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San Diego, CA 92121  
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License No. 750542A/B

October 27, 2014

Department of Transportation  
Division of Engineering Services  
Office Engineer, MS 43  
1727 30<sup>TH</sup> Street  
Sacramento, CA 95816  
Attn: John C. McMillan

Re: Bid Protest of Apparent Low Bidder  
Caltrans Contract 11-275504

Dear Mr. McMillan:

Hazard Construction ("Hazard") has reviewed the bid forms as submitted by the apparent low bidder, Coffman Specialties, Inc. ("Coffman") and asks that Caltrans find Coffman non-responsive due to enlarging the scope of work and reducing the scope of work by listing and not listing items of work under column 4 on the 24-hour Subcontractor List form which are in direct conflict with the Subcontractor List form submitted at bid time.

The Subcontractor List form states in part, "The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of the work subcontracted."

At bid time, Coffman submitted a Subcontractor List form, listing Statewide Traffic Safety & Signs under column one and listed the Description of Portion of Work to be performed under column 3 to be "Construction Area Signs/Roadside Signs (partial)" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Coffman submitted a revised Subcontractor List providing, under column 4, the Bid Items 4,9-10,17,23,26,27,49-56,64 (Exhibit 2). Coffman enlarged the scope of work of a listed subcontractor beyond the description provided at bid time to include Bid Item 9 - Temporary Crash Cushion Module and Bid Item 10 - Temporary Alternative Crash Cushion System. Temporary Traffic Control devices used to protect the traveling public and construction employees are no way related to Construction Area Signs or Roadside Signs as purported by Coffman at bid time.

In addition, at bid time, Coffman submitted a Subcontractor List form, listing Ace Fence Corp under column one and listed the Description of Portion of Work to be performed under column 3 to be "MBGR/Fence" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Coffman submitted a revised Subcontractor List providing, under column 4, the Bid Items 17,18-20,65,66-73 (Exhibit 2). Coffman enlarged the scope of work of a listed subcontractor beyond the description provided at bid time to include Bid Item 65 - Alternative Crash Cushion and reduced the scope of work of a listed subcontractor for MBGR by failing to include Item 64 - Guard Railing Delineator. Permanent Crash Cushion devices used to protect the traveling public from blunt objects adjacent to the traveled way are no way related to MBGR/Fence as purported by Coffman at bid time and just by the description alone, guard railing delineator belongs with the listed subcontractor for MBGR.

Finally, at bid time, Coffman submitted a Subcontractor List form, listing Ace Fence Corp under column one and listed the Description of Portion of Work to be performed under column 3 to be "MBGR/Fence" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Coffman submitted a revised Subcontractor List providing, under column 4, the Bid Item Numbers 17,18-20,65,66-73 (Exhibit 2). However, on its Disadvantaged Business Enterprise (DBE) Commitment Form, Coffman listed Ace Fence Corp to perform Bid Items 17-20,64-73 (Exhibit 3). It is impossible for Caltrans to determine what work was being subcontracted based on this inconsistency.

Due to the three reasons stated above Hazard Construction hereby protests any award to Coffman and asks that Coffman's bid be deemed as nonresponsive and award the contract to Hazard, the true apparent low bidder, having met all of the requirements of the contract since it is impossible to determine what work is being subcontracted and due to the competitive advantage Coffman was afforded by being able to enlarge and reduce the scope of work for the listed subcontractors after the bid.

Caltrans has previously set precedence on this very issue on many other contracts including most recently Contract 11-406704 where Security Paving Company was found non-responsive due to reducing the scope of work 24 hours after bid. (Exhibit 4), Contract 08-0F6604 where Sully Miller Contracting Company was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 5), and Contract 11-408904 where Peterson-Chase General Engineering was found non-responsive due to inconsistencies between the Subcontractor List and the Disadvantaged Business Enterprise (DBE) Commitment Form (Exhibit 6).

If you have any questions regarding any of these matters or need further clarification, please do not hesitate to call myself at the main office. Thank you for your attention to this matter.

Sincerely,  
HAZARD CONSTRUCTION COMPANY

Jason A. Mordhorst  
President

Attachments  
cc: Bid File

# EXHIBIT I

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-275504 Project ID: 1100000276

Bidder Name: Coffman Specialties, Inc.

Bidder ID: VC0000007963

SUBCONTRACTOR LIST

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

Bidding Firm: Coffman Specialties, Inc.

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

5) Business Name Perry Electric  
Location City Santee State Ca  
California Contractor License Number (a) 747931  
Description of Portion of Work

Electrical

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

7) Business Name Statewide Traffic & Safety  
Location City Nipomo State Ca  
California Contractor License Number (a) 975518

~~Description of Portion of Work~~  
Construction Area Signs/Roadside Signs (partial)  
Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

11) Business Name Payco Specialties  
Location City Chula Vista State Ca  
California Contractor License Number (a) 298637  
Description of Portion of Work  
Striping & Marking & Related  
Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-275504 Project ID: 1100000276

Bidder Name: Coffman Specialties, Inc.

Bidder ID: VC0000007963

List this sub? Yes

14) Business Name Ace Fence Corp  
Location City La Puente State Ca  
California Contractor License Number (a) 801674

Description of Portion of Work

MBGR/Fence

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

21) Business Name Pavement Recycling Systems  
Location City Jurupa Valley State Ca  
California Contractor License Number (a) 569352

Description of Portion of Work

Rumble Strip, Cold Plane and Remove Dike (partial) Rdway Excav (partial)

Bid Item Numbers

Percentage of Bid Item Subcontracted

# EXHIBIT 2

STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DE8-DE-0102.2B (rev 5/2014)

Bidding Firm: COFFMAN SPECIALTIES, INC.

Under Public Cont 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 install 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.

Division Name and Location	California Contractor License No.	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Statewide Traffic Safety & Signs Nipomo, CA	975518	Construction Area Signs/Roadside Signs (partial)	4	100%
			9-10	40%
			17	1%
			23,26,27,49-56,64	100%
Payco Specialties, Inc Chula Vista, CA	298637	Striping & Marking & Related	1	50%
			21-22,75-84	100%
			92	1%
Perry Electric, Inc. San Jose, CA	747931	Electrical	85-91	100%
Ace Fence Corp La Puente, CA	801674	MBGR/Fence	17	99%
			18-20	100%
			65	95%
			66-73	100%
Pavement Recycling Systems, Inc. Jurupa Valley, CA	569352	Rumble Strip, Cold Plans, & Remove Dike (Partial) Rdwy Excess (partial)	24	67%
			28	52%
			30	38%
			35	8%
			39	68%

64???

\*Not required on contracts with Federal - Aid  
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# EXHIBIT 3

STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION  
 CALTRANS BIDDER - DBE - COMMITMENT  
 DES-DB-0102.10 (NEW 2/2009)

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 Special Provisions. Failure to submit the required DBE information will be grounds for finding the proposal nonresponsive.

**CONTRACT NO:** 11-275504

**BID AMOUNT:** \$10,125,000.00

**BID OPENING DATE:** 10/16/2014

**BIDDER'S NAME:** Coffman Specialties, Inc

**DBE GOAL FROM CONTRACT, %:** 6

**DBE PRIME CONTRACTOR CERTIFICATION 1:** None

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED	FOR CALTRANS USE ONLY	NAME OF DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier)	DOLLAR AMOUNT DBE J
1,21,22,75-84	MARKING & STRIPING & RELATED		PAYCO SPECIALTIES, INC. 120 North Second St. Chula Vista, CA 91910 619-422-9204 # 102	\$126,669.60
17-20 (64-73)	MBOR/FENCE		ACE FENCE COMPANY 727 North Glendora Ave. La Puente, CA 91744 626-333-0727 # 34153	\$740,880.00

**IMPORTANT:** Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above shall be consistent, where applicable, with the names and items of work in the "List of Subcontractors" 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 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
- See Section titled "Disadvantaged Business Enterprise," under Section 2 "Bidding" of the Special Provisions to determine the credit allowed for DBE firms.

**Total Claimed Participation**

\$867,550

8.57%

*Colleen Coffman*  
 Signature of Bidder Colleen Coffman, President

10/17/14  
 Date (858) 536-3100  
 (Area Code) Tel. No.

MARIA CORRAO  
 Person to Contact (Please Type or Print)

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# EXHIBIT 4

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN JR., GOVERNOR

**DEPARTMENT OF TRANSPORTATION**  
 DIVISION OF ENGINEERING SERVICES  
 OFFICE ENGINEER  
 P.O. BOX 168041, MS-43  
 SACRAMENTO, CA 95816-8041  
 PHONE (916) 227-6299  
 FAX (916) 227-6282  
 TTY 711  
 www.dot.ca.gov



*Serious drought.  
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June 9, 2014

Facsimile: (818) 362-9300

Joseph Ferndino, Vice President  
 Security Paving Company, Inc.  
 13170 Telfair Avenue  
 Sylmar, CA 91342

11-406704  
 11-SD-5-R58.1/R72.4  
 B.O. 04/10/2014

Dear Mr. Ferndino:

The Department of Transportation (Caltrans) received letters dated April 30, and May 19, 2014, from Flatiron West Inc. (Flatiron) protesting the bid submitted by Security Paving Company, Inc. (Security Paving) on April 10, 2014, for the above referenced contract. Flatiron alleged that on bid day Security Paving listed Our Valley Fence (OVF) to perform work described as Treated Wood Waste, Remove Guardrail, Guardrail Delineator, Transition Railings and Alt Terminal systems & Crash Cushion System (Bid Items 21, 22, 89, 90, 91 and 98). However, on its 24 hour submission reduced the scope of work by omitting Alternative Crash Cushion System (Bid Item 99).

Caltrans has reviewed the bid documents submitted by Security Paving as well as the protests and responses to the protests and concludes the following: (1) On bid day Security Paving provided the work descriptions to be performed by OVF as follows, "Treated wood waste, Remove guardrail, Guard Rail delineator, Transition Railings, Alt Terminal Systems, & Crash Cushion systems." (2) On its 24 hour submittal, Security Paving provided the same description of work however only listed bid item numbers 21 (treated wood waste), 22 (remove metal beam guard rail), 89 (Guard Rail Delineator), 90 (Metal Beam Guard Railing), and 91-98 (Single Thrie Beam Barrier, Double Thrie Beam Barrier), Transition Railing (Type STB), Transition Railing (Type WB), Transition Railing (Type DTB), End Anchor Assembly (Type SFT), Alternative In-Line Terminal System, Alternative Flared Terminal System. However, Security Paving did not include bid item number 99 (Alternative Crash Cushion System) for this portion of the work. It therefore appears, on the face of the bid, that Security Paving reduced the scope of work to be performed by Our Valley Fence between the time that the bid was submitted and the 24-hour bid submission. Although Security Paving alleges that the inclusion of the Alternative Crash Cushion System in the description of the work, it is Caltrans' determination that this is a material mistake therefore making it a mistake that cannot be waived by Caltrans.

Caltrans has therefore determined that the bid submitted by Security Paving is nonresponsive and Caltrans will proceed to award this contract to lowest responsive and responsible bidder, provided that all requirements have been met.

# EXHIBIT 5

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND 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) 227-6299  
FAX (916) 227-6282  
www.dot.ca.gov/hq/esc/oe



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March 18, 2014

Facsimile: (714) 578-9672

Raymond Sanchez, Assistant Secretary  
Sully-Miller Contracting Company  
135 S. State College Blvd., #400  
Brea, CA 92821

08-0F6604  
08-SBd-247-1.8/9.6  
B.O. 02/27/14

Dear Mr. Sanchez:

The Department of Transportation (Caltrans) received a bid from Sully-Miller Contracting Company (Sully-Miller) for contract 08-0F6604 on February 27, 2014. By this letter, Caltrans notifies Sully-Miller that its bid is nonresponsive.

Caltrans 2010 revised Standard Specifications, Section 2-1.33C states in part, "...*The Subcontractor List must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted*". In the Percentages of Bid Items Subcontracted, Sully-Miller failed to list the bid item number for work subcontracted to Surface Systems & Instruments.

In addition to the omission above, Sully-Miller on bid day identified Our Valley Fence to perform work described as temporary fence, treated wood work and guard rail. However, on its 24hr Subcontractors list form enlarged the scope of work to include bid item 50, Joint Seal (Preformed Compression). In addition, on bid day identified The Landscape Center to perform work described as tree relocation and plant establishment. However, on its 24hr Subcontractor List form changed the scope of work to street sweeping and reset markers and delineators. The inclusion of the of the additional items after submission of the bid, which changes the scope of work listed on bid day, is a violation of the bidding instructions as well as the Public Contract Code.

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

EXHIBIT 6

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND 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  
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FAX (916) 227-6282  
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October 16, 2013

Facsimile: (949) 252-0266

Dick W. Vogels, President  
Peterson-Chase General Engineering Const., Inc.  
1792 Kaiser Avenue  
Irvine, CA 92614

11-408904  
11-SD-5, 15, 52, 56, 78, etc.-Var  
B.O. 09/19/2013

Dear Mr. Vogels:

The Department of Transportation (Caltrans) received a bid from Peterson-Chase General Engineering Construction, Inc. (Peterson-Chase) for contract 11-408904 on September 19, 2013. By this letter, Caltrans notifies Peterson-Chase that its bid is nonresponsive because it submitted an inconsistent Subcontractor List and DBE Commitment Form.

The DBE Commitment Form states in part "...Names of the first tier 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".

Peterson-Chase listed on its Subcontractor List Integrity Rebar Placers (Integrity) to perform bid item numbers 19, 21 and 28 in column 2. However, on its Disadvantaged Business Enterprise (DBE) Commitment Form, Peterson-Chase listed Integrity to perform bid items 20, 21 and 28. Caltrans was unable to determine what work was being subcontracted based on the inconsistency.

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