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Via Facsimile (916) 227-6282

February 11, 2015

State Of California
 Department Of Transportation
 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

Gentlemen:

Please consider this letter to be a formal protest of the bids submitted by Myers & Sons Construction, LP and Viking Construction Company, the second and third low bidders, respectively, in connection with Contract No. 06-432604. MCM Construction, Inc. is currently the lowest bidder.

MYERS EXPANDED THE SCOPE OF A LISTED SUBCONTRACTOR AFTER THE BID

Myers identified subcontractor item numbers after the bid which expanded the subcontractor's scope of work, given the descriptions of work submitted with their bid, as follows:

Papich Construction Company was listed for "LCP, Street Sweeping, Underground, Cold Plane, HMA, AC Dike, Tack Coat, RSP" on the day of the bid. The next day, Myers identified Item 11 Temporary Crash Cushion Module, Item 34 Clearing And Grubbing, Item 35, Roadway Excavation, and Item 43, Class 2 Aggregate Base, as items to be performed by Papich. Items 11, 34, 35, and 43 are clearly not related to the description "LCP, Street Sweeping, Underground, Cold Plane, HMA, AC Dike, Tack Coat, RSP" and, therefore, Myers expanded the scope of Papich's work after the bid. The value of the expanded work items is \$206,345. Additionally, the day after the bid, Myers took the listed LCP work away from Papich since they failed to identify Item 1, Lead Compliance Plan.

VIKING'S DBE COMMITMENT FORM IS NOT CONSISTENT WITH THEIR SUBCONTRACTOR LIST

Viking identified KRC Safety on their Subcontractor List for Items 2, 6, 10, 11, 66, and 67. KRC's price for these items totals approximately \$77,800. Viking's DBE Commitment form commits Viking to use KRC for only Item No.'s 2, 66, and 67 valued at only \$3420. The inconsistency between Viking's Subcontractor Listing of KRC Safety and their DBE commitment to KRC Safety makes Viking's bid non-responsive, as Caltrans has consistently determined on numerous past bids including MCM's bid on

Page Two
John McMillan, Deputy Division Chief
State Of California, Department Of Transportation
February 11, 2015

Re: 06-432604 Bid Protest

Contract 04-4A5104. Caltrans' non-responsive bid notice letters in these cases always quote the instructions on the DBE Commitment form which state in part, "...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."

SUMMARY

Caltrans has consistently found bidders non-responsive on contracts too numerous to list for expanding the scope of listed subcontractors by identifying bid numbers after the bid for items not consistent with the listed description of work as well as for submitting DBE Commitment forms that are not consistent with the Subcontractor Listing.

Given all the above, Caltrans should find the bids of Myers & Sons Construction, LP and Viking Construction Company nonresponsive.

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

Sincerely,

MCM CONSTRUCTION, INC.


Edmundo A. Puchi
General Counsel & Treasurer

/rm

Enclosure

Cc: JAC, HDM, RM, Bid File

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
 DES-OE-0102.20 (REV 5/2014)

Bidding Firm: Myers and Sons Construction, LP

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number (*)	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Papich Construction Pismo Beach, CA	767055	LCP, Street Sweeping, Underground, Cold Plane, HMA, AC Dike, Tack Coat, RSP	11 17 30-32, 34-35, 43-48, 57-64	50% 50% All 100% All 100%
Dywidag Systems International Long Beach, CA	273710	Prestressing CIP Concrete	51	95%
Harris Rebar Fresno, CA	695035	Rebar	55 56 72	100% 100% 12%
Tipco Engineering Gardena, CA	928364	Furnish/Drive CISS Pile	49 50	100% 92%
KCI Environmental San Luis Obispo, CA	813844	Erosion Control	38-42	All 100%
W.C. Maloney Stockton, CA	718243	Remove Sheet Pile, Bridge Removal	26-33	All 100%
Roadway Engineering Works Ceres, CA	845536	Temp Signal System, Weather Info System	8, 76	All 100%
Safety Striping Service Goshen, CA	308669	LCP, Remove/Place Striping and Markers	1 4-5, 7, 22, 28-29, 73-75	50% All 100% All 100%
KRC Safety Visalia, CA	507950	CAS, K-Rail, Channelizer, Object Marker, Temp Crash Cushion, Special Marker	2, 6, 10-11, 66-67	All 100% All 100%
Safeguard Fence Corona, CA	849895	Treat Wood Waste, MBGR, Remove/Place Fence	23-25, 27, 65, 68, 70-71	All 100% All 100%

* Not required on contracts with Federal-Aid.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 06-432604 Project ID: 0600020388

Bidder Name: Myers and Sons Construction, LP

Bidder ID: VC0000106329

SUBCONTRACTOR LIST

DES-OE-0102.2B (REV 5/2014)

Bidding Firm: Myers and Sons Construction, LP

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening the bid item numbers with percentages of the portion of work subcontracted.

a Not required on contracts with Federal-Aid.

List this sub? Yes

- 1) Business Name Papich Construction Company
- Location City Pismo Beach State CA
- California Contractor License Number (a) 767055
- Description of Portion of Work

LCP, Street Sweeping, Underground, Cold Plane, HMA, AC Dike, Tack Coat, RSP

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 06-432604 Project ID: 0600020388

Bidder Name: Myers and Sons Construction, LP

Bidder ID: VC0000106329

BID ITEM LIST

Item No.	Item Code	Item Description	Estimated Quantity Unit of Measure	Unit Price	Item Total
1	070030	LEAD COMPLIANCE PLAN	LUMP SUM LS	LUMP SUM	3,000.00
2	120090	CONSTRUCTION AREA SIGNS	LUMP SUM LS	LUMP SUM	3,000.00
3	120100	TRAFFIC CONTROL SYSTEM	LUMP SUM LS	LUMP SUM	75,000.00
4	120151	TEMPORARY TRAFFIC STRIPE (TAPE)	12,000.0 LF	1.50	18,000.00
5	120152	TEMPORARY PAVEMENT MARKING (TAPE)	24.0 SQFT	5.00	120.00
6	120165	CHANNELIZER (SURFACE MOUNTED)	90.0 EA	30.00	2,700.00
7	120300	TEMPORARY PAVEMENT MARKER	270.0 EA	3.50	945.00
8	128601	TEMPORARY SIGNAL SYSTEM	LUMP SUM LS	LUMP SUM	150,000.00
9	128652	PORTABLE CHANGEABLE MESSAGE SIGN (LS)	LUMP SUM LS	LUMP SUM	30,000.00
10	129000	TEMPORARY RAILING (TYPE K)	4,360.0 LF	13.00	56,680.00
11	129100	TEMPORARY CRASH CUSHION MODULE	120.0 EA	125.00	15,000.00
12	130100	JOB SITE MANAGEMENT	LUMP SUM LS	LUMP SUM	45,079.10

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 06-432604

Project ID: 0600020388

Bidder Name: Myers and Sons Construction, LP

Bidder ID: VC0000106329

BID ITEM LIST

Item No.	Item Code	Item Description	Estimated Quantity Unit of Measure	Unit Price	Item Total
24	150606	REMOVE FENCE (TYPE BW)	870.0 LF	4.40	3,828.00
25	150607	REMOVE FENCE (TYPE WM)	320.0 LF	5.20	1,664.00
26	028101	REMOVE SHEET PILE WALL	LUMP SUM LS	LUMP SUM	5,500.00
27	150661	REMOVE GUARDRAIL	710.0 LF	5.50	3,905.00
28	150714	REMOVE THERMOPLASTIC TRAFFIC STRIPE	2,110.0 LF	0.40	844.00
29	150722	REMOVE PAVEMENT MARKER	110.0 EA	0.50	55.00
30	150814	REMOVE DOWNDRAIN (EA)	1.0 EA	1,250.00	1,250.00
31	152469	ADJUST UTILITY COVER TO GRADE	3.0 EA	1,575.00	4,725.00
32	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	130.0 SQYD	40.50	5,265.00
33	157550	BRIDGE REMOVAL	LUMP SUM LS	LUMP SUM	175,000.00
34	160102	CLEARING AND GRUBBING (LS)	LUMP SUM LS	LUMP SUM	40,000.00
35	190101	ROADWAY EXCAVATION	4,870.0 CY	16.00	77,920.00

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 06-432604 Project ID: 0600020388
 Bidder Name: Myers and Sons Construction, LP

Bidder ID: VC0000106329

BID ITEM LIST

Item No.	Item Code	Item Description	Estimated Quantity Unit of Measure	Unit Price	Item Total
36 (F)	192003	STRUCTURE EXCAVATION (BRIDGE)	870.0 CY	75.00	65,250.00
37 (F)	193003	STRUCTURE BACKFILL (BRIDGE)	423.0 CY	90.00	38,070.00
38	210270	ROLLED EROSION CONTROL PRODUCT (NETTING)	60,000.0 SQFT	0.38	22,800.00
39	210300	HYDROMULCH	60,000.0 SQFT	0.04	2,400.00
40	210350	FIBER ROLLS	3,400.0 LF	4.00	13,600.00
41	210430	HYDROSEED	60,000.0 SQFT	0.05	3,000.00
42	210600	COMPOST	60,000.0 SQFT	0.20	12,000.00
43	260203	CLASS 2 AGGREGATE BASE (CY)	1,650.0 CY	44.50	73,425.00
44	390132	HOT MIX ASPHALT (TYPE A)	1,670.0 TON	85.00	141,950.00
45	394074	PLACE HOT MIX ASPHALT DIKE (TYPE C)	260.0 LF	13.00	3,380.00
46	394077	PLACE HOT MIX ASPHALT DIKE (TYPE F)	240.0 LF	13.00	3,120.00
47	394090	PLACE HOT MIX ASPHALT (MISCELLANEOUS AREA)	7.0 SQYD	500.00	3,500.00

EXHIBIT 7

01-16-15A10:27 RCVD

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DES-0E-0102.10C (NEW 08/2012)

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: 06-432604

BID AMOUNT: \$3,983,825.00

BID OPENING DATE: November 6th, 2014

BIDDER'S NAME: Viking Construction Company, Inc.

DBE GOAL FROM CONTRACT, %: 10%

DBE PRIME CONTRACTOR CERTIFICATION:

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBE ¹ (Must be certified on the same bids are opened - include Caltrans certification #, DBE address and phone number) (include 2nd and 3rd tier for subcontractors)	DOLLAR AMOUNT DBE ³
23,27,68,70,71	Tr. Wood Waste, Rem. MBGR, Midwest GRS, Trans Rail, Alt Flare TS		PC&N Construction DBE# 39218	\$42,624.00
15,21,38-42	Fiber rolls, temp. fence, REP, hydromulch, hydroseed, compost		J&M Land Restoration DBE# 32481	\$82,505.90
2,66,67	Const. Signs, Markers		KRC Safety Co., Inc. DBE# 447	\$3,420.00
Total Certified Participation				\$

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the Prime Tier DBE Subcontractors and their respective items of work listed above must be consistent, where applicable, with the names and items 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 all work to be performed by DBEs including work performed by its own forces.
- If 10% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
- See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to:

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1717 BOUTH STREET
SACRAMENTO, CA 95816-7000

Brett McColloch
Signature of Bidder

1/14/15
Date

(916) 852-5530
(Area Code) Tel. No.

Brett McColloch
Person to Contact

(Please Type or Print)

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Received 11/06/2014 16:01 9168525533

Nov 6 2014 03:00pm VIKING CONSTRUCTION PAGE 02/08

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No. 06-432604 Project ID: 0600020388
Bidder Name: Viking Construction Company Bidder ID: VC0000014625
SUBCONTRACTOR LIST
DES-OE-0102.2B (REV 5/2014)

Bidding Firm: Viking Construction Company

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening the bid item numbers with percentages of the portion of work subcontracted.

a Not required on contracts with Federal-Aid.

List this sub? Yes

1) Business Name: KRC Safety Co., Inc.
Location City: Visalia State: CA
California Contractor License Number (a) 507950
Description of Portion of Work
Construction Signs, Object/Special Markers, Channelizers, Krail, Crash Cushions
Bid Item Numbers: 2, 4, 10, 11, 66, 67

Percentage of Bid Item Subcontracted 100

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA - CALIFORNIA TRANSPORTATION AGENCY

EDMUND G. BROWN, Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS 43

SACRAMENTO, CA 95816-8041

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Flex your power!
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January 9, 2014

Facsimile: (916) 334-0562

Edmundo A. Puchi, Treasurer
M.C.M. Construction, Inc.
P.O. Box 620
North Highlands, CA 95660

04-4A5104
04-SF-280-R5.2/R6.0
B.O. 12/04/2013

Dear Mr. Puchi:

The Department of Transportation (Caltrans) received a bid submitted by M.C.M. Construction, Inc. (MCM) for Contract No. 04-4A5104 on December 4, 2013. By this letter Caltrans notifies MCM that its bid is nonresponsive because of an inconsistent Disadvantaged Business Enterprise (DBE) Commitment form and Subcontractor List form.

The Caltrans Bidder-DBE-Commitment form states in part, "...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 DBE Commitment Form submitted by MCM, CMC Traffic Control Specialists (CMC) was listed to perform bid item 5, Lane Closures. However, MCM failed to list CMC on the Subcontractor List form submitted with its bid. The inclusion of CMC and bid item 5 on the DBE Commitment Form changes the scope of work to be performed by the subcontractor.

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

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

Sincerely,

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

Attachment