BAY CITIES PAVING & GRADING INC.
Bus: 5029 Forni Drive, Concord, CA 94520
(925) 687-6666
Fax (925) 687-2122

Mail: Post Office Box 6227, Concord, CA 94524-1227

March 7, 2012

Department of Transportation, MS 43
Attn: John McMillan, Deputy Division Chief
1727 30th Street
Sacramento, CA 95816

Project: Contract No. 10-0E6114
Bid Opening: 02/28/2012
Re: Protest of Synergy Project Management, Inc. Bid

Dear Mr. McMillan,

Synergy Project Management, Inc. ("Synergy") was the apparent low bidder on the above-referenced Project. Bay Cities hereby protests Synergy's bid as non-responsive to the call for bids.

SYNERGY FAILED TO SUBMIT THE REQUIRED SUBCONTRACTOR LIST WITHIN 24 HOURS OF THE BID OPENING

BID REQUIREMENTS

The Subcontractor List form states in part:

> "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 non-responsive bid." [emphasis added].

Caltrans scheduled the bid opening for 2:00 pm on February 28, 2012. Therefore, the information for Columns No. 2 and 3 ("24-Hour Form") had to be submitted by bidders to fax number (916) 227-6282 by 2:00 pm on February 29, 2012. Synergy failed to submit the 24-Hour Form within 24 hours and Caltrans correctly determined that Synergy's bid was nonresponsive.

In a letter dated March 6, 2012, Synergy requested that Caltrans reconsiders its decision and directs Caltrans attention to"

> "fax copy send and fax at 1:49pm attached (actual send was 1:49 the printout show 2:49 as our fax hes not been adjusted one hour back) was send on Feb. 29, 2012 and full summary sheet on all fax send to 916-654-6470."

Synergy's request for reconsideration is basically a claim that it did, in fact, send the 24-Hour Form as directed in the bid. Though Synergy attached documentation to its letter to show that it had complied with the bid documents, the documents undermine Synergy's argument.

"It is the policy of Bay Cities, all employees are treated during employment without regard to race, color, religion, sex, national origin, age, marital or veteran status, medical condition or handicap, or any other legally protected status. This will acknowledge that Bay Cities Paving and Grading Inc. is an Equal Opportunity Employer, and bound by the clauses and conditions identified in Executive order 11246, as amended, the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, 38 usc 2012 and section 503 of the Rehabilitation Act of 1973, as amended, and their implementing regulations and which by this clause are incorporated herein."

First, although Synergy's letter states that the summary sheet shows that it had sent faxes to "916-654-6470," none of the documents that Synergy submitted include this number. The telephone number which Synergy has circled and underlined and emphasized in all of its back-up documents is "19166546410." Most notably, this number is not the fax number that Caltrans has specified to be used in the submission of the 24-Hour Forms. The Subcontractor Listing Form clearly provides that the forms must be faxed within 24-hours to "(916) 227-6282.

Rather than submit its 24-Hour Notice to the Office Engineer's fax number at (916) 227-6282, Synergy attempted to submit its 24-Hour Notice to Caltrans Records and Forms Management Department's **telephone number** at (916) 654-6410. On the bottom of the Subcontractor List, Caltrans has placed an ADA Notice that:

> 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 the Records and Form Management, 1120 N. Street, MS-89, Sacramento, CA 95814."

As stated above, the number Synergy attempted to send its 24-Hour Form is not even a fax number but a telephone number which is not set-up to receive faxes.

In any case, Synergy failed to fax its 24-Hour Form to the fax number mandated by Caltrans in the bid documents within 24 hours. As provided in the Bid Documents, the failure to properly submit information renders a bid as nonresponsive. Caltrans correctly determined that Synergy's bid was nonresponsive and the documentation which Synergy submitted with its letter of March 6, 2012 supports Caltrans' determination. Since Synergy's bid is nonresponsive, Bay Cities asks that Caltrans award the contract to Bay Cities as the lowest responsible bidder.

Sincerely,

Ben L. Rodriguez, Jr.
President

cc: File

facsimile
TRANSMITTAL

to: Mr. John McMillan/ Caltrans Deputy Division Chief
fax #: (916) 227-6282
re: Contract No. 10-0E611, Protest of Synergy Bid
date: March 7, 2012
pages: 3, including cover sheet.

From the desk of...

Ben L. Rodriguez, Jr.
President
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