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# TEICHERT CONSTRUCTION

Established 1887

June 25, 2015

VIA FACSIMILE (916) 227-6282 AND U.S. MAIL

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

Subject: Contract No. 10-OK1404  
10-Sta-120-0/4.1  
Bids Opened: June 3, 2015  
**Bid Protest of George Reed Inc. to award contract to Teichert Construction, the lowest responsive and responsible bidder. Caltrans Response to George Reed Inc.**

Dear Mr. McMillan:

A Teichert & Sons dba Teichert Construction, Inc. ("Teichert") is the lowest responsive and responsible bidder on Caltrans Contract No. 10-OK1404. Teichert has reviewed a copy of George Reed, Inc. ("Reed") letter of June 16, 2015 protesting award to Teichert. Reed's protest has no merit. Reed's protest points to two separate issues and we will address both.

### DBE Commitment Submittal

Teichert's inadvertently did not include the DBE Confirmation forms for the DBE contractors that are intended to be used. Teichert did include copies of quotes and rates sheets from the listed DBE firms that confirms their participation. The State has previously continued with award of contracts to other Contractors who have not submitted their DBE Confirmation forms. On State contract 07-183124 (1A); Martinez Landscape Co, Inc. ("Martinez") did not complete DBE Confirmation forms. As you are aware, the State awarded the project to Martinez on May 29, 2015, less than a month ago.

Revised Standard Specification, 2-1.12B(1) General, states to "Meet the DBE goal shown on the Notice to Bidders or demonstrate that you made adequate good faith efforts to meet this goal." Inadvertently omitting the DBE Commitment forms is not in and of itself grounds for being deemed non-responsive. The specifications allow for and require the State to evaluate our Good Faith Effort. We have submitted an adequate Good Faith Effort that demonstrates our efforts to meet the goal.

<sup>1</sup>A copy of the State's 07-183124 letter to Martinez Landscape is attached to this letter for your facility of reference.

John C. McMillan  
Deputy Division Chief  
June 19, 2015  
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Sweeper is not a Contractor

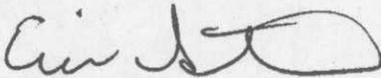
Reed claims Teichert failed to list a sweeper as a subcontractor on its bid day Subcontractor List. Reed references Public Contract Code section 4100 (Subletting and Subcontracting Fair Practices Act).

Teichert did not list Flores Sweeping Service, Inc. on its subcontractor list due to Flores not being a contractor. Its presumed Reed has mistakenly interpreted that "sweepers" are to be considered "contractors" under the PCC, and thus is arguing that the requirements for listing "subcontractors" set forth in PCC Section 4104 extends to "sweepers". Reed fails to identify PCC Section 4113 which provides for the definition of "subcontractor" in regards to the requirement set forth in Section 4104.

The Business and Professions Code (commencing with Section 7000) referenced in Section 4104 provides that Contractors are required by law to be licensed and regulated by the Contractors State License Board ("CLSB"). Sweeping is not licensed by the CLSB. Thus, sweepers do not have Contractor's licenses, and by definition are not "subcontractors" subject to the requirements of the subcontractor listing laws of the PCC.

Teichert respectfully requests Caltrans reject Reed's bid protest and proceed with the award of this contract to Teichert. Should you need any additional information, I can be reached at 916-645-4855.

Sincerely,



Eric Stannard  
Director of Public Procurement

Attachment

cc: T. Corvello -- Teichert Construction

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN JR. Governor

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

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www.dot.ca.gov



Serious drought.  
Help save water!

May 29, 2015

Facsimile: (818) 364-9958

Salvador Martinez, President  
Martinez Landscape Co., Inc.  
12357 San Fernando Road  
Sylmar, CA 91342

07-183124  
07-LA-710-9.8/18.4  
B.O. 5/14/15

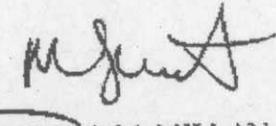
Dear Mr. Martinez:

The Department of Transportation (Caltrans) received the attached Disabled Business Enterprise (DBE) Commitment form for Contract 07-183124 from Martinez Landscape Co., Inc. (Martinez Landscape) on May 14, 2015. Martinez Landscape listed E-NOR Innovations, Inc. (E-NOR) to perform Bid Items 2 and 3 (Construction Area Signs and Traffic Control System).

Upon review by the Office of Business and Economic Opportunity, Contract Evaluation Branch (CEB) it was determined that E-NOR only provided a rate sheet to confirm their participation and did not complete the DBE Confirmation form, therefore E-NOR's participation of \$55,697 was reduced to 0, and will not be counted towards Martinez Landscape's DBE goal. However, since Martinez is a certified DBE firm, the goal of 23% will still be met.

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

Sincerely,

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

cc: E-NOR  
(310) 513-6299