MCM CONSTRUCTION, INC.
GENERAL ENGINEERING CONTRACTORS
SACRAMENTO, CA

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Via Facsimile (916) 227-6282

December 15, 2014

State Of California
Department Of Transporation
1727 30th Street, Bidder Exchange, MS 43
Sacramento CA 95816-8041

Attn: John C. McMillan, Deputy Division Chief, Office Engineer

Re: Contract No. 06-432604
Route 33, Jacalitos Bridge Replacement, Coalinga CA
BID PROTEST RESPONSE

Gentlemen:

This letter responds to the protest of MCM Construction's bid on the above referenced project filed by the 2nd lowest bidder, Agee Construction. MCM's bid is the lowest responsive bid for this project.

MCM's Listing Of KRC Safety Company, Inc.
MCM described KRC's portion of work as "Signs, Channelizer, K-Rail, and Crash Cushion". The items identified by MCM as "Signs" work were Item 2, Construction Area Signs, Item 66, Object Marker (Type P), and Item 67, Special Marker. Now we are being challenged as to whether Object Markers (Type P) work and Special Marker work is adequately described as "signs".

A Caltrans marker is literally a sign that marks objects or other facilities. The term "signs" when used to describe work is a general term that encompasses a variety of types of signs. Some signs function as regulatory signs, warning signs, construction area signs, traffic control signs, and marker signs, among others. They have different uses but all are signs of similar construction. The work of fabricating and installing P-marker signs and Special Marker Signs is the same as that of other signs, i.e. symbols on reflective sheeting placed on an aluminum panel substrate mounted on a post. That is why the sign subcontractor bids marker signs as well as construction area signs and roadside signs.

To further support the fact that markers are a type of sign, the California Manual on Uniform Traffic Control Devices includes Markers of all types on its "Sign" Chart, including Type P Markers. (See attached). With respect to the Special Marker on this project, reference the attached copy of Plan Sheet No. 6 which details the Special Marker. Clearly, the Special Marker is a sign which functions as a marker of a gate valve. It is a metal panel with black lettering on a white background mounted on a metal post. Again, the construction of the marker is the same as other signs.

Re: 06-432604 Bid Protest Response

There is not one standard specification section that governs all signs. While markers are governed by a different section than construction area signs, so are roadside signs and overhead signs. The term "signs" is not so specific to reference the work of one standard specification section. As an analogy, a work description of "drainage" can involve several different standard specification sections, i.e. 51, 61-70.

On past bids, Caltrans has correctly accepted the work description of "signs" as including markers since they are a type of sign. For example, Contract 05-315804 is a project MCM is currently constructing wherein a subcontractor's work was described as "Signs" and Item 204, Milepost Marker, and Item 205, Object Marker, were included in the list of items corresponding to that description. When we describe marker work as "signs" and are awarded contracts on that basis, we can rely on the adequacy of that work description when bidding future work.

Additionally, a copy of KRC Safety's bid day quotation was provided to Caltrans as part of our DBE Commitment documentation. The quotation includes the two marker items which is consistent with our inclusion of the items on our list of items subcontracted to KRC.

MCM's Listing Of Harris Rebar Northern California

Agee asserts that MCM's work description of "rebar" for Harris is improper for the 11 percent of Item 72, Concrete Barrier identified as Harris' work. The concrete barrier item includes payment for rebar and the work description of "rebar" clearly describes the portion of the concrete barrier item that Harris will perform. Additionally, this way of describing the rebar portion of work in barriers is proper and has been accepted by Caltrans on past projects, too many to list.

MCM's Listing of Papich Construction And Midstate Barrier (MBI)

In the case of MBI, on bid day MCM described MBI's work using the same description as the item description, Concrete Barrier. On the next day letter, MCM identified Item 72, Concrete Barrier, and a corresponding percentage (70%), just as the instructions require. Somehow, Agee asserts that we cannot assign a percentage less than 100 percent given the bid day work description that does not include the word "partial". That assertion has no foundation not to mention practically all projects are currently being awarded on the basis of a percentage less than 100 in the absence of the word "partial" in the work description.

In the case of Papich, Agee makes the same assertion for Item 17, Street Sweeping, for which MCM responds the same as we do above for MBI.

Conclusion

Given all the above, Caltrans should determine that Agee's protest of MCM's bid lacks merit.

Re: 06-432604 Bid Protest Response

Please contact the undersigned, should you have any questions or comments.

Sincerely,

MCM CONSTRUCTION, INC.

Edmundo A. Puchi
General Counsel & Treasurer

/rm

Enclosures

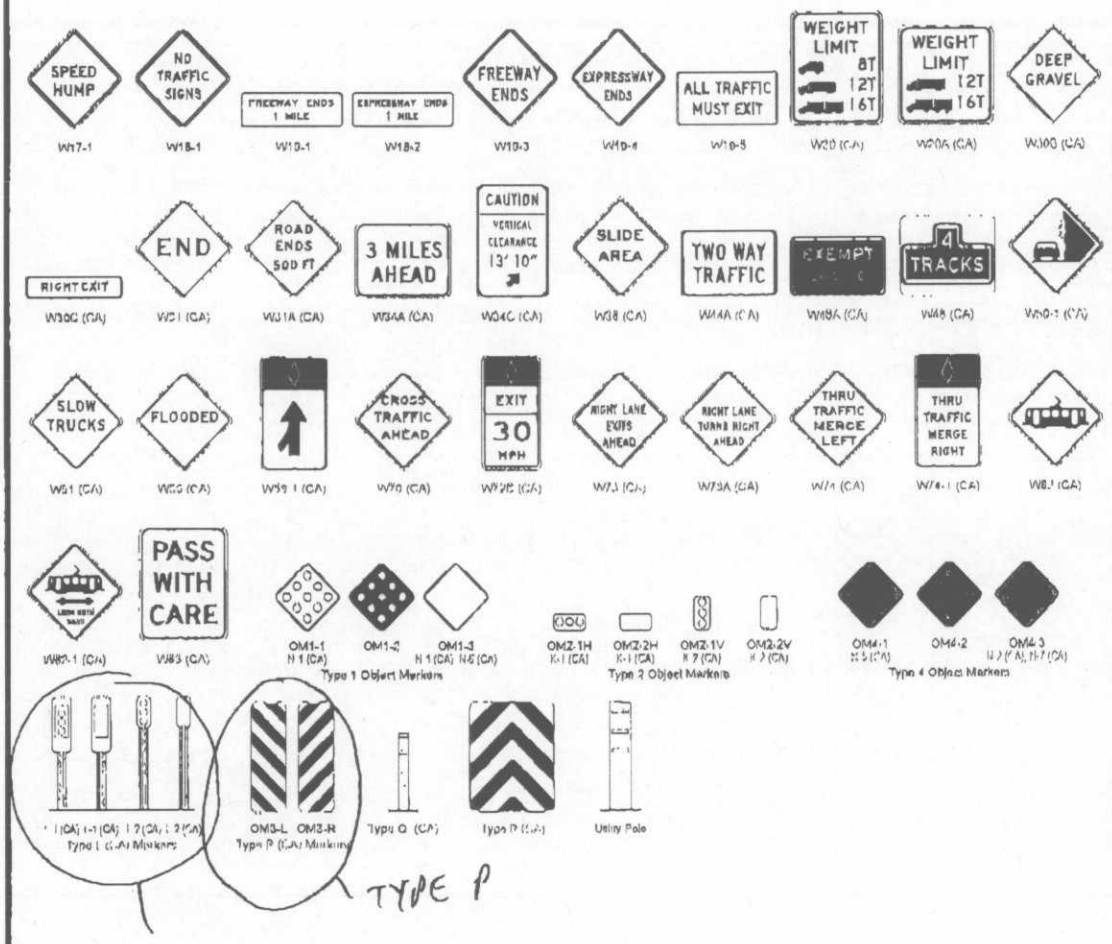
Cc: JAC, HDM, RM, Bid File

California MUTCD 2012 Sign Charts

Sheet 8 of 14 - Warning Signs and Object Markers

California Department of Transportation
Division of Traffic Operations, Office of Traffic Engineering
Effective January 13, 2012

This chart contains commonly used signs in California, and is not meant to be used as a comprehensive sign chart or a stand-alone sign design tool.
California codes are designated by (CA). Otherwise Federal MUTCD codes are shown. For sign specification details, visit www.dot.ca.gov/hq/traffops/signtech/signdet/spaces.htm



TYPE P

SAME CONST.
AS SPECIAL MARKER

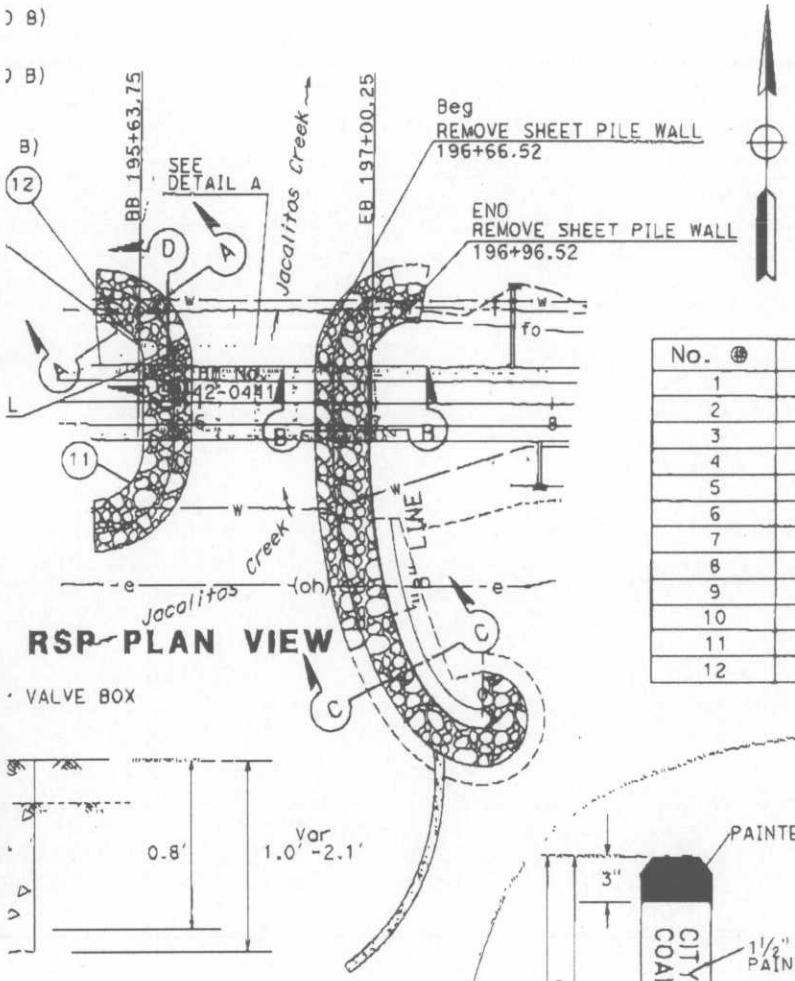
DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
06	Fre	33	10.9/11.1	6	104

E Atalgeed 04-15-14
REGISTERED CIVIL ENGINEER DATE

4-28-14
PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

REGISTERED PROFESSIONAL ENGINEER
Eltohir K. Atalgeed
No. 76374
Exp 12/31/14
CIVIL
STATE OF CALIFORNIA

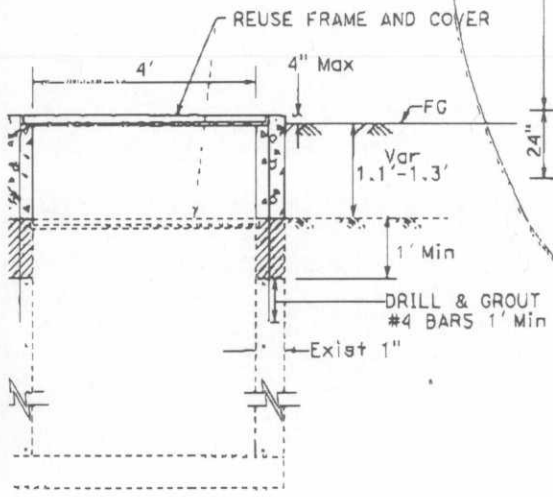


CURVE DATA

No.	R	Δ	T	L
1	5′	90°00′00″	5.00′	7.85′
2	5′	90°04′19″	5.01′	7.86′
3	30′	26°19′53″	6.92′	13.59′
4	45′	17°23′55″	6.85′	13.59′
5	75′	12°23′57″	8.13′	16.19′
6	116′	7°30′54″	7.63′	15.24′
7	183′	9°51′24″	15.76′	31.43′
8	285′	9°03′45″	22.56′	45.02′
9	358′	7°11′59″	22.54′	45.02′
10	24′	92°12′50″	25.16′	38.95′
11	28′	92°31′55″	29.58′	45.71′
12	24′	92°20′40″	25.46′	39.39′

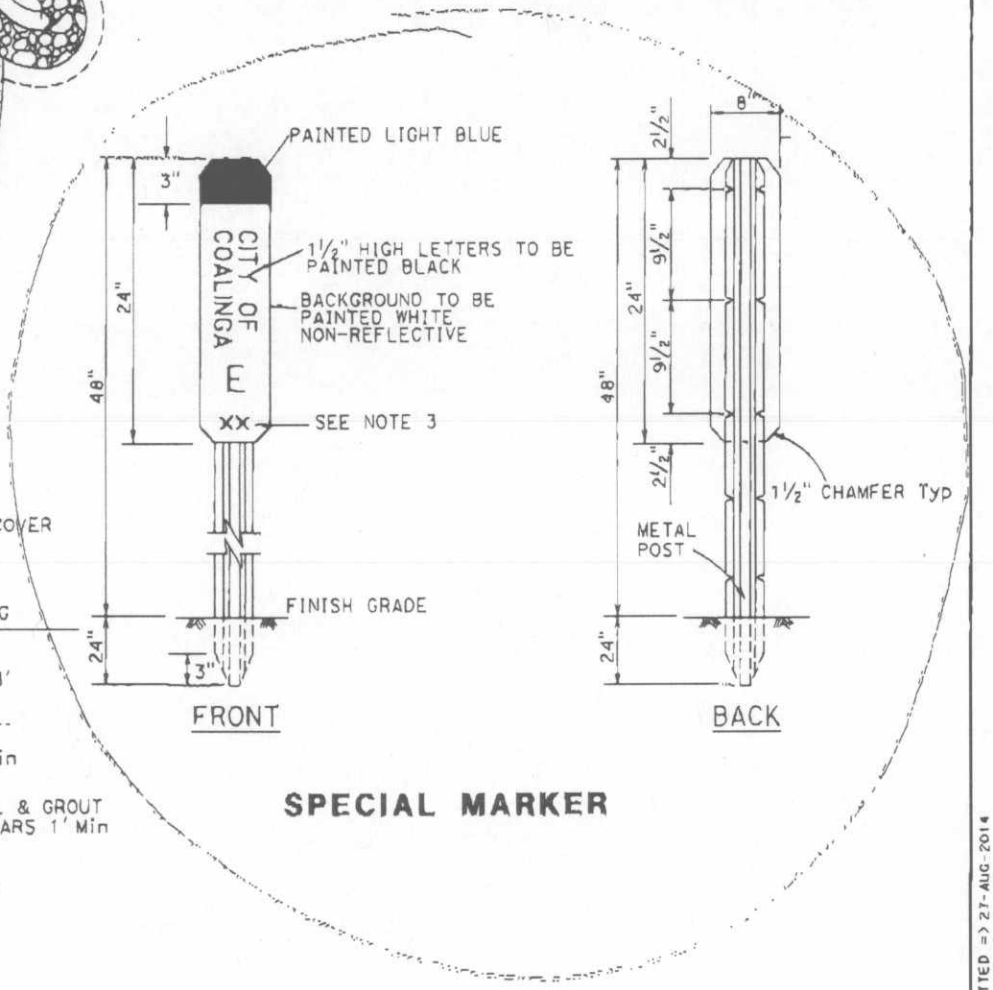
· VALVE BOX

) GRADE



TILITY COVER TO GRADE

Sta 197+66.25



CONSTRUCTION DETAILS
C-1

NO SCALE

LAST REVISION 04-25-14
DATE PLOTTED => 27-AUG-2014
TIME PLOTTED => 14:07

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-OE-0102.2 (REV 3/2011)

Bidder Name: GCC / MCM, a JV

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
Farwest Safety Lodi, CA	19	100%	Signs
	22	100%	
	30	100%	
	43	100%	
	55	100%	
	140	100%	
	141	100%	
	142	100%	
	159	100%	
	203	100%	
	204	100%	
	205	100%	
Bortolussi & Watkin San Rafael, CA	79	100%	Landscape
	80	100%	
	89	100%	
	90	100%	
	91	100%	
	92	100%	
	93	100%	
	94	100%	
	96	100%	
	97	100%	
	98	100%	
	241	3.6%	
Drill Tech Antioch, CA	110	100%	Soil Nail / Shotcrete
	128	100%	

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BID ITEM LIST

05-315804

Item No.	Item Code	Item Description	Unit of Measure	Estimated Quantity	Unit Price	Item Total
201	802620	16' CHAIN LINK GATE (TYPE CL-6)	EA	12	2300	27600 [redacted] SD
202	810111	SURVEY MONUMENT (TYPE A)	EA	14	500	7000
203	820107	DELINEATOR (CLASS 1)	EA	370	50	18500 [redacted] SD
204	820110	MILEPOST MARKER	EA	4	100	400
205	820130	OBJECT MARKER	EA	8	100	800
206	832002	METAL BEAM GUARD RAILING (STEEL POST)	LF	6,680	20	133600
207	832070	VEGETATION CONTROL (MINOR CONCRETE)	SQYD	3,280	65	213200
208 (F)	043786	CHAIN LINK RAILING (TYPE 7) (BLACK VINYL-COATED)	LF	440	70	30800
209 (F)	043787	TUBULAR BICYCLE RAILING	LF	375	100	37500
210 (F)	833142	CONCRETE BARRIER (TYPE 26 MODIFIED)	LF	513	245	125685
211	839521	CABLE RAILING	LF	730	12	8760
212 (F)	839527	CABLE RAILING (MODIFIED)	LF	4,319	16	69104
213	839540	TRANSITION RAILING (TYPE STB)	EA	1	3200	3200
214	839541	TRANSITION RAILING (TYPE WB)	EA	3	5000	15000
215	839561	RAIL TENSIONING ASSEMBLY	EA	2	500	1000
216	839581	END ANCHOR ASSEMBLY (TYPE SFT)	EA	10	600	6000
217	839584	ALTERNATIVE IN-LINE TERMINAL SYSTEM	EA	16	2400	38400
218	839585	ALTERNATIVE FLARED TERMINAL SYSTEM	EA	9	2500	22500
219	839703	CONCRETE BARRIER (TYPE 60C)	LF	4,920	123	605,160
220 (F)	839717	CONCRETE BARRIER (TYPE 732 MODIFIED)	LF	397	165	65505