GRANITE

May 10, 2013

Via Facsimile & U.S. Postal Service

State of California Department of Transportation
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Facsimile Number: 916-227-6282

Attn: John McMillan, Deputy Division Chief

Re: Bid Protest
Contract Number: 07-1W0804
Location: 07 - VEN - 23 – 20.9/24.2
Bid Opening Date: April 25, 2013

Dear Mr. McMillan,

On April 25, 2013, Granite Construction Company ("Granite") submitted a bid to the California Department of Transportation (the "Department") for Contract Number 07-1W0804 (the "Contract"). Toro Enterprises, Inc. ("Toro") is currently the monetary low bidder and Granite is the apparent second low bidder. This letter constitutes the bid protest of Granite Construction Company ("Granite") with regard to the above-referenced contract. Toro failed to meet the 3% DVBE goal for the project and violated the subcontractor listing requirements.

Toro claimed $43,323 of DVBE participation on their DVBE Commitment Form, just 0.25% above the project DVBE goal. The entire claimed amount is for work to be performed by William Michael Kaszycki ("Zaszycki") for "Project Manager/Consultant" on all 38 items of work. The amount claimed is based on a "Subcontractor Quotation" received by Toro via fax on April 26th, the day after the bid opening. The quote is for "Project Management and Consulting Services." Neither the quote, nor the DVBE Commitment Form details what work is actually being performed or how the dollar value of the work is derived. Note 2 on the DVBE Commitment Form states that "If 100% of an item is not performed or supplied by the DVBE, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE." Toro clearly did not attempt to fulfill the intent of this requirement so therefore, the entire claimed amount should not be allowed. We believe Toro achieved zero percent DVBE participation for this project.

Further, the Subcontractor List form in the bid documents states, "The bidder must identify each subcontractor performing work in amount in excess of ½ of 1 percent of the total bid or $10,000, whichever is greater." As the value of Zaszycki's work exceeds the listing threshold, Toro violated the subcontractor listing requirements for the project by not listing Zaszycki, a licensed subcontractor. For this reason as well, Toro's bid should be deemed non-responsive.

Lastly, the Subcontractor List submitted by Toro states that 19 of the 38 items of work will be performed 100% by a listed subcontractor, none of which are Zaszycki. If Zaszycki is performing some portion of work on all 38 items of work as stated on Toro's DVBE Commitment Form, the percentages of work subcontracted listed in Column 3 on the Subcontractor List are not correct. In essence, Toro's submittal of their DVBE Commitment Form modified Column 3 of their Subcontractor List which is clearly another basis to deem their bid non-responsive.

Granite respectfully requests that Caltrans uphold Granite's bid protest and find the bid of Toro non-responsive and award the contract to Granite as the next lowest responsive and responsible bidder.

Sincerely,
GRANITE CONSTRUCTION COMPANY

Brian Larinan

Brian Larinan
Senior Estimator

BL:gb

Attachments: Exhibit A - Toro's DVBE Submittal
Exhibit B - Toro's Subcontractor List

Exhibit "A"

Low (In Bid Book)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

CERTIFIED DVBE SUMMARY

DES-OE-0102.5 (REV 3/2008)

Low Bidder

DISTRICT-COUNTY-ROUTE: 07 - VEN - 25,-20.9/24.2

CONTRACT NO.: 07-1W0804

TOTAL BID: 1,333,016.00

BID OPENING DATE: 4/25/13

BIDDER'S NAME: Toro Enterprises, Inc.

DVBE PRIME CONTRACTOR CERTIFICATION [1]

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
1-38	Project Manager / consultant		William Michael Kaszycki (805) 375-6429 #1374820	$43,323.00

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	$ 43,323.00
	3.25 %

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.

Signature of Bidder 4/24/13 Date

(805) 483-4515 (Area Code) Telephone Number

Sean Castillo Contact Person (Type or Print)

Submit to:

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

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

WILLIAM MICHAEL KASZYCKI
917 Paseo Santa Barbara
Newbury Park, CA 91320
TEL: (805) 375-6429
FAX: (805) 499-8410
Contractor License #743244

SUBCONTRACTOR QUOTATION

Owner: Caltrans
Contract: 07-1W0894
Location: Route 23, Ventura County
Bid Date: 4/25/13

DVBE #1374820
SMALL BUSINESS (MICRO)

Bid Item No.	Item Description	QTY	UNIT	UNIT PRICE	TOTAL
1 - 38.	Project Management and Consulting Services	1	LS	$43,323	$43,323

Exhibit "B"

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-OE-0102.2 (REV 3/2011)

Bidder Name: Toro Enterprises, 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
Maneri Traffic Control 47423 Rainbow Canyon Temecula, CA 92592	2	100 %	Construction Area Signs
Traffic Loops Crackfilling Inc. 946 S. Emerald Street Anaheim, CA 92804	36, 37	100 %	Inductive loop detectors Maintain Existing TMS Elements
Austin Enterprise PO Box 81926 Bakersfield, CA 93380	27 28	100 % 100 %	Seal Pavement Joints Seal Isolation Joints
Chrisp Company 2280 South Lilac Ave. Bloomington, CA 92316	1 7-10 29-35	100% 100% 100%	Lead Compliance Plan remove thermo markings Striping, pavement marking
Pavement Recycling Systems 10240 San Sevaine Way Jurupa Valley, CA 91752	15 16 17	64 % 100% 100%	Cold In-Place Recycling Cement Additive Emulsified Recycling Agent
Asphalt Dike Construction Inc. (APCO) PO Box 790 Goshen, CA 93227	23 24	26% 26%	Place Asphalt Concrete Dike Place Asphalt Concrete Dike

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-99, Sacramento, CA 95814.

GRANITE™

FAX

P.O. Box 6744
Santa Barbara, CA 93160
Phone: 805-964-9951
Fax: 805-964-7661
BID FAX 805-967-1431

To: John McMillan	From: Brian Larinan
Company: Caltrans	Date: 5/10/13
Fax: (916) 227-6282	Total Pages (*including cover page*): 6
Phone: (916) 227-6280	Sender's Reference Number:
RE: Contract No. 07-1W0804	Your Reference Number:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Confirm Receipt

Notes and Comments:

Bid Protest letter