

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30<sup>th</sup> STREET, MS 43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/oe

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December 17, 2013

Facsimile: (760) 775-8229

Pat Kelly, Chief Estimator  
Granite Construction Company  
38000 Monroe Street  
Indio, CA 92203

08-449104  
08-Riv-111-1.5  
B.O. 10/09/2013

Dear Mr. Kelly:

The Department of Transportation (Caltrans) received the attached letter from Heather Lenhardt on behalf of Granite Construction Company (Granite) in response to a November 14, 2013, nonresponsive bid finding on the above noted contract. The letter states that the Society for Protective Coatings Qualification Procedure (SSPC QP3) for this project is not required. Granite requests that Caltrans withdraw its determination and award the project to Granite.

As you are aware, Caltrans conducted a review of the plans and specifications for this project and determined that the SSPC QP3 certification is a requirement for award as stated in Section 59, Painting, of the contract Special Provisions.

Based on the above clarification, Caltrans upholds its original finding and will proceed to award this contract to the lowest responsive and responsible bidder

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

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

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

Enclosures

# GRANITE™

November 18, 2013

VIA FACSIMILE TRANSMISSION – (916) 227-6282 and OVERNIGHT DELIVERY

Mr. John C. McMillan  
Deputy Division Chief  
Office Engineer  
Division of Engineering Services  
State of California, Department of Transportation  
1727 30<sup>th</sup> Street, MS 43  
Sacramento, CA 95816-8041

Re: Caltrans Contract No. 08-449104 ("Project")  
Bid Opening: October 10, 2013

Dear Mr. McMillan:

Granite Construction Company ("Granite") was the lowest bidder for the above-referenced Contract. Granite's bid was lower than the second low bidder by \$243,625.66. On November 14, 2013, the Department of Transportation ("Caltrans") sent Granite a letter, purporting to find Granite's bid non-responsive because Granite did not submit a Society for Protective Coatings, Qualification Procedure ("SSPC-QP 3") certification for this Project. The SSPC-QP 3 certification is not required for this Project. Accordingly, Granite respectfully requests that Caltrans withdraw its determination and award the Project to Granite, the lowest responsive and responsible bidder.

A bid is responsive if it conforms to the material terms of the bid packet and promises to do what the bidding instructions demand. *Menefee v. County of Fresno* (1985) 163 Cal. App. 3d 1175. Responsiveness considerations "must be evaluated from a practical rather than a hypothetical standpoint, with reference to the factual circumstances of the case. They must also be viewed in light of the public interest, rather than the private interest of a disappointed bidder" hoping to prevail by contriving irregularities in the winning submission. *Ghilotti Constr. Co. v. City of Richmond*, 45 Cal. App. 4th 897, 908-09 (1996) (citing *Judson Pacific-Murphy Corp. v. Durkee* (1956) 144 Cal.App.2d 377, 383). Here, Granite's bid is responsive: it includes and satisfies all material requirements of the bid packet and promises to perform everything required in the bidding instructions.

Granite timely submitted its bid packet for Caltrans Contract No. 08-449104 (the

John C. McMillan, Deputy Division Chief  
Office Engineer  
Division of Engineering Services  
State of California, Department of Transportation  
November 18, 2013  
Page 2

"Project"). On October 30, 2013, J. McLoughlin Engineering Company ("J. McLoughlin") submitted a protest, contending that Granite's bid was purportedly non-responsive because it did not include a SSPC-QP 3 certification. As demonstrated in Granite's response letter dated November 5, 2013,<sup>1</sup> J. McLoughlin's contention is without legal support and contradicts both the bidding instructions and applicable state law. Nevertheless, Caltrans appears to have adopted J. McLoughlin's erroneous position in its November 14<sup>th</sup> determination letter. Granite respectfully requests that Caltrans reconsider and withdraw that determination because an SSPC-QP 3 certification is not required for this Project.

J. McLoughlin and Caltrans assert that an SSPC-QP 3 certification is required for this Project and point to Section 59-2.01(C)(2) and Contract Standard Plans pages B11-68, B11-69 and B11-70 as support for such assertion. However, Section 59-2.01(C) does not apply to this Project. Section 59-2 outlines the requirements for painting structural steel and other metal and expressly excludes "galvanized or thermal spray coated surfaces." (Please see attached Section 59-2.01A, emphasis added). The scope of work on this Project does not include the painting of structural steel. The Project includes the painting of galvanized bridge rails, a scope of work that does not require an SSPC-QP 3 certification.

Nothing in pages B11-68, B11-69, or B11-70 denotes painting work that would require an SSPC-QP certification. Pages B11-68, B11-69 and B11-70 reference bridge rail work. (Please see attached pages B11-68, B11-69 and B11-70). Under the governing specifications, the bridge rail must be painted per Section 59-3 and the bridge rail must be galvanized. (Please see attached page 56 of the job specific Standard Specification Revisions). Section 59-3, Painting Galvanized Surfaces, does not require an SSPC-QP 3 certification (or any special certification). (Please see attached Section 59-3, Painting Galvanized Surfaces). Likewise, nothing in Section 59-1 (which applies to all painting work) requires any SSPC-QP 3 certification. The subject SSPC-QP 3 certification is only required for work performed under Section 59-2 (Painting Structural Steel), not work performed under Section 59-3 (Painting Galvanized Surfaces). (Please see attached page 52 of the job specific Standard Specifications). **This Project does not include any work under Section 59-2.** Per Section 1 of the Special Provisions, the applicable section for bridge rail work is Section 83. Significantly, Section 83-1.02D(2) mandates that "ferrous metal parts must be galvanized" and the rail must be painted "under Section 59-3." Again, nothing in the

<sup>1</sup> Granite's November 5, 2013 letter to Caltrans is incorporated herein in its entirety.

John C. McMillan, Deputy Division Chief  
Office Engineer  
Division of Engineering Services  
State of California, Department of Transportation  
November 18, 2013  
Page 3

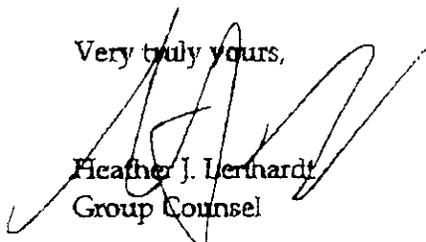
Section 59-3 or any other portion of the bid specifications requires submission of an SSPC-QP 3 certification for the subject bridge rail work (or any other Project work).<sup>2</sup>

Consistent with Granite's argument, Caltrans has denied bid protests similar to J. McLoughlin's, which seek to find a bid non-responsive due to failure to provide an SSPC-QP 3 certification where the scope of work did not require such certification. (Please see attached March 13, 2013 Caltrans determination letter). J. McLoughlin's attempt to get Caltrans to pay over \$243,000 in additional monies on the grounds that Granite should have included a certification that is not required by the Project specifications is frivolous and should be rejected.

As Caltrans recognizes, the purposes of the competitive bidding statutes is to guard against favoritism, fraud and corruption, avoid misuse of public funds, stimulate competition, and secure the best work or supplies at the lowest price practicable. Rejecting Granite's superior bid based on the erroneous and unsupported claim that an SSPC-QP 3 certification is required, would jeopardize and not advance these purposes. In fact, to reject Granite's bid would only serve to decrease competition, impede economy and waste public funds. Granite's bid fully conforms to the bid specifications. Granite stands ready to perform this Project in its usual responsible and high quality manner, in compliance with the Project specifications. Granite respectfully requests that Caltrans withdraw its determination on non-responsiveness, deny J. McLoughlin's protest, and award this Project to Granite, the low responsive, responsible bidder.

Your time and consideration of this matter are greatly appreciated. If you have any questions or require additional information please contact me at (831) 768-4160 at your convenience.

Very truly yours,



Heather J. Lernerhardt  
Group Counsel

<sup>2</sup> Notably, Granite is not aware of any bidders, other than the protestor, J. McLoughlin, submitting an SSPC-QP 3 certification for this Project.

**SECTION 59****PAINTING**

Rollers must not leave a stippled texture in the paint film.

Apply paint to areas not accessible to regular means using daubers, bottle brushes, or other authorized methods.

Thoroughly cure each application of paint and correct skips, holidays, thin areas, or other deficiencies before the next application. Painted surfaces being covered must be free from moisture and deleterious material that would prevent bonding of succeeding coats. In spot painting, remove old paint that lifts after the first paint application by scraping and repaint the area before the next application.

Pressure rinse painted surfaces before applying additional paint if 7 days or more elapse between paint applications.

The Engineer may require you to blast clean and reapply paint to areas with runs, sags, thin and excessively thick areas in the paint film, skips, holidays, or areas of nonuniform appearance.

Repair painted surfaces damaged during work activities with materials and to a condition equal to that of the specified coating.

Remove paint or paint stains on surfaces not designated to be painted.

Thoroughly clean painted surfaces after completing painting activities and other work that would deposit foreign material on the painted surfaces.

Stencil the month and year of painting on structures at 2 locations selected by the Engineer. Use block letters 2-1/2 inches high. The paint used must contrast with the background.

**59-1.04 PAYMENT**

Not Used

**59-2 PAINTING STRUCTURAL STEEL****59-2.01 GENERAL****59-2.01A Summary**

Section 59-2 includes specifications for preparing and painting structural steel and other metal, except galvanized or thermal spray coated surfaces.

**59-2.01B Definitions**

Reserved

**59-2.01C Submittals****59-2.01C(1) General**

Submit certification showing the maximum allowable dry film thickness for inorganic zinc-rich coatings to be used on faying surfaces of HS bolted connections as determined under appendix A of *Specification for Structural Joints Using ASTM A325 or A490 Bolts* of the RCSC.

**59-2.01C(2) Mandatory SSPC-QP Certifications**

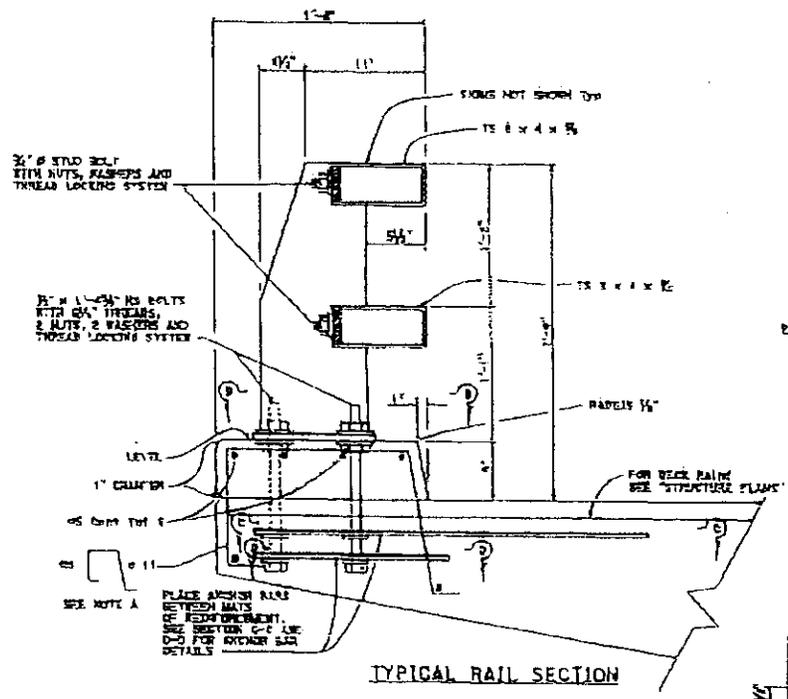
Reserved

**59-2.01C(3) Painting Quality Work Plan**

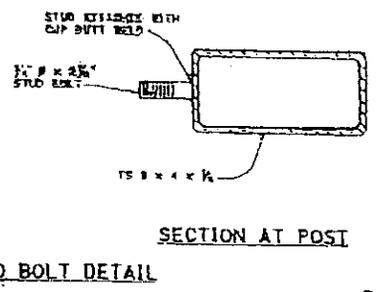
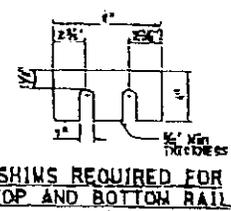
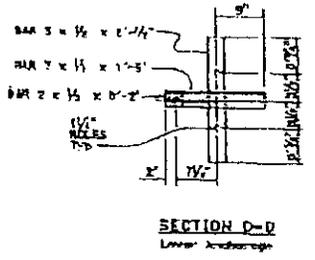
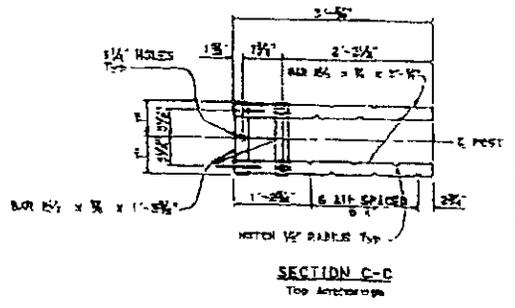
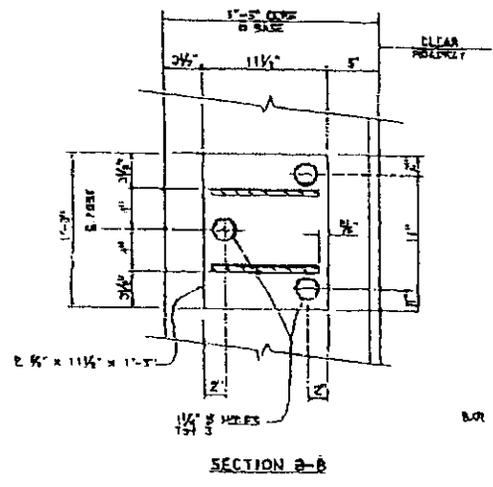
Submit 3 copies of a painting quality work plan for each work item requiring structural steel painting or paint removal. Allow 20 days for the Department's review. Submit the work plan after attending the prepainting meeting. Include the following:

1. Names of the painting contractor and any subcontractors to be used.
2. 1 copy of each applicable ASTM and SSPC specification and qualification procedure.
3. Coating manufacturer's guidelines and instructions for surface preparation, painting, drying, curing, handling, shipping, and storage of painted structural steel. Include testing methods and maximum allowable levels for soluble salts.
4. Materials, methods, and equipment to be used
5. Proof of required SSPC-QP certifications or qualification statements showing compliance with SSPC-QP certification.

PLAN	COUNTY	SECTION	SCALE	DATE	BY	CHECKED
08	BTW	111	1:5	11-13	BR	BR
PROJECT: <b>STANDARD PLAN RSP B11-60</b> DATE: <b>APRIL 20, 2011</b> PLACE: <b>STANDARD PLAN BOOK DATED 2010</b> TO ACCOMPANY PLANS DATED: <b>6-17-13</b>						



**NOTE A**  
 Adjust spacing to clear knuckle opening  
 by 1/2" if applicable.



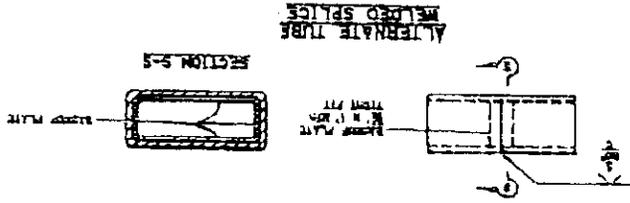
STATE OF CALIFORNIA  
 DEPARTMENT OF TRANSPORTATION  
**CALIFORNIA ST-10  
 BRIDGE RAIL  
 (SHEET 1 OF 3)**  
 NO SCALE

RSP B11-60 DATED APRIL 20, 2011 SUPERSEDES STANDARD PLAN B11-60  
 DATED MAY 20, 2011 - PAGE 309 OF THE STANDARD PLAN BOOK DATED 2010.  
**REVISED STANDARD PLAN RSP B11-60**

2010 REVISED STANDARD PLAN RSP B11-60

2010 STANDARD PLAN B11-BB

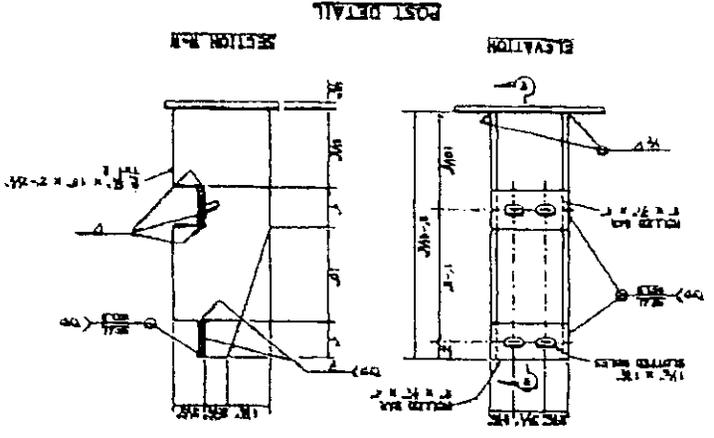
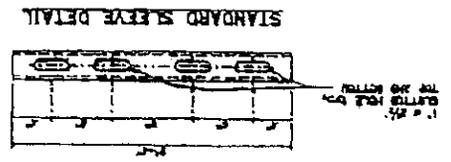
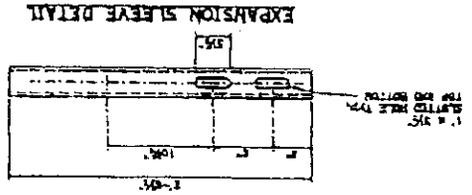
DATE	NOV 20 2011
PROJECT	BRIDGE RAIL
DRAWN BY	...
CHECKED BY	...
APPROVED BY	...



- GENERAL NOTES:**
1. All work shall be in accordance with the latest edition of the California Building Code.
  2. All materials shall be of the highest quality and shall be tested to meet the requirements of the California Building Code.
  3. The contractor shall be responsible for the proper installation of the welded splices.
  4. The contractor shall be responsible for the proper installation of the welded plates.
  5. The contractor shall be responsible for the proper installation of the welded joints.
  6. The contractor shall be responsible for the proper installation of the welded connections.
  7. The contractor shall be responsible for the proper installation of the welded details.

STATE OF CALIFORNIA  
 DEPARTMENT OF TRANSPORTATION  
 CALIFORNIA ST-10  
 BRIDGE RAIL  
 (SHEET 2 OF 2)  
 1/8" SCALE  
 B11-58

ASHTO Table A/C-9.5





**\*\* Page 56 from the job specific Standard Specification Revisions that state that rail painting must be done under Section 59-3 and that the rail must be galvanized. Section 59-3 is for the painting of galvanized surfaces.**

degrees F or less. The edges of the wood posts may be slightly rounded to facilitate insertion of the post into the steel foundation tubes.

After installing the terminal system, dispose of surplus excavated material in a uniform manner along the adjacent roadway where designated by the Engineer.

**Replace "Reserved" in section 83-1.02D(2) with:**

California ST-10 bridge rail must consist of metal railing mounted on a reinforced concrete parapet.

Stud bolts must comply with the specifications for stud connectors in section 55-1.02C.

Reinforced concrete must comply with sections 51 and 52.

Ferrous metal parts must be galvanized. Galvanizing must comply with section 75-1.05.

Paint rail under section 59-3.

There must be no chemical treatment of galvanized surfaces before cleaning and painting. Nuts, bolts, and washers must be galvanized after fabrication and must not be painted.

Submit shop drawings for the bridge rail.

The shop drawings must include the following:

1. Details for venting and pickup holes in rails and sleeves
2. Railing layout
3. Complete details for the construction of the work including methods of construction, sequence of shop and field assembly, and installation procedures

Submit 7 copies of each set of drawings. Allow 25 days for review. Upon certification, the Engineer will stamp or mark the drawings certified and return 2 sets of these drawings to you for use during construction.

California ST-10 bridge rail is measured from end to end along the face of the railing, including reinforced concrete end blocks and intermediate posts.

Concrete barrier (Type 732A Modified) is paid for as concrete barrier (Type 732A).

## 87 MATERIALS—GENERAL

**Replace section 87-2 with:**

### 87-2 AGGREGATE

#### 87-2.01 GENERAL

##### 87-2.01A Summary

Section 87-2 includes specifications for furnishing aggregate.

##### 87-2.01B Definitions

**stockpile lot:** Stockpile or portion of a stockpile of steel slag aggregate used.

##### 87-2.01C Submittals

Submit a certificate of compliance for:

1. Each stockpile lot
2. Steel slag

#### 87-2.02 MATERIALS

##### 87-2.02A General

Do not use air-cooled iron blast furnace slag to produce aggregate for.

**SECTION 59**

**PAINTING**

Apply the 2nd finish coat after the 1st finish coat has dried 12 hours unless authorized. You may apply the 2nd finish coat in a single application.

The 1st finish coat color must match color no. 34272 of FED-STD-595. The 2nd finish coat color must match color no. 14090 of FED-STD-595.

**59-2.04 PAYMENT**

**\*\* Section 59-3 does not require certifications \*\***

Not Used

**59-3 PAINTING GALVANIZED SURFACES**

**59-3.01 GENERAL**

Section 59-3 includes specifications for painting galvanized metal surfaces.

**59-3.02 MATERIALS**

Coatings must comply with either State Specification PWB-174A or with section 91-2.02.

**59-3.03 CONSTRUCTION**

Clean galvanized surfaces by pressure washing or steam cleaning.

Roughen galvanized areas after cleaning by abrasive blasting. Use an abrasive no larger than 30 mesh. Do not remove galvanizing.

Apply 2 finish coats in not less than 2 applications. Apply the 1st finish coat the same day abrasive blasting is performed unless authorized. Apply the 2nd finish coat after the 1st finish coat has dried 12 hours unless authorized. The dry film thickness of each finish coat must be at least 2 mils. The dry film thickness of all coats must be from 4 to 8 mils.

The 2nd finish coat color must match color no. 14090 of FED-STD-595.

**59-3.04 PAYMENT**

Not Used

**59-4 PAINTING TIMBER**

**59-4.01 GENERAL**

Section 59-4 includes specifications for preparing and painting timber installations.

**59-4.02 MATERIALS**

Not Used

**59-4.03 CONSTRUCTION**

Remove cracked or peeled paint, loose chalky paint, dirt, and other foreign material immediately before painting. The moisture content of the timber must be not more than 20 percent at the time of initial paint application.

You may apply the 1st coat before erection if authorized.

Paint new timber with 3 coats consisting of 1 coat of wood primer and 2 coats of exterior paint.

Paint previously painted timber with 2 coats of exterior paint. Prime bare wood with 1 coat of wood primer.

After timber is in place, putty cracks, checks, nail holes, and other depressions flush with the surface. Let dry before applying the 1st coat of exterior paint.

**59-4.04 PAYMENT**

Not Used

**59-5 PAINTING SIGN STRUCTURES**

**59-5.01 GENERAL**

Section 59-5 includes specifications for preparing and painting sign structures.

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ROMULO G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER, MS 43  
1727 30<sup>th</sup> STREET  
P. O. BOX 168041  
SACRAMENTO, CA 95816-8041  
PHONE (916) 227-6280  
FAX (916) 227-6282  
TTY 711



Plus your power!  
Be energy efficient!

March 13, 2013

Facsimile: (510) 237-2435

Larry Echeverry, Vice President  
C. Overaa & Co.  
200 Parr Boulevard  
Richmond, CA 94801

04-014084  
04-A1b-80-2.2  
B.O. 01/16/2013

Dear Mr. Echeverry:

The Department of Transportation (Caltrans) received the protest from C. Overaa & Co. (Overaa) protesting the bid submitted by F&H Construction (F&H) for Contract No. 04-014084. The protest alleges that F&H failed to submit the required Society for Protective Coatings (SSPC) QP 3 documentation.

After a review of the protest, Caltrans determined that SSPC QP3 certification is not required and finds Overaa's protest lacks merit and will proceed to award the contract to the lowest responsible bidder.

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

Sincerely,

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

**GRANITE™**

November 5, 2013

Department of Transportation  
Division of Engineering Services  
Office Engineer MS 43  
1727 30<sup>th</sup> Street  
P.O. Box 168041  
Sacramento, Ca. 95816-8041

Attn: John McMillan, Deputy Division Chief

Re: Contract 08-449104 – Bid Opening 10/10/13

Subj: J. McLoughlin Correspondence Dated 10/30/13

Dear Mr. McMillan:

Granite Construction Company ("Granite") has reviewed the letter submitted by J. McLoughlin Engineering Company ("J. McLoughlin") on October 30<sup>th</sup> and offers the following response.

It is our position that Section 59-2.01C (2) does not apply to this Contract. As a result, J. McLoughlin's protest has no merit and the job should be awarded to Granite as the lowest responsive and responsible bidder. Our determination is based upon the following:

1. The first two digits of the Item Code correspond to the applicable Section number in the Standard Specifications. There are no bid items that start in "59", therefore no bid items are directly referenced to this Section.
2. Section 59-2 outlines the requirements for the painting of structural steel. It specifically states that "Section 59-2 includes specifications for preparing and painting structural steel and other metal, except galvanized or thermal spray coated surfaces." This project does not have any structural steel that is to be painted.
3. Per Section 1 of the Special Provisions, the applicable section for the bridge rail is Section 83. More specifically, Section 83-1.02D (2) states that "ferrous metal parts must be galvanized" and to "paint rail under Section 59-3", which is the Section that applies to painting galvanized surfaces. Within Section 59-3 there are no requirements for the submission of SSPC-QP certifications.



California Department of Transportation  
November 5, 2013  
Page 2 of 2

To summarize, the requirements in Section 59-2 do not apply to this contract, therefore no SSPC-QC certification is required. We therefore request that you award the contract to Granite as the lowest responsive and responsible bidder.

If I can answer any questions or be of further assistance please contact me at (760) 391-6221

Sincerely,

GRANITE CONSTRUCTION COMPANY

A handwritten signature in black ink, appearing to read "Pat Kelly". The signature is written in a cursive style with a large, looped "K" at the end.

Pat Kelly  
Chief Estimator

Cc: Job File



Indio Area Office  
38000 Monroe Street  
Indio, CA 92203  
Phone: 760-775-7500  
Fax: 760-775-8229

TO: Caltrans

DATE: November 18, 2013

COMPANY: Caltrans

FAX: (916) 227-6282

FROM: Heather Lenhardt

NUMBER OF PAGES (INCL. COVER SHEET): 13

---

**COMMENTS:**

**NON-RESPONSIVE BID DETERMINATION RESPONSE  
08-449104**

Attached is our Non Responsive Bid Determination Response for the following project.  
If there are any issues please contact me at (831) 724-1011. Thank you.

Contract: 08-449104  
Contractor: Granite Construction Company  
Bid Date: 10/10/13  
Bid Time: 2:00 p.m.

---

From Facsimile Number (760) 775-8229. If you have any problems with this transmission,  
please contact sender at (760) 391-6247.

**\*\* Transmit Conf. Report \*\***

P.1  
CALTRANS CONTR AWARDS Fax 916-227-6282

Dec 17 2013 01:55pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917607758229	Normal	17:01:53pm	2'02"	14	# 0 K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

**DEPARTMENT OF TRANSPORTATION**  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER  
1727 30<sup>th</sup> STREET, MS 43  
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December 17, 2013

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B.O. 10/09/2013

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As you are aware, Caltrans conducted a review of the plans and specifications for this project and determined that the SSPC QP3 certification is a requirement for award as stated in Section 59, Painting, of the contract Special Provisions.

Based on the above clarification, Caltrans upholds its original finding and will proceed to award this contract to the lowest responsive and responsible bidder.

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

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