

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6280

FAX (916) 227-6282

TTY 711

*Flex your power!
Be energy efficient!*

March 18, 2013

Facsimile: (858) 453-6034

Jason A. Mordhorst, Vice President

Hazard Construction Company

P.O. Box 229000

San Diego, CA 92192-9000

11-403704

11-SD-163-5.8/6.4, 8.5/8.8

B.O. 1/24/13

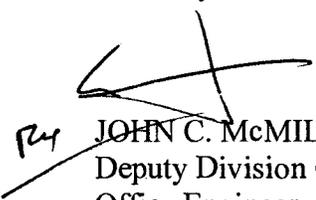
Dear Mr. Mordhorst:

The Department of Transportation (Caltrans) received the attached letter dated February 14, 2013, from Hazard Construction Company (Hazard), protesting Atlas Development, Inc.'s (Atlas) DBE Commitment form. The protest states that Atlas failed to provide copies of DBE quotes and did not make a good faith effort to meet the stated contract goal as required by the specifications. Hazard requests that Caltrans find Atlas nonresponsive and award the contract to Hazard.

After a review of the submitted DBE Commitment form, Caltrans finds that Hazard's protest has merit and will proceed to award the contract to the lowest responsible bidder.

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

Sincerely,


JOHN C. McMILLAN

Deputy Division Chief

Office Engineer

Division of Engineering Services

Attachment



Phone (858) 587-3600
Fax (858) 453-6034
6465 Marindustry Place
San Diego, CA 92121
hazardconstruction.com
License No. 750542 A/B

February 14, 2013

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816
Attn: John C. McMillan

Re: Bid Protest of Apparent Low Bidder
Caltrans Contract 11-403704

Dear Mr. McMillan:

Hazard Construction ("Hazard") has reviewed the bid forms and DBE Commitment Form as submitted by the apparent low bidder, Atlas Development, Inc. ("Atlas") and asks that Caltrans find Atlas non-responsive due to failure to meet to properly meet the 8% DBE goal and failure to submit a good faith effort to attain the 8% DBE goal.

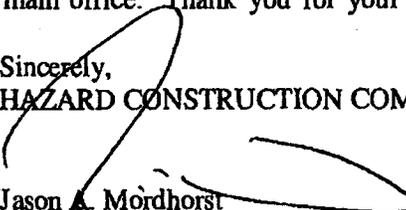
The Caltrans Bidder - DBE Commitment Form, the third sentence of the first paragraph of the Caltrans Bidder - DBE - Commitment Form states "Failure to submit the required DBE information will be grounds for finding the proposal nonresponsive." (*emphasis added*) The lower left hand corner of this form states "Copies of DBE quotes are required." (*emphasis added*)

Because Atlas failed to submit a good faith effort and failed to provide copies of DBE quotes to substantiate the dollars claimed in their DBE Commitment Form, as required by the specifications, their bid must be found non-responsive.

Hazard Construction hereby protests any award to Atlas because they are non-responsive due to failure to comply with Section 2-1.02 DISADVANTAGED BUSINESS ENTERPRISES, sixth paragraph which states "Meet the DBE goal shown in the Notice to Bidders or demonstrate that you made adequate good faith efforts to meet this goal." We ask that Caltrans award the contract to Hazard, the true apparent low bidder, having met all of the requirements of the contract.

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
Vice President

cc: Bid File
Attachment

Low (In Bid Book)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DES-05-0102-108 (NEW 08/2012)

Low Bidder

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: 11-403704

BID AMOUNT: \$ 1,279,835.22

BID OPENING DATE: 1/24/13

BIDDER'S NAME: Atlas Development

DBE GOAL FROM CONTRACT, %: 8%

DBE PRIME CONTRACTOR CERTIFICATION:

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE ³
<u>17,18,50-56,59</u>	<u>Pavement Markers/Striping</u>		<u>Payco Specialties Inc. 129 N. 2nd Ave. Santa Ana CA 92704 (619) 422-9204 DBE # 302</u>	<u>36,510.00</u>
<u>23</u>	<u>Excavation Haul Away</u>		<u>Bradley Tanks, Inc. (925) 229-2900 402 Thayer Ave. Brea, CA 92526 DBE # 28583</u>	<u>206,913.00</u>
<u>44,46,47,48</u>	<u>Concrete Barrier Rebar</u>		<u>Anthony Rebar Works 1745 Madison Ave. Paris LA 70571 (504) 646-6875 DBE # 34765</u>	<u>61,087.91</u>

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective name(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required. *

Total Claimed Participation: \$ 303,510.91

23.71 %

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See Section titled "Disadvantaged Business Enterprises" in Section 2 "Bidding" of the special provisions to determine the credit allowed for DBE firms.

Submit to:

MSC 45
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 30TH STREET
SACRAMENTO, CA 95816-7005

M. Atefi
Signature of Bidder

1/24/13 (619) 200-0902
Date (Area Code) Tel. No.

Mark Atefi
Person to Contact (Please Type or Print)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 664-8410 or TDD (916) 664-3880 or write Records and Forms Management, 1120 N Street, MS-88, Sacramento, CA 95814.

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

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

Mar 18 2013 03:39pm

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STATE OF CALIFORNIA--BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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DIVISION OF ENGINEERING SERVICES
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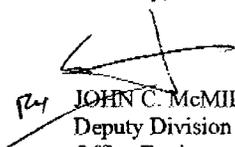
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