylor
Owner
Catco Services Lighting and Electrical Co.

☎ 510.655.4401
☎ 510.655.4401
✉ Info@catcoserviccs.com

2013 OCT 29 AM 11:22 WABO 5107242391

USE



A-C Electric Company

CALIFORNIA C-10 LICENSE 98849

ENGINEERING-CONSTRUCTION-SERVICE

FRESNO DIVISION
Box 2425 (83746-2425)
2560 S East Avenue
Fresno, CA 93706
Phone 559/233-3208
Fax 559/233-6849
www.a-celectric.com

October 15, 2013

To: Bidding General Contractors
Attention: Estimating

VIA FAX
2 pages

Re: Construction on State Highway in Fresno County at Various Locations in District 06 on Routes 168 and 180, Caltrans 06-0Q5504

Subject: Electrical Proposal (A-C bid F-13-192)

A-C Electric Company is pleased to provide our proposal for the electrical portion of this project.

Our proposal is based on the following bid documents:

Drawings:

The one hundred nineteen electrical drawings, sheets E-1 through E-119, (sheets 69 through 187 of 204).

Specifications:

Caltrans 2010, Section 86, as amended by Special Provisions pages 20 through 36.

Addenda No. 1, dated 9-27-13, No. 2, dated 10/7/13, and No. 3, dated 10/8/13 are acknowledged.

PRICING:

| | |
|------------------------------------------------------------|---------------|
| BI 34 Maintain Existing Traffic Management System Elements | \$ 10,000.00 |
| BI 35 Electrical Systems (Route 168) | \$ 905,000.00 |
| BI 36 Electrical Systems (Route 180) | \$ 978,000.00 |
| BI 39 Mobilization | \$ 200,000.00 |

Total Electrical Bid

\$ 2,093,000.00

The bid is based on our being awarded all of the bid items above. We reserve the right to adjust these prices if all are not awarded to A-C Electric Company.

Items Included in bid:

1. Work includes ~~directional boring~~, excavation and backfill for our work as applicable with on-site dispersal of excess soil.
2. Work includes furnishing and installing conduits, conductors, traffic rated concrete pull boxes and extensions, galvanized steel lids for traffic boxes with penta head bolts, concrete collars at concrete pull boxes, custom lockable lids for existing pull boxes, video surveillance standards and equipment, anchor bolts, and service pedestals.
3. Disposal of removed concrete pull boxes and lids.
4. Prevailing wages.

Items not included in bid:

1. Traffic control such as lane, ramp, and shoulder closures.
For Bid Item 35, we will need 27 Freeway Shoulder Closures, 36 Freeway Ramp Closures, 13 City Street Lane Closures, and 6 City Street Shoulder Closures.

Replace Electrical Routes 168 and 180 CT 06-005504
A-C Electric Company
Electrical Proposal
October 15, 2013
Page 2 of 2

For Bid Item 36, we will need 1 Night Freeway Lane Closure, 35 Freeway Ramp Closures, 78 Freeway Shoulder Closures, 8 City Street Lane Closures, and 5 City Street Shoulder Closures.

2. Utility company charges.
3. Permits and bonds (our bond rate is approximately 0.53%).
4. Liquidated damages for events beyond our control.
5. Surveying and staking.
6. Overtime and shift work.
7. Changeable message signs.
8. Temporary signals and street lighting.
9. Removal and replacement of concrete and asphalt.
10. Repair or replacement of landscape damaged due to our work.

Our bid is conditioned on:

- 1) A mutually acceptable form of purchase order or contract document.

Some clauses of importance to us are realistic payment clauses which protect both parties, guarantee us that we get paid promptly for our work and eliminate unnecessary paperwork; indemnification clauses which equitably allocate risk to the parties, insuring that you are indemnified for the negligent acts of A-C Electric Company, without A-C indemnifying or defending you for your negligence; scheduling clauses which give us adequate time to perform our work efficiently and safely, compensate us for acceleration required for reasons outside our control, and limits any requirement for us to accelerate without compensation to our failure to perform in meeting a reasonable schedule.

In the event that we are unable to reach a mutually acceptable contract utilizing Contractor's proposed document, this bid is conditioned on the use of Consensus DOCS 750 or 751, documents drafted and agreed to by the various construction trade associations with the intent to be fair to the contractor, subcontractor and owner.

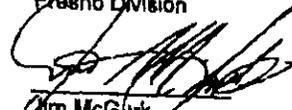
- 2) As an interim measure, while we are working on a mutually acceptable contract document, we will perform work and supply material upon receipt of a written authorization to do so with the assurances that we will be paid timely for the work done.
- 3) If you are one of the more than 60 Contractors with which we have worked out a mutually acceptable contract, or an addendum to your standard contract, our bid is conditioned to it.

Legal venue of this project will fall under the jurisdiction of the state and county in which the work is performed.

A-C Electric Company is signatory to collective bargaining agreements with the International Brotherhood of Electrical Workers. This bid is based on doing the work of our bid items with our own forces who are signatory to the IBEW or selected subcontractors. We will cooperate with you in resolving labor problems involving our work and the IBEW resulting from claims or grievances made by labor unions to which you are signatory. We will provide representation and bear our own costs for doing so. We will not indemnify nor reimburse you for costs you incur resulting from such claims or grievances.

If you should have any questions or comments, please feel free to contact me, or the estimator, Dan Irvin, at 661-410-0308.

A-C ELECTRIC COMPANY
Fresno Division


Jim McGurk
Division Manager

www.a-celectric.com



A-C Electric Company

CALIFORNIA C-10 LICENSE 99849

ENGINEERING - CONSTRUCTION - SERVICE

PRECONSTRUCTION SERVICES
Bar #1077
2021 Hanger Way (93308)
Bakersfield, CA 93300-1877
Phone 661/410-0000
Fax 661/410-0402
www.a-celectric.com

FACSIMILE TRANSMITTAL

| | |
|----------------------------------------------|-------------------------------------------------------------|
| To: WABO Landscape & Construction | Attn: Estimating @ WABO Landscape & Construction |
| Fax Number: 15107242391 | No. of Pages (Including Cover): 3 |
| From: Daniel E. Irvin | Date: 10/15/2013 1:30:56 PM |
| Job No. / PO No.: | |
| Comments: (661) 410-0308 | |

10/17/13

Unified Certification Program

Back To Query Form

Search Returned 1 Records

Thu Oct 17 11:02:39 PDT 2013

Query Criteria

Firm/DBA Name: catco services

Firm Type: DBE

3

| | |
|------------------------------|----------------------------------------|
| Firm ID | 37242 |
| Firm/DBA Name | CATCO SERVICES |
| Address Line1 | 22 MOSS AVE., SUITE401 |
| Address Line2 | 360 GRAND AVE #24G |
| City | OAKLAND |
| State | CA |
| Zip Code1 | 94610 |
| Zip Code2 | |
| Mailing Address Line1 | |
| Mailing Address Line2 | |
| Mailing City | |
| Mailing State | |
| Mailing Zip Code1 | |
| Mailing Zip Code2 | |
| Certification Type | DBE |
| E-Mail | Info@catcoservices.com |
| Contact Name | CAROLYN TAYLOR |
| Area Code | (610) |
| Phone Number | 655-4401 |
| Fax Area Code | (510) |
| Fax Phone Number | 555-4401 |
| Agency Name | BAY AREA RAPID TRANSIT DISTRICT (BART) |
| Counties | 01; 07; 21; 28; 34; 39; 41; 43; |
| Districts | 03; 04; |
| DBE NAICS | 423610; 444100; |

ACDBE NAICS

| | |
|-------------------|----------------------------------------------------------------------|
| Work Codes | D3600 MISC. ELECTRICAL EQUIPMENT & SUPPLIES; F5060 ELECTRICAL GOODS; |
| Licenses | |
| Trucks | |
| Gender | F |
| Ethnicity | BLACK |
| Firm Type | DBE |

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October 29, 2013

Attention: John McMillan

To: CalTrans

Phone: (916) 227-6280

Fax: (916) 227-6282

From: WABO Landscape & Construction, Inc.

Re: Bid Protest for Contract No. 06-0Q5504

Nine pages to follow.